

CITY OF MOUNDSVILLE

Sewer Revenue Bonds,  
Series 1987 A and Series 1987 B

Date of Closing: November 18, 1987

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11/16/87  
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CITY OF MOUNDSVILLE  
SEWER REVENUE BONDS, SERIES 1987 A AND SERIES 1987 B  
and  
SEWERAGE SYSTEM  
INTERIM CONSTRUCTION FINANCING

BOND AND NOTES ORDINANCE

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11/20/87  
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CITY OF MOUNDSVILLE

ORDINANCE

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF PUBLIC SEWERAGE FACILITIES OF THE CITY OF MOUNDSVILLE AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$2,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1987 A, NOT MORE THAN \$700,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1987 B, AND NOT MORE THAN \$8,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES OR BOTH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO.

THE COUNCIL OF THE CITY OF MOUNDSVILLE HEREBY ORDAINS:

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 adopted pursuant to the provisions of Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law.

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

A. The City of Moundsville (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Marshall County of said State.

B. The Issuer presently owns and operates a public sewage treatment, collection and transportation system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be constructed certain additions, betterments and improvements for such existing sewerage facilities of the Issuer consisting of a 2.35 MGD "Captor" Biological Sewage Treatment Plant, rehabilitation of portions of the existing Glen Dale and Moundsville sewerage systems and all necessary appurtenances (the "Project") which constitute properties for the treatment and collection of liquid or solid wastes, sewage or industrial wastes (the existing sewerage system, the Project and any further additions thereto or extensions thereof is herein called the "System") at an estimated cost of \$10,765,487, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Bonds (as hereinafter defined) and all Sinking Fund, Reserve Account and other payments provided for herein.

D. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds in the total aggregate principal amount of not more than \$3,200,000 in two series, being the Series 1987 A Bonds in the aggregate principal amount of not more than \$2,500,000, and the Series 1987 B Bonds in the aggregate principal amount of not more than \$700,000 (collectively, the "Bonds"), and (at the option of the Issuer) to issue contemporaneously therewith, or as soon as practicable thereafter, its sewerage system grant anticipation notes, or a note or notes evidencing a line of credit, or both (collectively, the "Notes") in the aggregate principal amount of not more than \$8,000,000 to temporarily finance costs of construction and acquisition of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Notes during the term thereof and upon the Bonds prior to and during construction or acquisition and for 6 months after completion of construction of the Project; amounts which may be deposited in the Reserve Accounts; 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 of the Authority (as hereinafter

defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Bonds and Notes and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof, including, with respect to the Notes, any fees for the providing of a letter of credit, as hereinafter defined, and any costs of obtaining insurance thereon; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bonds or Notes or the repayment of indebtedness incurred by the Issuer for such purposes, shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 40 years.

F. It is in the best interests of the Issuer that its Original Bonds (as hereinafter defined) be sold to the Authority (as hereinafter defined) pursuant to the terms and provisions of a loan agreement and a supplemental loan agreement (collectively, the "Loan Agreement") both dated October 15, 1987, entered into between the Issuer and the Authority, in form satisfactory to the Issuer and the Authority, and attached hereto as "Exhibit A," and made a part hereof.

G. There are not outstanding any obligations of the Issuer which will rank prior to or on a parity with the Bonds as to lien and source of and security for payment. The Series 1987 B Bonds shall be junior and subordinate to the Series 1987 A Bonds as set forth herein. The Notes, if issued, will not be payable from the Net Revenues, but shall be payable from Grant Receipts, Surplus Revenues and proceeds of a letter of credit, if any, all as shall be set forth in the Indenture or the Supplemental Resolution authorizing the Notes.

H. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Bonds and the Notes, or will have so complied prior to issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired.

I. The Issuer has general taxing powers to finance operations of or facilities of the nature of the System, and the Issuer and all subordinate entities reasonably expect to issue less

than \$5,000,000 aggregate principal amount of tax-exempt bonds during the calendar year in which the Bonds are to be issued.

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

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

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

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Original Bonds, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the Mayor of the Issuer or any acting Mayor duly appointed by the Governing Body.

"Bond Construction Trust Fund" means the Bond Construction Trust Fund established by Section 5.01 hereof.

"Bond Counsel" means Steptoe & Johnson, Clarksburg, West Virginia, or any other law firm having a national reputation in the field of municipal law whose opinions are generally accepted by the purchasers of municipal bonds which may hereinafter be appointed by the Issuer.

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

"Bond Legislation," "Ordinance," "Bond and Notes Ordinance" or "Local Act" means this Bond and Notes 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 the Original Bonds, and any bonds on a parity therewith authorized to be issued hereunder.

"City Clerk" or "Recorder" means the City Clerk of the Issuer.

"Closing Date" means the date upon which there is an exchange of the Bonds for the proceeds representing the purchase of the Bonds by the Authority.

"Code" means the Internal Revenue Code of 1986, as amended, and regulations promulgated pursuant thereto.

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

"Consulting Engineers" means Vaughn Consultants, Inc., St. Clairsville, Ohio, or any engineer or firm of engineers that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

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

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

"Depository Bank" means the bank designated as such in the Supplemental Resolution, and its successors and assigns.

"Eligible Costs" means Costs of the Project which are reimbursable in full on a dollar-for-dollar basis from EPA Grant Receipts, the total of which are equal in amount to the EPA Grant.

"EPA" means the United States Environmental Protection Agency and any successor to the functions of the EPA.

"EPA Grant" means the grant from the EPA pursuant to the commitment therefor.

"Excess Investment Earnings" means an amount equal to the sum of:

(A) The excess of

(i) The aggregate amount earned from the Closing Date on all Nonpurpose Investments in which Gross Proceeds of the Series A Bonds are invested [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings], over

(ii) The amount that would have been earned if the Yield on such Nonpurpose Investments [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings] had been equal to the Yield on the Series A Bond, plus

(B) Any income attributable to the excess described in clause (A) of this definition of Excess Investment Earnings.

"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 may 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.

"Grant Agreement" means a written commitment for the payment of the EPA Grant or any of the Other Grants, specifying the amount of such Grant, the terms and conditions upon which such Grant

is made and the date or dates or event or events upon which Grant is to be paid to the Issuer; provided that, "EPA Grant Agreement" means only the Grant Agreement relating to the EPA Grant and "Other Grant Agreements" means only those Grant Agreements relating to the Other Grants.

"Grant Receipts" means all moneys received by the Issuer on account of any Grant after the date of issuance of the Notes; provided that "EPA Grant Receipts" means only Grant Receipts on account of the EPA Grant, and "Other Grant Receipts" means only Grant Receipts on account of any or all of the Other Grants.

"Grants" means, collectively, the EPA Grant and the Other Grants, as hereinafter defined.

"Gross Proceeds" means the sum of the following amounts:

(i) Original proceeds, namely, net amounts received by or for the Issuer as a result of the sale of the Series A Bonds, excluding original proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Series A Bonds;

(ii) Investment proceeds, namely, amounts received at any time by or for the Issuer, such as interest and dividends, resulting from the investment of any original proceeds (as referenced in clause (i) above) or investment proceeds (as referenced in this clause (ii)) in Nonpurpose Investments, increased by any profits and decreased (if necessary, below zero) by any losses on such investments, excluding investment proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Series A Bonds;

(iii) Transferred proceeds, namely, original proceeds of any prior obligations, and interest earnings and profits less losses resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any prior bonds and which are deemed to become proceeds of the Series A Bonds ratably as original proceeds of the Series A Bonds, and interest earnings and profits resulting from investment of such

original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any such prior obligations, all on the date of such ratable discharge;

(iv) Sinking fund proceeds, namely, amounts, other than original proceeds, investment proceeds or transferred proceeds (as referenced in clauses (i) through (iii) above) of the Series A Bonds, which are held in any fund to the extent that the Issuer reasonably expects to use such other fund to pay Debt Service;

(v) Amounts in the Reserve Accounts and in any other fund established as a reasonably required reserve or replacement fund;

(vi) Investment Property pledged as security for payment of Debt Service on the Series A Bonds by the Issuer;

(vii) Amounts, other than as specified in this definition, used to pay Debt Service on the Series A Bonds; and

(viii) Amounts received as a result of investing amounts described in this definition.

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that "Gross Revenues" does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined, purchased pursuant to Article 8.01 hereof) or any Tap Fees, as hereinafter defined.

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

"Indenture" or "Trust Indenture" means the Trust Indenture which may be entered into between the Issuer and the Trustee relating to the Notes and all supplements or amendments thereto.

"Independent Certified Public Accountants" shall mean any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to

prepare an independent annual or special audit of the accounts of the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

"Investment Property" means any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract or investment-type property, excluding, however, obligations the interest on which is excluded from gross income, under Section 103 of the Code, for federal income tax purposes.

"Issuer" means the City of Moundsville, in Marshall County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" shall mean, collectively, the Loan Agreement and the Supplemental Loan Agreement, both dated October 15, 1987, heretofore entered into between the Authority and the Issuer providing for the purchase of the Original Bonds from the Issuer by the Authority, the forms of which shall be approved, and the execution and delivery by the Issuer ratified and confirmed by, this Ordinance or a resolution adopted by the Issuer prior to the adoption of this Ordinance.

"Mayor" means the Mayor of the Issuer.

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

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

"Nonpurpose Investment" means any Investment Property which is acquired with the Gross Proceeds of the Series A Bonds and is not acquired in order to carry out the governmental purpose of the Bonds.

"Noteholder," "Holder of the Notes" or any similar term means the person, whenever used herein with respect to an outstanding Note or Notes, in whose name such Note is registered.

"Notes" or "GAN" means collectively, the not more than \$8,000,000 in aggregate principal amount of Sewerage System Grant Anticipation Notes, originally authorized hereby, or the not more than \$8,000,000 in aggregate principal amount of a note or notes evidencing a line of credit originally authorized hereby, and unless the context clearly indicates otherwise, the terms "Notes" or "GAN" includes any refunding Notes or GAN of the Issuer.

"Notes Construction Trust Fund" means the Notes Construction Trust Fund which may be established by Section 4.02 of the Indenture.

"Notes Debt Service Fund" means the Notes Debt Service Fund which may be established by Section 4.01 of the Indenture.

"Notes Registrar" means the bank to be designated as such in the Indenture or the Supplemental Resolution and its successors and assigns.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, fees and expenses of the Authority, fiscal agents, the Depository Bank, Registrar, Paying Agent and the Trustee (all as herein defined), other than those capitalized as part of the Costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds or Notes, 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.

"Original Bonds" or "Bonds originally authorized hereby" or similar phrases mean, collectively, the not more than \$2,500,000 in aggregate principal amount of Series 1987 A Bonds and the not more than \$700,000 in aggregate principal amount of Series 1987 B Bonds, issued for the purpose of paying a portion of the Costs of the Project and for such other purposes permitted and authorized by this Bond Legislation.

"Original Notes Purchaser" means, in the event grant anticipation notes are issued, Young Moore & Company (Division of Tucker Anthony), of Charleston, West Virginia, or such other original purchaser of the Notes as shall be named in a resolution supplemental hereto, and, in the event a note or notes evidencing a line of credit are issued, such bank or banks as shall be named in a resolution supplemental hereto.

"Other Grants" means any grant other than the EPA Grant hereafter received by the Issuer to aid in financing any Costs.

"Outstanding," when used with reference to Bonds or Notes and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered or all Notes theretofore and thereupon being authenticated and delivered except (i) any Bond or Note cancelled by the Bond Registrar, or Notes Registrar, at or prior to said date; (ii) any Bond or Note for the payment of which moneys, equal to its principal amount, with interest to the date of maturity, shall be in trust hereunder or under the Indenture, as applicable, and set aside for such payment (whether upon or prior to maturity); (iii) any Bond or Note deemed to have been paid as provided in Article X hereof or Article VIII of the Indenture, as applicable; and (iv) for purposes of consents or other action by a specified percentage of Bondholders or Noteholders, any Bonds or Notes 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 bank or banks or other entity designated as such for the Bonds and/or the Notes in the Indenture or in the Supplemental Resolution or such entity or authority as may be designated by the Issuer.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a state or local governmental unit and use as a member of the general public.

"Program" means the Authority's loan program, under which the Authority purchases the water development revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of water development revenue bonds of the Authority.

"Project" means the acquisition, construction and equipping of certain additions, betterments and improvements for such existing sewage facilities of the Issuer consisting of a 2.35 MGD "Captor" Biological Sewage Treatment Plant, rehabilitation of portions of the existing Glen Dale and Moundsville sewerage systems and all necessary appurtenances.

"Purchase Price," for the purpose of computation of the Yield of the Bonds, has the same meaning as the term "issue price" in Sections 1273(b) and 1274 of the Code, and, in general, means the initial offering price of the Series A Bonds to the public (not including bond houses and brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers)

at which price a substantial amount of the Series A Bonds of each maturity is sold or, if the Series A Bonds are privately placed, the price paid by the first buyer of the Series A Bonds or the acquisition cost of the first buyer. "Purchase Price," for purposes of computing Yield of Nonpurpose Investments, means the fair market value of the Nonpurpose Investments on the date of use of Gross Proceeds of the Series A Bonds for acquisition thereof, or if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Bonds.

"Qualified Investments" means and includes any of the following:

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government

Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The Investment Agreement which, in the event Notes are issued, may be entered into by and between the Trustee and the bank designated as "Investment Bank" in the Supplemental Resolution;

(i) The West Virginia "consolidated fund" managed by the West Virginia State Board of Investments pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(j) 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.

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

"Registrar" means as appropriate, either the Bond Registrar or the Notes Registrar or both.

"Regulations" means all applicable regulations promulgated under the Code, or any predecessor thereto.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by Section 5.01 hereof.

"Revenue Fund" means the Revenue Fund established by Section 5.01 hereof.

"Series 1987 A Bonds" or "Series A Bonds" means the not more than \$2,500,000 in aggregate principal amount of Sewer Revenue Bonds, Series 1987 A, of the Issuer.

"Series 1987 A Bonds Reserve Account" means the Series 1987 A Bonds Reserve Account established in the Series 1987 A Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1987 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 1987 A Bonds in any year.

"Series 1987 A Bonds Sinking Fund" means the Series 1987 A Sinking Fund established by Section 5.02 hereof.

"Series 1987 B Bonds" or "Series B Bonds" means the not more than \$700,000 in aggregate principal amount of Sewer Revenue Bonds, Series 1987 B, of the Issuer.

"Series 1987 B Bonds Reserve Account" means the Series 1987 B Bonds Reserve Account established in the Series 1987 B Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1987 B Bonds Reserve Requirement" means, as of the date of calculation, the maximum amount of principal which will become due on the Series 1987 B Bonds in any year.

"Series 1987 B Bonds Sinking Fund" means the Series 1987 B Bonds Sinking Fund established by Section 5.02 hereof.

"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 resolutions authorizing the sale of the Notes or the Original Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Notes or the Original Bonds, as the case may be, and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Bonds or any other obligations of the Issuer, including the Renewal and Replacement Fund and the Reserve Accounts, the proceeds of which Bonds or other obligations are to be used to pay Costs of the Project.

"System" means the public service properties for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, owned by the Issuer, and any improvements or extensions thereto hereafter constructed or acquired from any sources whatsoever, and includes the Project.

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

"Trustee" means the banking institution designated as trustee for the Noteholders under the Indenture, if any, its successors and assigns.

"Yield" means that yield which, when used in computing the present worth of all payments of principal and interest (or other payments in the case of Nonpurpose Investments which require payments in a form not characterized as principal and interest) on a Nonpurpose Investment or on the Series A Bonds produces an amount equal to the Purchase Price of such Nonpurpose Investment or the Bonds, all computed as prescribed in applicable Regulations.

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 CONSTRUCTION  
AND ACQUISITION OF THE PROJECT

Section 2.01. Authorization of Construction and Acquisition of the Project. There is hereby authorized the construction and acquisition of the Project, at an estimated cost of \$10,765,487, 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 Notes and the Bonds hereby authorized shall be applied as provided in the Indenture, if any, and Article VI hereof, respectively.

### 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 1987 A Bonds, funding a reserve account for each series of Original Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance and related costs, or any of such purposes, there shall be issued negotiable Original Bonds of the Issuer, in an aggregate principal amount of not more than \$3,200,000. Said Bonds shall be issued in two series, to be designated respectively, "Sewer Revenue Bonds, Series 1987 A," in the aggregate principal amount of not more than \$2,500,000, and "Sewer Revenue Bonds, Series 1987 B," in the aggregate principal amount of not more than \$700,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. Such Bonds shall be issued contemporaneously with or prior to issuance of the Notes, if any. The proceeds of the Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in the Bond Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of Bonds. The Bonds shall bear interest at such rate or rates, not exceeding the then legal maximum, payable semiannually on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution. The Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bonds shall be paid by check or draft of the Paying Agent 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 Original Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of each series, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Bonds of each series shall be exchangeable at the option and expense of the Holder for other fully registered Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding

and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. The Bonds shall be dated as of the date specified in a Supplemental Resolution and shall bear interest from such date.

Section 3.03. Execution of Bonds. The 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 City Clerk. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the forms set forth in Section 3.09 shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting any of said Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and

incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value in the manner provided hereinafter in the form of said Bonds.

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

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

In all cases in which the privilege of exchanging Bonds or transferring the registered Bonds are exercised, Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

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

Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided and amounts, if any, in the respective Reserve Accounts. No holder or holders of any of the Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Series 1987 B Bonds to be Junior and Subordinate to Series 1987 A Bonds. The payment of the debt service of all the Series 1987 A Bonds shall be secured forthwith equally and ratably with each other, by a first lien on the Net Revenues derived from the System. The payment of the debt service of all the Series 1987 B Bonds shall also be secured forthwith equally and ratably with each other by a lien on the Net Revenues derived from the System, but junior and subordinate to the lien on such Net Revenues in favor of the Holders of the Series 1987 A Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and to make the payments into the Sinking Funds, the Reserve Accounts therein and the Renewal and Replacement Fund hereinafter established, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due.

Section 3.09. Form of Original Bonds. The text of the 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 1987 A Bond]

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF MOUNDSVILLE  
SEWER REVENUE BOND, SERIES 1987 A

No. AR-\_\_\_\_\_

\$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF MOUNDSVILLE, a municipal corporation and political subdivision of the State of West Virginia in Marshall County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of \_\_\_\_\_ (\$ \_\_\_\_\_), in installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest rate on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning \_\_\_\_\_ 1, 19\_\_\_\_. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar") on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority, dated \_\_\_\_\_, 198\_\_.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the existing sewage treatment, collection and transportation facilities of the Issuer and the City of Glen Dale, West Virginia (the "Project") (ii) to fund a reserve account for the Bonds; and (iii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance and Supplemental Resolution, duly enacted and adopted, respectively, by the Issuer on \_\_\_\_\_, 1987 (collectively called 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 contemporaneously with the Sewer Revenue Bonds, Series 1987 B, of the Issuer (the "Series 1987 B Bonds"), issued in the aggregate principal amount of \$ \_\_\_\_\_, which Series 1987 B Bonds are junior and subordinate with respect to liens and sources of and security for payment to the Bonds.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1987 A Bonds Reserve Account"), and unexpended proceeds of the Bonds and the Series 1987 B Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1987 A Bonds Reserve Account and unexpended proceeds of this Bond and the Series 1987 B Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any year of principal of and interest on the Bonds, the Series 1987 B Bonds, and

all other obligations secured by or payable from such revenues prior to or on a parity with the Bonds or the Series 1987 B Bonds, provided however, that so long as there exists in the Series 1987 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in any year, and in the respective reserve accounts established for the Series 1987 B Bonds and any other obligations outstanding prior to or on a parity with the Bonds or the Series 1987 B Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Bond 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, shall be applied solely to the payment of the Costs of the Project 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 owner of this Bond.

This Bond is a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the

System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

All provisions of the 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 CITY OF MOUNDSVILLE has caused this Bond to be signed by its Mayor and its corporate seal to be affixed hereon and attested by its City Clerk, and has caused this Bond to be dated \_\_\_\_\_, 1987.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1987 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: \_\_\_\_\_

ONE VALLEY BANK, NATIONAL ASSOCIATION,  
as Registrar

By \_\_\_\_\_  
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

[Form of Series 1987 B Bond]

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF MOUNDSVILLE  
SEWER REVENUE BOND, SERIES 1987 B

No. BR- \_\_\_\_\_

\$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF MOUNDSVILLE, a municipal corporation and political subdivision of the State of West Virginia in Marshall County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of \_\_\_\_\_ (\$ \_\_\_\_\_), in annual installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference, without 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 upon the terms and conditions prescribed by, and otherwise in compliance with, the Supplemental Loan Agreement between the Issuer and the Authority, dated \_\_\_\_\_, 198\_\_.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the existing sewage treatment, collection and transportation facilities of the Issuer and the City of Glen Dale, West Virginia (the "Project"); (ii) to fund a reserve account for the Bonds; and (iii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance and Supplemental Resolution, duly enacted and adopted, respectively,

by the Issuer on \_\_\_\_\_, 1987 (collectively called 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 JUNIOR AND SUBORDINATE WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT TO THE OUTSTANDING SEWER REVENUE BONDS, SERIES 1987 A, OF THE ISSUER (THE "SERIES 1987 A BONDS"), ISSUED CONCURRENTLY HEREWITH AND DESCRIBED IN THE BOND LEGISLATION.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System after there has first been paid from said Net Revenues all payments then due and owing on account of the Series 1987 A Bonds herein described and all moneys in the Reserve Account (the "Series 1987 B Bonds Reserve Account") created under the Bond Legislation for the Bonds of this Series (the "Bonds"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the moneys in the Series 1987 B Bonds Reserve Account and unexpended Bond proceeds. 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 amount required to pay the maximum amount due in any year of principal of and interest, if any, on the Bonds, the Series 1987 A Bonds and all other obligations secured by or payable from such revenues prior to or on a parity with the Series 1987 A Bonds or the Bonds, provided however, that so long as there exists in the Series 1987 B Bonds Reserve Account and the reserve account established for the Series 1987 A Bonds, respectively, amounts at least equal to the maximum amount of principal and interest which will become due on the Bonds and the Series 1987 A Bonds in any year, and any reserve account for any such prior or parity obligations is funded at least

at the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements as 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, shall be applied solely to the payment of the Costs of the Project 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 owners of the Bonds, which lien is subordinate to the lien in favor of the registered owners of the Series 1987 A Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of 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 CITY OF MOUNDSVILLE has caused this Bond to be signed by its Mayor and its corporate seal to be affixed hereon and attested by its City Clerk, and has caused this Bond to be dated \_\_\_\_\_, 1987.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1987 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: \_\_\_\_\_

ONE VALLEY BANK, NATIONAL ASSOCIATION,  
as Registrar

By \_\_\_\_\_  
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
In the presence of:

\_\_\_\_\_

Section 3.10. Sale of Original Bonds; Ratification of Execution of Loan Agreement with Authority. The Original 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 in the form attached hereto as "Exhibit A" and made a part hereof, and the City Clerk 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, ratified and approved.

## ARTICLE IV

### INTERIM CONSTRUCTION FINANCING

Section 4.01. Authorization and General Terms. In order to pay certain Costs of the Project pending receipt of the Grant Receipts, the Issuer may issue and sell its Notes in an aggregate principal amount not to exceed \$8,000,000. The Notes may be in the form of grant anticipation notes or as evidence of a line of credit from a commercial bank or other lender, at the discretion of the Issuer, and as shall be set forth in a resolution supplemental hereto. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the Indenture or supplemental resolution, as applicable.

Section 4.02. Terms of and Security for Notes; Trust Indenture. The Notes, if issued, shall be issued in fully registered form, in the denomination of \$5,000 or any integral multiple thereof, with such terms and secured in the manner set forth in the Indenture, if applicable (which Indenture in the form to be executed and delivered by the Issuer shall be approved by a supplemental resolution), or supplemental resolution, if no Indenture is used.

Section 4.03. Notes are Special Obligations. The Notes shall be special obligations of the Issuer payable as to principal and interest solely from the Grant Receipts, Surplus Revenues, letter of credit proceeds, if any, and other sources described in the Indenture or supplemental resolution. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power, if any, of the Issuer is pledged for the payment of the Notes. The Holders of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as set forth in the Indenture and the Supplemental Resolution.

Section 4.04. Letters of Credit. As additional security for the Notes, the Issuer may obtain a letter or letters of credit from a bank or banks, pursuant to which such bank or banks would agree to pay to the Trustee, upon presentation by the Trustee of certain certificates, the sum or sums set forth therein but not to exceed \$2,000,000 in the aggregate. In the event of a draw under

any such letter of credit, the Issuer shall issue its refunding notes to the bank issuing such letter of credit. Any such letter of credit shall be authorized and shall have such terms as shall be set forth in a resolution supplemental hereto.

ARTICLE V

SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created with and shall be held by, the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and from each other:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund; and
- (3) Bond Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby established with the Commission:

- (1) Series 1987 A Bonds Sinking Fund;
  - (a) Within the Series 1987 A Bonds Sinking Fund, the Series 1987 A Bonds Reserve Account.
- (2) Series 1987 B Bonds Sinking Fund;
  - (a) Within the Series 1987 B Bonds Sinking Fund, the Series 1987 B Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided.

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

(2) Thereafter, from the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing 7 months prior to the first date of payment of interest on the Series 1987 A Bonds for which interest has not been capitalized, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1987 A Bonds Sinking Fund, a sum

equal to 1/6th of the amount of interest which will become due on said Series 1987 A Bonds on the next ensuing semiannual interest payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the Series 1987 A Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date.

(3) The Issuer shall also, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1987 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1987 A Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1987 A Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1987 A Bonds Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(4) The Issuer shall also, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Series 1987 A Bonds, if not fully funded upon issuance of the Series 1987 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1987 A Bonds Reserve Account, an amount equal to 1/120 of the Series 1987 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1987 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 1987 A Bonds Reserve Requirement.

(5) From the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing with the month succeeding the first full calendar month after commencement of operation of the System, transfer to the Renewal and Replacement Fund a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of the Series 1987 A Bonds Reserve Account. All funds in the Renewal and

Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the Series 1987 A Bonds Reserve Account [except to the extent such deficiency exists because the required payments into such account has not, as of the date of determination of a deficiency, funded such account to the maximum extent required by Subsection 5.03(A)(4)] shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

(6) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1987 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1987 B Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1987 B Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1987 B Bonds Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(7) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Series 1987 B Bonds, if not fully funded upon issuance of the Series 1987 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1987 B Bonds Reserve Account, an amount equal to 1/120 of the Series 1987 B Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1987 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 1987 B Bonds Reserve Requirement.

Moneys in the Series 1987 A Bonds Sinking Fund and the Series 1987 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the respective series of Bonds as the same shall

become due. Moneys in the Series 1987 A Bonds Reserve Account and the Series 1987 B Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the respective series of Bonds, as the same shall come due, when other moneys in the attendant Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the several Sinking Funds and Reserve Accounts 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 Bond 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 payments, if any, due on the respective Series of Bonds, and then to the next ensuing principal payments due thereon.

Any withdrawals from the Series 1987 A Bonds Reserve Account which result in a reduction in the balance of the Series 1987 A Bonds Reserve Account to below the Series 1987 A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Series 1987 A Bonds Sinking Fund for payment of debt service on the Bonds have been made in full.

Any withdrawals from the Series 1987 B Bonds Reserve Account which result in a reduction in the balance of the Series 1987 B Bonds Reserve Account to below the Series 1987 B Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Series 1987 A Bonds Sinking Fund, the Series 1987 A Bonds Reserve Account, the Renewal and Replacement Fund and the Series 1987 B Bonds Sinking Fund have been made in full.

As and when additional Bonds ranking on a parity with the Bonds are issued, provision shall be made for additional payments into the respective Sinking Fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the appropriate Reserve Account in an amount equal to the maximum provided and required to be paid into the concomitant Sinking Fund in any year for account of the Bonds of such series, including such additional Bonds which by their terms are payable from such Sinking Fund.

The Issuer shall not be required to make any further payments into the Series 1987 A Bonds Sinking Fund, or the Series 1987 B Bonds Sinking Fund or into the Reserve Accounts therein when the aggregate amount of funds in said respective Sinking Funds and Reserve Accounts are at least equal to the aggregate principal amount of the respective Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the respective maturities thereof.

The Commission is hereby designated as the fiscal agent for the administration of the Sinking Funds created hereunder, and all amounts required for said Sinking Funds shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

The payments into the Sinking Funds shall be made on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

Moneys in the Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Sinking Funds, including the Reserve Accounts therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the respective Bonds and any additional Bonds ranking on a parity therewith that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

B. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Sinking Funds, including the Reserve Accounts therein, and the Renewal and Replacement Fund during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System, including, but not limited to, payment to the Trustee for deposit in the Notes Debt Service Fund, as defined in the Indenture.

C. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay the Depository Bank's charges and the Paying Agent fees then due.

D. The moneys in excess of the sum insured by the maximum amounts insured by FDIC in the Revenue Fund and the Renewal and Replacement Fund shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

E. 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.

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

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

H. All Tap Fees shall be deposited by the Issuer, as received, in the Bond Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System, provided that, in the event Notes are issued, Tap Fees may, with the written consent of the Authority be deposited otherwise.

ARTICLE VI

BOND PROCEEDS; FUNDS AND ACCOUNTS

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

A. From the proceeds of the Series 1987 A Bonds there shall first be paid any and all borrowings by the Issuer made for the purpose of temporarily financing a portion of the Costs of the Project, including interest accrued thereon to the date of such payment.

B. From the proceeds of the Series 1987 A Bonds, there shall next be deposited with the Commission in the Series 1987 A Bonds Sinking Fund, the amount, if any, specified in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 1987 A Bonds for the period commencing on the date of issuance of the Bonds and ending 6 months after the estimated date of completion of construction of the Project.

C. Next, from the proceeds of the Series 1987 A Bonds, there shall be deposited with the Commission in the Series 1987 A Bonds Reserve Account and from the proceeds of the Series 1987 B Bonds, there shall be deposited with the Commission in the Series 1987 B Reserve Account the respective sums, if any, set forth in the Supplemental Resolution for funding of the Reserve Accounts.

D. The remaining moneys derived from the sale of the Bonds shall be deposited with the Depository Bank in the Bond Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02.

E. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Fund set forth in the Bond Legislation and Indenture (if any). Moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so expended, are hereby pledged as additional security for the Series 1987 A Bonds, and thereafter for the Series 1987 B Bonds. In the event that Notes are issued, the disposition of funds in the Bonds Construction Trust Fund may be modified from that set forth herein, with the written consent of the Authority.

Section 6.02. Disbursements From the Bond Construction Trust Fund. Payments for Costs of the Project shall be made monthly.

Disbursements from the Bond Construction Trust Fund, except for the costs of issuance of the Original Bonds which shall be made upon request of the Issuer, shall be made only after submission to the Depository Bank of a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:

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

(B) That each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;

(C) That each of such costs has been otherwise properly incurred; and

(D) That payment for each of the items proposed is then due and owing.

In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Bond Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Bond Construction Trust Fund shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and the Depository Bank shall not be required to monitor the application of disbursements from the Bond Construction Trust Fund. The Consulting Engineers shall from time to time file with the Depository Bank written statements advising the Depository Bank of its then authorized representative.

Pending such application, moneys in the Bond Construction Trust Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the direction of the Issuer.

After completion of the Project, as certified by the Consulting Engineers, the Depository Bank shall transfer any moneys remaining in the Bond Construction Trust Fund to the Series 1987 A Bonds Reserve Account, and when fully funded to the Series 1987 B Bonds Reserve Account, and when both Reserve Accounts are fully funded, shall return such remaining moneys to the Issuer for deposit in the Revenue Fund. The Issuer shall thereafter, apply such moneys in full, first to the next ensuing interest payments, if any, due on

the respective Series of Bonds and thereafter to the next ensuing principal payments due thereon.

## ARTICLE VII

### ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Bonds or the interest thereon is Outstanding and unpaid.

Until the payment in full of the principal of and interest on the Notes when due, and to the extent they do not materially adversely affect Bondholders, the covenants, agreements and provisions contained in this Bond Legislation shall, where applicable, also inure to the benefit of the Holders of the Notes and the Trustee therefor and constitute valid and legally binding covenants of the Issuer, enforceable in any court of competent jurisdiction by the Trustee or any Holder or Holders of said Notes as prescribed in the Indenture; provided, that Section 7.04 and Section 7.09 shall not be applied to the Notes.

Section 7.02. Bonds and Notes not to be Indebtedness of the Issuer. Neither the Bonds nor the Notes shall be or constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Bonds or Notes, shall ever have the right to compel the exercise of the taxing power of the Issuer to pay said Bonds or Notes or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 1987 A Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System and payment of the debt service of the Series 1987 B Bonds issued hereunder shall be secured forthwith equally and ratably by a lien on said Net Revenues, but such lien shall be junior and subordinate to the lien on said Net Revenues in favor of the Holders of the Series 1987 A Bonds. The revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds and to make the payments into the Sinking Funds, including the Reserve Accounts therein, and all other payments provided for in the

Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds as the same become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the ordinance of the Issuer enacted August 15, 1985.

Section 7.05. Sale of the System. The System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Bonds and Notes, if any, Outstanding, or to effectively defease this Ordinance in accordance with Section 10.01 hereof and, if entered into and not previously defeased, the Indenture in accordance with Section 8.01 thereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Bonds, immediately be remitted to the Commission for deposit in the Sinking Funds, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Bonds. Any balance remaining after the payment of all the Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System. With respect to the Notes, such proceeds in an amount sufficient to pay the Notes in full shall be applied to the payment of the Notes, either at maturity or, if allowable under the Supplemental Resolution or Indenture, prior thereto.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such

sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$10,000 and not in excess of \$50,000, shall with the written consent of the Authority, be remitted by the Issuer to the Commission for deposit in the Sinking Fund and shall be applied only to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the par value thereof plus 3% of such par value. Such payment of such proceeds into the Sinking Fund or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Bond Legislation. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of over 50% in amount of the Bonds then Outstanding and the Consulting Engineers. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 7.06 and in Section 7.07B, the Issuer shall not issue any obligations whatsoever with a lien on or otherwise payable from any source of payment pledged originally to the Notes issued under the Indenture or supplemental resolution prior to or on a parity with the lien on behalf of such Notes until such Notes have been defeased in accordance with the provisions of the Indenture and the Bond Legislation; and, so long as any of the Bonds are Outstanding, 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 Bonds; provided, however, that additional Bonds on a parity with the Series 1987 B Bonds only may be issued as provided for in Section 7.07 hereof. All obligations issued by the Issuer after the issuance of the 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 and source of and security for

payment from such revenues and in all other respects, to the Series 1987 A Bonds and the Series 1987 B Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the Reserve Accounts and the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

Section 7.07. Parity Bonds. A. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Bond Legislation, except under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 1987 B Bonds. No Parity Bonds shall be issued which shall be payable out of the revenues of the System on a parity with the Series 1987 A Bonds, unless the Series 1987 B Bonds are no longer outstanding.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the construction or acquisition of extensions, improvements or betterments to the System or refunding one or more series of Bonds issued pursuant hereto, or both such purposes.

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

- (1) The Bonds then Outstanding;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Ordinance then Outstanding; and

(3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates adopted by the Issuer and approved by the Public Service Commission of West Virginia, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the City Clerk prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Consulting Engineers and the said Independent Certified Public Accountants, as stated in a certificate jointly made and signed by the Consulting Engineers and said Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the period for appeal of which has expired prior to issuance of such Parity Bonds.

Not later than simultaneously with the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate construction or acquisition of such additions, betterments or improvements, if any, to the System that are to be financed by such Parity Bonds.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in

addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

All Parity Bonds shall mature on the day of the years of maturities, and the semiannual interest thereon shall be payable on the days of each year, specified in a Supplemental Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Series 1987 A Bonds and the Series 1987 B Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 1987 A Bonds or the Series 1987 B Bonds.

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

B. Notwithstanding the foregoing, or any provision of Section 7.06 to the contrary, additional Bonds may be issued solely for the purpose of completing the Project as described in the application to the Authority submitted as of the date of the Loan Agreement without regard to the restrictions set forth in this Section 7.07, if there is first obtained by the Issuer the written consent of the Authority to the issuance of bonds on a parity with the Bonds.

Section 7.08. Books and Records. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds or of a Note or Notes issued pursuant to this Bond Legislation or the Trustee shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia. Separate control accounting records shall be

maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Governing Body shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Consulting Engineers, the Trustee and the Authority, or any other original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of Bonds or Notes, as the case may be, requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation and the Indenture with respect to said Bonds or Notes, as the case may be, and the status of all said funds and accounts.

(C) The amount of any Bonds, Notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds or Notes, as the case may be, and shall file said report with the Trustee and the Authority, or any other original purchaser of the Bonds.

Section 7.09. Rates. Equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the City Clerk, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant,

with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all reasonable expenses of operation, repair and maintenance of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Bonds and all other obligations secured by or payable from such revenues prior to or on a parity with the Bonds; provided that, in the event that an amounts equal to or in excess of the Reserve Requirements are on deposit respectively in the Reserve Accounts and reserve accounts for obligations prior to or on a parity with the Bonds are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest on the Bonds and all other obligations secured by or payable from such revenues prior to or on a parity with the Bonds.

Section 7.10. Operating Budget and Audit. 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 expenditures for operation and maintenance of the System during the succeeding Fiscal Year. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Trustee and the Authority and to any Holder of any Bonds or Notes, as the case may be, who shall file his or her address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him or her 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 Trustee and to any Holder of any Bonds or Notes, as the case may be, or anyone acting for and in behalf of such Holder of any Bonds or Notes, as the case may be.

In addition, the Issuer shall annually cause the records of the System to be audited by an independent certified public accountant, the report of which audit shall be submitted to the Authority and which audit report shall include a statement that the Issuer is in compliance with the terms and provisions of this Bond Legislation and the Loan Agreement.

Section 7.11. 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 7.12. 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 of the Issuer, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, rates, rentals and other charges, if not paid, when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System and any services and facilities of the water system, if so owned by the Issuer, to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law.

Section 7.13. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department,

agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.14. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as any of the Bonds or the Notes remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project in the full insurable value thereof, 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 \$100,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

(4) FLOOD INSURANCE, to the extent available at reasonable cost to the Issuer.

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

B. The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project. Such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

Section 7.15. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30 day notice of the availability of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or water-borne waste matter and which is not so connected with the System is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the inhabitants of the Issuer and a public nuisance which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

Section 7.16. Completion of Project. The Issuer will complete the Project and operate and maintain the System in good condition.

Section 7.17. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of the lesser of 5% of the Net Proceeds of the Bonds or \$5,000,000 are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code and Regulations promulgated thereunder.

D. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Bonds and the interest thereon, including without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take all actions that may be required of it so that the interest on the Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

## ARTICLE VIII

### INVESTMENT OF FUNDS; NON ARBITRAGE

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Bond Legislation or the Indenture, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Trustee, if any, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, and the Indenture, if any, the need for such moneys for the purposes set forth herein and in the Indenture, if any, and the specific restrictions and provisions set forth in this Section 8.01 and in the Indenture.

Except as provided in the Indenture, if any, 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, the Trustee, if any, the Depository Bank, or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Trustee, if any, the Depository Bank, or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

Section 8.02. Arbitrage. The Issuer covenants that (i) it will restrict the use of the proceeds of the Bonds in such manner and to such extent as may be necessary, in view of the Issuer's reasonable expectations at the time of issuance of the Bonds, so that the Bonds will not constitute "arbitrage bonds" under Section 148 of the Code and Regulations, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a Federal information return with respect to the Bonds) so that the interest on the Bonds will be and

remain excluded from gross income for Federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Rebate of Excess Investment Earnings to the United States. In accordance with Section 148(f)(4)(C) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that the Bonds are not private activity bonds as defined in Section 141 of the Code; that 95% or more of the Net Proceeds of the Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and that the aggregate face amount of all the tax-exempt obligations (other than private activity bonds as defined in Section 141 of the Code) issued by the Issuer during the calendar year in which the Bonds are issued will not exceed \$5,000,000, determined in accordance with Section 148(f)(4)(C) of the Code and the Regulations promulgated thereunder. For purposes of this Section 8.03 and for purposes of applying Section 148(f)(4)(C) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a subordinate entity shall, for purposes of applying this Section 8.03 and Section 148(f)(4)(C) of the Code to any other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(C) of the Code and all other entities benefiting thereby shall be treated as one issuer.

Notwithstanding the foregoing, if in fact the Issuer is subject to the rebate requirements of Section 148(f) of the Code, and not exempted from such requirements, the Issuer shall take the following actions:

A. CREATION OF FUNDS. There are hereby created, to be held by the Depository Bank as separate funds distinct from all other funds and accounts held by the Depository Bank under this Bond Legislation, the Earnings Fund and the Rebate Fund. All interest earnings and profits on amounts in all funds and accounts established under this Bond Legislation, other than (i) interest earnings and profits on any funds referenced in Subsection C(5) of this Section if such earnings in any Bond Year are less than \$100,000, (ii) interest earnings and profits on amounts in funds and accounts which do not constitute Gross Proceeds, and (iii) interest earnings and profits on the Rebate Fund shall, upon receipt by the Depository Bank, be deposited in the Earnings Fund. In addition, all interest earnings and profits on Gross Proceeds in funds held by the Issuer shall, upon receipt, be paid to the Depository Bank for deposit in the Earnings Fund. Annually, on the last day of each Bond Year or on the preceding business day in the event that such

last day is not a business day, the Depository Bank shall transfer from the Earnings Fund to the Rebate Fund for purposes of ultimate payment to the United States an amount equal to Excess Investment Earnings, all as more particularly described in this Section. Following the transfer referenced in the preceding sentence, the Depository Bank shall transfer all amounts remaining in the Earnings Fund to be used for the payment of Debt Service on the next interest payment date and for such purpose, Debt Service due from the Issuer on such date shall be credited by an amount equal to the amount so transferred.

B. DUTIES OF ISSUER IN GENERAL. The Issuer shall calculate Excess Investment Earnings in accordance with Subsection C and shall assure payment of an amount equal to Excess Investment Earnings to the United States in accordance with Subsections D and E.

C. CALCULATION OF EXCESS INVESTMENT EARNINGS. Within 30 days following the last day of the first Bond Year, the Issuer shall calculate, and shall provide written notice to the Original Purchaser and Depository Bank of, the Excess Investment Earnings referenced in clause (A) of the definition of Excess Investment Earnings. Thereafter, within 30 days following the last day of each Bond Year and within 30 days following the date of the retirement of the Bond, the Issuer shall calculate, and shall provide written notice to the Purchaser and Depository Bank of, the amount of Excess Investment Earnings. Said calculations shall be made or caused to be made by the Issuer in accordance with the following:

(1) Except as provided in (2), in determining the amount described in clause A(i) of the definition of Excess Investment Earnings, the aggregate amount earned on Nonpurpose Investments shall include (i) all income realized under federal income tax accounting principles (whether or not the person earning such income is subject to federal income tax) with respect to such Nonpurpose Investments and with respect to the reinvestment of investment receipts from such Nonpurpose Investments (without regard to the transaction costs incurred in acquiring, carrying, selling or redeeming such Nonpurpose Investments), including, but not limited to, gain or loss realized on the disposition of such Nonpurpose Investments (without regard to when such gains are taken into account under Section 453 of the Code relating to taxable year of inclusion of gross income), and income under Section 1272 of the Code (relating to original issue discount) and (ii) any unrealized gain or loss as of the date of retirement of the Bonds in the event that any Nonpurpose Investment is retained after such date.

(2) In determining the amount described in clause (A) of the definition of Excess Investment Earnings, Investment Property shall be treated as acquired for its fair market value at the time it becomes a Nonpurpose Investment, so that gain or loss on the disposition of such Investment Property shall be computed with reference to such fair market value as its adjusted basis.

(3) In determining the amount described in clause (A)(ii) of the definition of Excess Investment Earnings, the Yield on the Bonds shall be determined based on the actual Yield of the Bonds during the period between the Closing Date of the Bonds and the date the computation is made (with adjustments for original issue discount or premium).

(4) In determining the amount described in clause (B) of the definition of Excess Investment Earnings, all income attributable to the excess described in clause (A) of said definition must be taken into account, whether or not that income exceeds the Yield of the Bond, and no amount may be treated as "negative arbitrage."

(5) In determining the amount of Excess Investment Earnings, there shall be excluded any amount earned on any fund or account which is used primarily to achieve a proper matching of revenues and Debt Service within each Bond Year and which is depleted at least once a year except for a reasonable carryover amount not in excess of the greater of 1 year's earnings on such fund or account or 1/12th of annual Debt Service as well as amounts earned on said earnings if the gross earnings on such fund or account for the Bond Year is less than \$100,000.

D. PAYMENT TO THE UNITED STATES. The Issuer shall direct the Depository Bank to pay from the Rebate Fund an amount equal to Excess Investment Earnings to the United States in installments with the first payment to be made not later than 30 days after the end of the 5th Bond Year and with subsequent payments to be made not later than 5 years after the preceding payment was due. The Issuer shall assure that each such installment is in an amount equal to at least 90% of the Excess Investment Earnings with respect to the Gross Proceeds as of the close of the computation period. Not later than 60 days after the retirement of the Bonds, the Issuer shall direct the Depository Bank to pay from the Rebate Fund to the United States 100% of the theretofore unpaid Excess Investment Earnings in the Rebate Fund. In the event that

there are any amounts remaining in the Rebate Fund following the payment required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States at the address prescribed by the Regulations as the same may be in time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required by this Subsection D, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor.

E. FURTHER OBLIGATIONS OF ISSUER. The Issuer shall assure that Excess Investment Earnings are not paid or disbursed except as required in this Section. To that end the Issuer shall assure that investment transactions are on an arm's length basis and that Nonpurpose Investments are acquired at their fair market value. In the event that Nonpurpose Investments consist of certificates of deposit or investment contracts, investment in such Nonpurpose Investments shall be made in accordance with the procedures described in applicable Regulations as from time to time in effect. The Depository Bank shall keep the moneys in the Earnings Fund and Rebate Fund invested and reinvested to the fullest extent practicable in Government Obligations with maturities consonant with the required use thereof and investment profits and earnings shall be credited to the account of such fund on which earned.

F. MAINTENANCE OF RECORDS. The Issuer shall keep, and retain for a period of 6 years following the retirement of the Bonds, records of the determinations made pursuant to this Section 8.03.

G. INDEPENDENT CONSULTANTS. In order to provide for the administration of this Section 8.03, the Issuer and the Depository Bank (at the expense of the Issuer) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer or the Depository Bank may deem appropriate.

H. FURTHER AGREEMENT. Notwithstanding the foregoing, the Issuer further covenants to comply with all Regulations from time to time in effect and applicable to the Bonds, as may be necessary in order to fully comply with Section 148(f) of the Code.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. A. Each of the following events shall constitute an "Event of Default" with respect to the Notes:

(1) If default occurs in the due and punctual payment of the principal of or interest on any Notes; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Notes set forth in this Bond Legislation, any supplemental resolution, the Indenture or in the Notes, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Trustee, any other bank or banking association holding any fund or account hereunder or a Holder of a Note; 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.

B. Each of the following events shall constitute an "Event of Default" with respect to the Bonds:

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

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Bonds set forth in this Bond Legislation, any supplemental resolution or in the Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, Registrar or any other Paying Agent or a Holder of a Bond; or

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

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Note

or Bond, as the case may be, may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Notes or Bonds, as the case may be, (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 Notes or Bonds, as the case may be, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Notes or Bonds, or the rights of such Registered Owners, provided however, that no remedy herein stated may be exercised by a Noteholder in a manner which adversely affects any remedy available to the Bondholders, and provided further, that all rights and remedies of the Holders of the Series 1987 B Bonds shall be subject to those of the Holders of the Series 1987 A Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the Issuer with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might 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 possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance of Series 1987 A Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1987 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 1987 A Bonds only, 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 1987 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1987 A Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agents at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date, the principal installments of and interest on such Series 1987 A Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1987 A Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on said Series 1987 A Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Series 1987 A Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or

its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

Section 10.02. Defeasance of Series 1987 B Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1987 B Bonds, the principal due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 1987 B Bonds only, 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 1987 B Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1987 B Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agents at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date the principal installments of and interest on such Series 1987 B Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1987 B Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on said Series 1987 B Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Series 1987 B Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the

purpose of this section, securities shall mean and include only Government Obligations.

Section 10.03. Defeasance of Notes. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Notes, the principal of and interest due or to become due thereon, at the times and in the manner set forth in the Indenture, then with respect to the Notes only, this Bond Legislation, the Indenture, if any, and the pledges of Grant Receipts and other moneys and securities pledged thereby, and all covenants, agreements and other obligations of the Issuer to the Holders of the Notes shall thereupon cease, terminate and become void and be discharged and satisfied.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. No material modification or amendment of this Bond Legislation, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the respective rights of Registered Owners of the Notes or Bonds shall be made without the consent in writing of the Registered Owners of 66-2/3% or more in principal amount of the Notes or Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or any Note or Notes or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein respectively pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds or Notes respectively, required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder or Noteholder 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 exemption from federal income taxation of interest on the Bonds and the Notes.

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 Notes, 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, the Indenture, if any, the Bonds or the Notes, if any.

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 enactment 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, City Clerk and members of the 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. Effective Date. This Ordinance shall take effect immediately following public hearing hereon.

Section 11.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Bond Legislation determined by the Governing Body to contain sufficient information as to give notice of the contents hereof 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 Moundsville Daily Echo, a qualified newspaper published in the City of Moundsville, together with a notice stating that this Bond Legislation has been adopted and that the Issuer contemplates the issuance of the Bond, and that any person interested may appear before the City Council upon a date certain, not less than ten days subsequent to the date of the first publication of this Bond Legislation and notice, and present protests, and that a certified copy of the Ordinance is on file with the Governing Body for review

by interested persons during office hours of the Governing Body. 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.

Passed on First Reading - October 13, 1987

Passed on Second Reading - October 22, 1987

Passed on Final Reading  
Following Public  
Hearing - November 10, 1987

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Clerk

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the CITY OF MOUNDSVILLE on this 10th day of November, 1987.

Dated this 10th day of November, 1987.

[SEAL]

*Paula J. Francis*  
City Clerk

11/17/87  
MOUSB2-A

"EXHIBIT A"

[Included as Document Nos. 3 and 4 of Bond Transcript]



CITY OF MOUNDSVILLE

Sewer Revenue Bonds,  
Series 1987 A and Series 1987 B

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITIES, INTEREST RATES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1987 A AND SERIES 1987 B OF THE CITY OF MOUNDSVILLE; AUTHORIZING, APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS

WHEREAS, the city council (the "Governing Body") of the City of Moundsville (the "Issuer"), has duly and officially enacted a bond ordinance, effective November 10, 1987 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF PUBLIC SEWERAGE FACILITIES OF THE CITY OF MOUNDSVILLE AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$2,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1987 A, NOT MORE THAN \$700,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1987 B, AND NOT MORE THAN \$8,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES OR BOTH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND

PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING  
OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Bond Ordinance provides for the issuance of Sewer Revenue Bonds of the Issuer (the "Bonds"), in an aggregate principal amount of not to exceed \$3,200,000, to be issued in two series, the Series 1987 A Bonds to be in an aggregate principal amount of not more than \$2,500,000 (the "Series 1987 A Bonds") and the Series 1987 B Bonds to be in an aggregate principal amount of not more than \$700,000 (the "Series 1987 B Bonds"), and has authorized the execution and delivery of a loan agreement relating to the Series 1987 A Bonds dated October 15, 1987, and a supplemental loan agreement relating to the Series 1987 B Bonds, also dated October 15, 1987 (sometimes collectively referred to herein as the "Loan Agreement"), by and between the Issuer and West Virginia Water Development Authority (the "Authority"), all in accordance with West Virginia Code, 1931, as amended, Chapter 16, Article 13 (the "Act"); and in the Bond Ordinance it is provided that the exact principal amounts, maturity dates, interest rates, interest and principal payment dates, sale prices and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF MOUNDSVILLE:

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued:

(A) The Sewer Revenue Bonds, Series 1987 A, of the Issuer, originally represented by a single Bond, numbered

AR-1, in the principal amount of \$1,846,978. The Series 1987 A Bonds shall be dated the date of delivery thereof, shall finally mature October 1, 2026, shall bear interest at the rate of 8.38% per annum, payable semiannually on April 1 and October 1 of each year, first interest payable April 1, 1988, shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, as long as the Authority shall be the registered owner of the Series 1987 A Bonds, and shall be payable in installments of principal on October 1 of each of the years and in the amounts as set forth in "Schedule X," attached thereto and to the Loan Agreement and incorporated therein by reference.

(B) The Sewer Revenue Bonds, Series 1987 B, of the Issuer, originally represented by a single Bond, numbered BR-1, in the principal amount of \$453,022. The Series 1987 B Bonds shall be dated the date of delivery thereof, shall finally mature October 1, 2026, shall be interest free, shall be subject to redemption upon the written consent of the Authority, and otherwise in compliance with the Loan Agreement, as long as the Authority shall be the registered owner of the Series 1987 B Bonds, and shall be payable in installments of principal on October 1 of each of the years and in the amounts as set forth in "Schedule X," attached thereto and to the Supplemental Loan Agreement and incorporated therein by reference.

Section 2. 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 3. The Issuer does hereby approve, accept and ratify the Loan Agreement, copies of which are incorporated herein by reference, and the execution and delivery by the Mayor of the Loan Agreement, and the performance of the obligations contained therein, on behalf of the Issuer are hereby ratified and approved. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon.

Section 4. The Issuer does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia, as Registrar for the Bonds and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and One Valley Bank, National Association, in substantially the form attached hereto, and the

execution and delivery by the Mayor of the Registrar's Agreement, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, approved and directed.

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

Section 6. The Issuer does hereby appoint United National Bank - North, Moundsville, West Virginia, as Depository Bank under the Bond Ordinance.

Section 7. Series 1987 A Bond Proceeds in the amount of \$180,000 shall be deposited in the Series 1987 A Sinking Fund, as capitalized interest.

Section 8. Series 1987 A Bond proceeds in the amount of \$162,408 and Series 1987 B Bond proceeds in the amount of \$11,922 shall first be credited to the Bond Construction Trust Fund and then deposited in the Series 1987 A Bonds Reserve Account and the Series 1987 B Bonds Reserve Account, respectively.

Section 9. 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 on or about November 18, 1987, to the Authority pursuant to the Loan Agreement.

Section 10. The financing of the Project in part with proceeds of the Bonds is in the public interest, serves a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 11. The Issuer hereby determines that it is in the best interest of the Issuer to invest all moneys in the funds and accounts established by the Bond Ordinance in the West Virginia "Consolidated Fund," and therefore the Issuer hereby directs the Depository Bank and the Paying Agent to take such actions as may be necessary to cause such moneys to be invested in the Consolidated Fund, until further directed by the Issuer.

Section 12. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within

the meaning of the Code. They will take all actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

Section 13. The Issuer has general taxing powers to finance operations of or facilities of the nature of the System, and the Issuer and all subordinate entities reasonably expect to issue less than \$5,000,000 aggregate principal amount of tax-exempt obligations during the calendar year 1987, being the calendar year in which the Bonds are to be issued.

Section 14. The Series 1987 A Bonds are hereby designated as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

Section 15. The Issuer hereby determines to pay, on the date of delivery of the Bonds and receipt of proceeds thereof, all borrowings of the Issuer heretofore incurred for the purpose of temporarily financing a portion of the Costs of the Project, including, but not limited to, all borrowings from West Virginia Water Development Authority.

Section 16. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 10th day of November, 1987.

CITY OF MOUNDSVILLE

  
\_\_\_\_\_  
Mayor

11/11/87  
MOUSB1-D



RECEIVED

WATER DEVELOPMENT AUTHORITY

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"), and the governmental agency designated below (the "Governmental Agency").

CITY OF MOUNDSVILLE

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of Chapter 20, Article 5C, of the Code of West Virginia, 1931, as amended (the "Act"), the Authority is empowered to make loans to governmental agencies for the acquisition or construction of water development projects by such governmental agencies and to issue water development revenue bonds of the State of West Virginia (the "State") to finance, in whole or in part, by loans to governmental agencies, one or more water development projects, all subject to such provisions and limitations as are contained in the Act;

WHEREAS, the Governmental Agency constitutes a governmental agency as defined by the Act;

WHEREAS, the Governmental Agency is authorized and empowered by the statutes of the State to construct, operate and improve a water development project, as defined by the Act, and to finance the cost of constructing or acquiring the same by borrowing money to be evidenced by revenue bonds issued by the Governmental Agency;

WHEREAS, the Governmental Agency intends to construct or is constructing such a water development 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;

WHEREAS, having reviewed the Application and made all findings required by Section 5 of the Act and having available sufficient funds therefor, the Authority is willing 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 proceeds of certain water development revenue bonds of the State issued by the Authority pursuant to and in accordance with the provisions of the Act and a general resolution adopted by the Authority on May 22, 1985 (the "General Resolution"), as supplemented, subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Authority's water development 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," "water development revenue bond," "cost," "governmental agency," "water development project," "wastewater facility" and "water facility" have the definitions and meanings ascribed to them in the Act.

1.2 "Consulting Engineers" means the consulting engineer designated in the Application and any successor thereto.

1.3 "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.

1.4 "Local Act" means the official action of the Governmental Agency required by Section 4.1 hereof, authorizing the Local Bonds.

1.5 "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 with a portion of the proceeds of its water development revenue bonds, all in accordance with the provisions of this Loan Agreement.

1.6 "Local Statute" means the specific provisions of the Code of West Virginia, 1931, as amended, pursuant to which the Local Bonds are issued.

1.7 "Operating Expenses" means the reasonable, proper and necessary costs of operation and maintenance of the System, as hereinafter defined, as should normally and regularly be included as such under generally accepted accounting principles.

1.8 "Project" means the water development 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.

1.9 "System" means the water development 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.

1.10 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 constructed in accordance with plans, specifications and designs prepared for the Governmental Agency by the Consulting Engineers, the Authority having found, to the extent applicable, that the Project is consistent with the applicable comprehensive plan of water management approved by the Director of the West Virginia Department of Natural Resources (or in the process of preparation by such Director), has been approved by the West Virginia Department of Health and is consistent with the standards set by the West Virginia Water Resources Board for the waters of the State affected thereby.

2.2 Subject to the terms, conditions and provisions of this Loan Agreement and of the Local Act, the Governmental Agency has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do 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.

2.4 The Governmental Agency agrees that the Authority and its duly authorized agents shall have the right at all reasonable times to enter upon the Project site and Project facilities and to examine and inspect the same. The Governmental Agency further agrees that the Authority and its duly authorized agents shall, prior to, at and after completion of construction and commencement of operation of the Project, have such rights of access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority in respect of the System pursuant to the pertinent provisions of the Act.

2.5 The Governmental Agency shall keep complete and accurate records of the cost of acquiring the Project site and the costs of constructing, acquiring and installing the Project. The Governmental Agency shall permit the Authority, acting by and through its Director or his duly authorized representatives, to inspect all books, documents, papers and records relating to the Project at any and all reasonable times for the purpose of audit and examination, and the Governmental Agency shall submit to the Authority such documents and information as it may reasonably require in connection with the construction, acquisition and installation of the Project and the administration of the Loan or of any State and federal grants or other sources of financing for the Project.

2.6 The Governmental Agency agrees that it will permit the Authority and its agents 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.

2.7 The Governmental Agency shall require that each construction contractor furnish a performance bond and a payment bond, each in an amount at least equal to one hundred percent (100%) of the contract price of the portion of the Project covered by the particular contract, as security for the faithful performance of such contract.

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority. Until the Project facilities are completed and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Governmental Agency, the prime contractor and all subcontractors, as

their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Governmental Agency on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds is outstanding. Prior to commencing operation of the Project, the Governmental Agency must also obtain, and maintain so long as any of the Local Bonds is outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Governmental Agency shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority covering the supervision and inspection of the development and construction of the Project, and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority and the Governmental Agency at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

2.10 The Governmental Agency agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Governmental Agency agrees that qualified operating personnel properly certified by the State will be retained to operate the System during the entire term of this Loan Agreement.

2.11 The Governmental Agency hereby covenants and agrees to comply with all applicable laws, rules and regulations issued by the Authority or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System.

### ARTICLE III

#### Conditions to Loan; Issuance of Local Bonds

3.1 The agreement of the Authority to make the Loan is subject to the Governmental Agency's fulfillment, to the satisfaction of the Authority, of each and all of those certain conditions precedent on or before the delivery date for the Local Bonds, which shall be the date established pursuant to Section 3.4 hereof. Said conditions precedent are as follows:

(a) The Governmental Agency shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this Loan Agreement;

(b) The Governmental Agency shall have authorized the issuance of and delivered to the Authority for purchase the Local Bonds described in this Article III and in Article IV hereof;

(c) The Governmental Agency shall have received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application, and the Authority shall have received a certificate of the Consulting Engineers to such effect;

(d) The Governmental Agency shall have obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, and the Authority shall have received a certificate of the Consulting Engineers to such effect;

(e) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the issuance of the Local Bonds, construction of the Project and imposition of rates and charges and shall have taken any other action required for the imposition of such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project), and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

(f) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsection 4.1(b)(ii) hereof, and the Authority shall have received a certificate of the accountants for the Governmental Agency, or such other person or firm experienced in the finances of governmental agencies and satisfactory to the Authority, to such effect; and

(g) 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) and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, shall be sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and the Authority shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the

financing of water development projects and satisfactory to the Authority, to such effect, such certificate to be in form and substance satisfactory to the Authority, and evidence satisfactory to the Authority of such irrevocably committed grants.

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the Authority or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall make the Loan to the Governmental Agency and the Governmental Agency shall accept the Loan from the Authority, and in furtherance thereof it is agreed that the Governmental Agency shall sell to the Authority and the Authority shall make the Loan by purchasing the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

3.3 The Loan shall be secured and shall be repaid in the manner hereinafter provided in this Loan Agreement.

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Governmental Agency by written notice to the Authority, which written notice shall be given not less than five (5) business days prior to the date designated; provided, however, that if the Authority is unable to accept delivery on the date designated, the Local Bonds shall be delivered to the Authority on a date as close as possible to the designated date and mutually agreeable to the Authority and the Governmental Agency. The date of delivery so designated or agreed upon is hereinafter referred to as the "Date of Loan Closing." Notwithstanding the foregoing, the Date of Loan Closing shall in no event occur more than ninety (90) days after the date of execution of this Loan Agreement by the Authority.

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Authority for loans to finance water development projects and that the obligation of the Authority to make any such loan is subject to the Governmental Agency's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing and to the right of the Authority to make such loans to other governmental agencies as in the aggregate will permit the fullest and most timely utilization of such proceeds to enable the Authority to pay debt service on the water development revenue bonds issued by it. The Governmental Agency specifically recognizes that the Authority will not execute this Loan Agreement unless and until it has available funds sufficient to purchase all the Local Bonds and that, prior to such execution, the Authority may commit to and purchase the revenue bonds of other governmental agencies for which it has sufficient funds available.

## ARTICLE IV

### Local Bonds; Security for Loan; Repayment of Loan; Interest on Loan; Fees and Charges

4.1 The Governmental Agency shall, as one of the conditions of the Authority to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official action of the Governmental Agency in accordance with the Local Statute, which shall, as enacted, contain provisions and covenants in substantially the form as follows:

(a) That the revenues generated from the operation of the System will be used monthly, in the order of priority listed, as set forth on Schedule Y attached hereto and incorporated herein by reference. The gross revenues of the System shall always be used for purposes of the System.

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by the revenues from the System, as more fully set forth in Schedules X and Y attached hereto;

(ii) That the schedule of rates or charges for the services of the System shall be sufficient to provide funds which, along with other revenues of the System, will pay all Operating Expenses and leave a balance each year equal to at least one hundred fifteen percent (115%) of the maximum amount required in any year for debt service on the Local Bonds and all other obligations secured by or payable from the revenues of the System prior to or on a parity with the Local Bonds or, if the reserve account established for the payment of debt service on the Local Bonds (the "Reserve Account") is funded (whether by Local Bond proceeds, monthly deposits or otherwise) at an amount at least equal to the maximum amount of principal and interest which will come due on the Local Bonds in any year (the "Reserve Requirement") and any reserve account for any such prior or parity obligations is funded at least at the requirement therefor, equal to at least one hundred ten percent (110%) of the maximum amount required in any year for debt service on the Local Bonds and any such prior or parity obligations;

(iii) That the Governmental Agency will complete the Project and operate and maintain the System in good condition;

(iv) That 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 or payable from the revenues of the System prior to the Local Bonds; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

(vi) That the Governmental Agency will carry such insurance as is customarily carried with respect to works and properties similar to the System, including those specified by Section 2.8 hereof;

(vii) That the Governmental Agency will not render any free services of the System;

(viii) That any bond owner may, by proper legal action, compel the performance of the duties of the Governmental Agency under the Local Act, including the making and collection of sufficient rates or charges for services rendered by the System, and shall also have, in the event of a default in payment of principal of or interest on the Local Bonds, the right to obtain the appointment of a receiver to administer the System 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 and shall submit the report of said audit to the Authority, which shall include a statement that the Governmental Agency is in compliance with the terms and provisions of the Local Act and this Loan Agreement;

(xii) That the Governmental Agency shall annually adopt a detailed budget of the estimated expenditures for operation and maintenance of the System during the succeeding fiscal year;

(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, except for accrued interest and capitalized interest, if any, must 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 owner of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing for non-construction costs); provided that, if the cost of acquisition and construction of the Project includes funded reserves for the Local Bonds, any requisite proceeds shall be credited to the construction fund and then deposited in the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein; and

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Governmental Agency shall not authorize redemption of any Local Bonds by it without the written consent of the Authority and otherwise in compliance with this Loan Agreement.

The Governmental Agency hereby represents and warrants that the Local Act has been or shall be duly adopted in compliance with all necessary corporate and other action and in accordance with applicable provisions of law. All legal matters incident to the authorization, issuance, sale and delivery of the Local Bonds shall be approved without qualification by recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit A.

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.

4.3 The principal of the Loan shall be repaid by the Governmental Agency annually on the day and in the years provided in Schedule X hereto. Interest payments on the Loan

shall be made by the Governmental Agency on a semiannual basis as provided in said Schedule X.

4.4 The Loan shall bear interest from the date of the delivery to the Authority of the Local Bonds until the date of payment thereof, 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 pay from time to time, as required by the Authority, the Governmental Agency's allocable share of the reasonable administrative expenses of the Authority relating to the Program. Such administrative expenses shall be as 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 the water development revenue bonds. The Governmental Agency hereby specifically authorizes the Authority to exercise the powers granted it by Section 9.06 of the General Resolution.

4.7 As long as the Authority is the owner of any of the Local Bonds outstanding, the Governmental Agency shall not redeem any of such Local Bonds outstanding without the written consent of the Authority, and any such redemption of Local Bonds authorized by the Authority shall provide for the payment of interest to the first allowable redemption date for the applicable water development revenue bonds, the redemption premium payable on the applicable water development revenue bonds redeemable as a consequence of such redemption of Local Bonds and the costs and expenses of the Authority in effecting any such redemption, all as further prescribed by Section 9.11 of the General Resolution. Nothing in this Loan Agreement shall be construed to prohibit the Authority from refunding applicable water development revenue bonds, and such refunding need not be based upon or result in any benefit to the Governmental Agency.

#### 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 cove-

nants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Governmental Agency hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System, as set forth in the Local Act and in compliance with the provisions of Subsection 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the minimum sums set forth in the Local Act, the Governmental Agency hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges so as to provide funds sufficient to produce the minimum sums set forth in the Local Act and as required by this Loan Agreement.

5.3 In the event the Governmental Agency defaults in the payment of any fees due to the Authority pursuant to Section 4.6 hereof, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

5.4 The Governmental Agency hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Governmental Agency, the Authority may exercise any or all of the rights and powers granted under Section 6a of the Act, including without limitation the right to impose, enforce and collect directly charges upon users of the System.

## ARTICLE VI

### Other Agreements of the Governmental Agency

6.1 The Governmental Agency hereby acknowledges to the Authority its understanding of the provisions of the Act, vesting in the Authority certain powers, rights and privileges with respect to water development projects in the event of default by governmental agencies in the terms and covenants of loan agreements, and the Governmental Agency hereby covenants and agrees that, if the Authority should hereafter have recourse to said rights and powers, the Governmental Agency shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Loan Agreement.

6.2 At the option of the Authority, the Governmental Agency shall issue and sell to the Authority additional, subordinate bonds to evidence the Governmental Agency's obligation to repay to the Authority any grant received by the Governmental Agency from the Authority in excess of the amount to which the Governmental Agency is entitled pursuant to applicable policies or rules and regulations of the Authority. Also at the option of the Authority, the Governmental Agency may issue and sell to the Authority additional, subordinate bonds for such purposes as may be acceptable to the Authority.

6.3 The Governmental Agency hereby warrants and represents that all information provided to the Authority in this Loan Agreement, in the Application or in any other application or documentation with respect to financing the Project was at the time, and now is, true, correct and complete, and such information does not omit any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Prior to the Authority's making the Loan and receiving the Local Bonds, the Authority shall have the right to cancel all or any of its obligations under this Loan Agreement if (a) any representation made to the Authority by the Governmental Agency in connection with the Loan shall be incorrect or incomplete in any material respect or (b) the Governmental Agency has violated any commitment made by it in its Application or in any supporting documentation or has violated any of the terms of this Loan Agreement.

6.4 The Governmental Agency hereby agrees to repay on or prior to the Date of Loan Closing any moneys due and owing by it to the Authority for the planning or design of the Project, and such repayment shall be a condition precedent to the Authority's making the Loan.

6.5 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 tax-exempt status of the Local Bonds.

## ARTICLE VII

### Miscellaneous

7.1 Additional definitions, additional terms and provisions of the Loan and additional covenants and agreements of the Governmental Agency are 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 Schedule X shall be attached to this Loan Agreement at the time of execution hereof by the Authority 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.

7.3 If any provision of this Loan Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Loan Agreement, and this Loan Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

7.4 This Loan Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. Each party agrees that it will execute any and all documents or other instruments and take such other actions as may be necessary to give effect to the terms of this Loan Agreement.

7.5 No waiver by either party of any term or condition of this Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Loan Agreement.

7.6 This Loan Agreement merges and supersedes all prior negotiations, representations and agreements between the parties hereto relating to the Loan and constitutes the entire agreement between the parties hereto in respect thereof.

7.7 By execution and delivery of this Loan Agreement, notwithstanding the date hereof, the Governmental Agency specifically recognizes that it is hereby agreeing to sell its Local Bonds to the Authority and that such obligation may be specifically enforced or subject to a similar equitable remedy by the Authority.

7.8 This Loan Agreement shall terminate upon the earlier of:

(i) the end of ninety (90) days after the date of execution hereof by the Authority if the Governmental Agency has failed to deliver the Local Bonds to the Authority;

(ii) termination by the Authority pursuant to Section 6.3 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.

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.

The Sanitary Board of The City of Moundsville  
[Proper Name of Governmental Agency]

(SEAL)

By [Signature]  
Its designated Representative

Attest:

Date: 9/8/87

[Signature]  
Its Project Coordinator

WEST VIRGINIA WATER  
DEVELOPMENT AUTHORITY

(SEAL)

By [Signature]  
Director

Attest:

Date: OCTOBER 15, 1987

[Signature]  
Secretary-Treasurer

WDA-5X  
(October 1986)

SCHEDULE X  
DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds	<u>\$1,846,978</u>
Purchase Price of Local Bonds	<u>\$1,846,978</u>

Interest on the Local Bonds is payable on April 1 and October 1 in each year, beginning with the first semi-annual interest payment date after delivery of the Local Bonds to the Authority, until the Local Bonds are paid in full, at the rate of 8.38 % per annum. Principal of the Local Bonds is payable on October 1 in each year as set forth on Exhibit 1 attached hereto and incorporated herein by reference.

As of the date of the Loan Agreement, the Local Bonds are on a parity as to source of and security for payment with the following obligations:

As of the date of the Loan Agreement, the Local Bonds are subordinate as to source of and security for payment to the following obligations:

CITY OF HOUNDSVILLE  
 ANALYSIS OF 7.00% BORROWING COST FOR LOCAL ISSUER  
 ----- 1986 SERIES A BONDS -----

ENDING	10/1	COUPON PRIN.	INTEREST	DEBT SERVICE
1988	8.38		134,569.79	134,569.79
1989	8.38	7,630	154,776.76	162,406.76
1990	8.38	8,270	154,137.36	162,407.36
1991	8.38	8,963	153,444.34	162,407.34
1992	8.38	9,714	152,693.24	162,407.24
1993	8.38	10,528	151,879.21	162,407.21
1994	8.38	11,410	150,996.96	162,406.96
1995	8.38	12,367	150,040.80	162,407.80
1996	8.38	13,402	149,004.45	162,406.45
1997	8.38	14,526	147,881.36	162,407.36
1998	8.38	15,742	146,664.08	162,406.08
1999	8.38	17,062	145,344.90	162,406.90
2000	8.38	18,492	143,915.10	162,407.10
2001	8.38	20,041	142,365.48	162,406.48
2002	8.38	21,720	140,686.04	162,406.04
2003	8.38	23,541	138,865.90	162,406.90
2004	8.38	25,513	136,893.17	162,406.17
2005	8.38	27,652	134,755.18	162,407.18
2006	8.38	29,969	132,437.94	162,406.94
2007	8.38	32,480	129,926.54	162,406.54
2008	8.38	35,202	127,204.71	162,406.71
2009	8.38	38,152	124,254.79	162,406.79
2010	8.38	41,350	121,057.65	162,407.65
2011	8.38	44,814	117,592.52	162,406.52
2012	8.38	48,570	113,837.11	162,407.11
2013	8.38	52,640	109,766.94	162,406.94
2014	8.38	57,052	105,355.71	162,407.71
2015	8.38	61,832	100,574.75	162,406.75
2016	8.38	67,013	95,393.23	162,406.23
2017	8.38	72,630	89,777.54	162,407.54
2018	8.38	78,716	83,691.14	162,407.14
2019	8.38	85,312	77,094.74	162,406.74
2020	8.38	92,462	69,945.60	162,407.60
2021	8.38	100,210	62,197.28	162,407.28
2022	8.38	108,607	53,799.68	162,406.68
2023	8.38	117,708	44,698.42	162,406.42
2024	8.38	127,573	34,834.49	162,407.49
2025	8.38	138,263	24,143.87	162,406.87
2026	8.38	149,850	12,557.43	162,407.43

-----  
 1,846,978 4,459,056.20 6,306,034.20

SCHEDULE Y  
REVENUES

In accordance with Subsection 4.1(a) of the Loan Agreement, the revenues generated from the operation of the System will be used monthly, in the order of priority listed, as follows:

- (i) to pay Operating Expenses of the System;
- (ii) to the extent not otherwise limited by an outstanding local resolution, indenture or other act or document, as reflected on Schedule X to the Loan Agreement, and beginning seven (7) months prior to the first date of payment of interest on the Local Bonds from revenues and thirteen (13) months prior to the first date of payment of principal of the Local Bonds, respectively, to provide debt service on the Local Bonds by depositing in a sinking fund one-sixth (1/6) of the interest payment next coming due on the Local Bonds and one-twelfth (1/12) of the principal payment next coming due on the Local Bonds and, if 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 Reserve Requirement, by depositing in the Reserve Account an amount equal to one-twelfth (1/12) of one-tenth (1/10) of the amount necessary to fund the Reserve Account at 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;
- (iv) to provide debt service on and requisite reserves for any subordinate indebtedness of the Governmental Agency held or owned by the Authority; and
- (v) for other legal purposes of the System, including payment of debt service on other obligations junior, subordinate and inferior to the Local Bonds.

SCHEDULE Z

Additional and Supplemental Definitions

1. "EPA" means the United States Environmental Protection Agency and any successors to the functions thereof.
2. "Local Statute" means Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended.
3. "System" means the works for the collection and/or treatment, purification and disposal of sewage, in its entirety or any integral part thereof, owned by the Governmental Agency and under the supervision and control of a sanitary board, and any extensions, improvements or betterments thereto hereafter constructed or acquired from any sources whatsoever and includes the Project.

Additional Conditions and Covenants

1. The Governmental Agency agrees that it will at all times provide operation and maintenance of the System to comply with, among other State and federal standards, the water quality standards established by the West Virginia Department of Natural Resources and EPA.
2. The Governmental Agency agrees that it will permit the EPA 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.
3. As a condition precedent to the Authority's making the Loan, the Governmental Agency shall have obtained, among other permits required, permits from the EPA and the West Virginia Department of Natural Resources and approval of the "Part B" supplement to its EPA grant agreement.
4. The Local Act shall contain a covenant substantially as follows:

That the Governmental Agency will, to the full extent permitted by applicable law and the rules and regulations of the PSC, discontinue and shut off the

services and facilities of the System and, in the event the Governmental Agency owns a water facility (the "Water System"), the Water System to all users of services of the System delinquent in payment of charges for the services of the System and will not restore the services of either system until all delinquent charges for the services of the System have been fully paid.

5. To the extent required by law, the Governmental Agency hereby covenants and agrees to secure approval of the Authority and all other State agencies having jurisdiction before applying for federal financial assistance for pollution abatement in order to maximize the amounts of such federal financial assistance received or to be received for all water development projects in the State.

6. Subject to any prior or parity obligations described in Schedules X and Y attached to the Loan Agreement, the net revenues derived from the operation of the System are pledged to the payment of the principal of and interest on the Local Bonds.

7. The Governmental Agency shall comply with the provisions of the Internal Revenue Code of 1986, as amended. As a condition precedent to the Authority's making the Loan, the Governmental Agency shall deliver to the Authority a certificate representing the following:

- (a) The Governmental Agency expects to enter into a contract within six months of the date thereof for the construction of the Project, and the amount to be expended pursuant to such contract exceeds the lesser of 2-1/2 percent of the estimated total Project cost financed with proceeds from the sale of the Local Bonds or \$100,000;
- (b) Work with respect to the construction of the Project will proceed with due diligence to completion. Construction is expected to be completed within three years of May 22, 1986;
- (c) All of the proceeds from the sale of the Local Bonds which will be used for payment of costs of the Project, together with any investment earnings thereon, will be expended for such purpose by May 1, 1989;

- (d) The Governmental Agency does not expect to sell or otherwise dispose of the Project, in whole or in part, prior to the last maturity date of the Local Bonds; and
- (e) The Governmental Agency will comply with the provisions of the Internal Revenue Code of 1986, as amended, for which the effective date precedes the date of delivery of its Local Bond to the Authority.



RECEIVED

SEP 20 1987

SUPPLEMENTAL LOAN AGREEMENT

WATER DEVELOPMENT AUTHORITY

THIS SUPPLEMENTAL 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"), and the governmental agency designated below (the "Governmental Agency").

CITY OF MOUNDSVILLE

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of Chapter 20, Article 5C, of the Code of West Virginia, 1931, as amended (the "Act"), the Authority is empowered to make loans to governmental agencies for the acquisition or construction of water development projects by such governmental agencies and to issue water development revenue bonds of the State of West Virginia (the "State") to finance, in whole or in part, by loans to governmental agencies, one or more water development projects, all subject to such provisions and limitations as are contained in the Act;

WHEREAS, the Governmental Agency constitutes a governmental agency as defined by the Act;

WHEREAS, the Governmental Agency is authorized and empowered by the statutes of the State to construct, operate and improve a water development project, as defined by the Act, and to finance the cost of constructing or acquiring the same by borrowing money to be evidenced by revenue bonds, including supplemental, subordinate revenue bonds, issued by the Governmental Agency;

WHEREAS, the Governmental Agency intends to construct or is constructing such a water development 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;

WHEREAS, on or prior to the date hereof, the Governmental Agency and the Authority entered a loan agreement with respect to the purchase by the Authority of certain Local Bonds of the Governmental Agency, all as more specifically described in Exhibit A attached hereto and incorporated herein by reference (the "Loan Agreement").

WHEREAS, having reviewed the Application and made all findings required by Section 5 of the Act, and having available sufficient funds therefor, the Authority is willing to lend the Governmental Agency the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of supplemental, subordinate revenue bonds of the Governmental Agency with certain available funds of the Authority (other than the proceeds of certain water development revenue bonds of the State issued by the Authority pursuant to and in accordance with the provisions of the Act and a general resolution adopted by the Authority on May 22, 1985, as supplemented), subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Authority's supplemental water development loan program (the "Supplemental 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; Loan Agreement

1.1 Capitalized terms used and not otherwise defined herein shall have the meanings respectively given them by the Loan Agreement.

1.2 Except where the context clearly indicates otherwise, the terms "Authority," "water development revenue bond," "cost," "governmental agency," "water development project," "wastewater facility" and "water facility" have the definitions and meanings ascribed to them in the Act.

1.3 "Local Act" means the official action of the Governmental Agency required by Section 4.1 hereof, authorizing the Supplemental Bonds.

1.4 "Supplemental Bonds" means the revenue bonds to be issued by the Governmental Agency pursuant to the provisions of the Local Statute, to evidence the Supplemental Loan, as hereinafter defined, and to be purchased by the Authority with certain available funds (other than the proceeds of its water development revenue bonds), the lien of which on the revenues

of the System is junior, subordinate and inferior to that of the Local Bonds, all in accordance with the provisions of this Supplemental Loan Agreement.

1.5 "Supplemental Loan" means the loan to be made by the Authority to the Governmental Agency through the purchase of Supplemental Bonds pursuant to this Supplemental Loan Agreement.

1.6 Additional terms and phrases are defined in this Supplemental Loan Agreement as they are used.

1.7 This Supplemental Loan Agreement is supplemental to the Loan Agreement, the terms of which are incorporated herein by reference.

## 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 constructed in accordance with plans, specifications and designs prepared for the Governmental Agency by the Consulting Engineers, the Authority having found, to the extent applicable, that the Project is consistent with the applicable comprehensive plan of water management approved by the Director of the West Virginia Department of Natural Resources (or in the process of preparation by such Director), has been approved by the West Virginia Department of Health and is consistent with the standards set by the West Virginia Water Resources Board for the waters of the State affected thereby.

2.2 Subject to the terms, conditions and provisions of this Supplemental Loan Agreement and of the Local Act, the Governmental Agency has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do 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.

2.4 The Governmental Agency agrees that the Authority and its duly authorized agents shall have the right at all reasonable times to enter upon the Project site and Project

facilities and to examine and inspect the same. The Governmental Agency further agrees that the Authority and its duly authorized agents shall, prior to, at and after completion of construction and commencement of operation of the Project, have such rights of access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority in respect of the System pursuant to the pertinent provisions of the Act.

2.5 The Governmental Agency shall keep complete and accurate records of the cost of acquiring the Project site and the costs of constructing, acquiring and installing the Project. The Governmental Agency shall permit the Authority, acting by and through its Director or his duly authorized representatives, to inspect all books, documents, papers and records relating to the Project at any and all reasonable times for the purpose of audit and examination, and the Governmental Agency shall submit to the Authority such documents and information as it may reasonably require in connection with the construction, acquisition and installation of the Project and the administration of the Supplemental Loan or of any State and federal grants or other sources of financing for the Project.

2.6 The Governmental Agency agrees that it will permit the Authority and its agents 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.

2.7 The Governmental Agency shall require that each construction contractor furnish a performance bond and a payment bond, each in an amount at least equal to one hundred percent (100%) of the contract price of the portion of the Project covered by the particular contract, as security for the faithful performance of such contract.

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority. Until the Project facilities are completed and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Governmental Agency, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or

mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Governmental Agency on or before the Date of Loan Closing and maintained so long as any of the Supplemental Bonds is outstanding. Prior to commencing operation of the Project, the Governmental Agency must also obtain, and maintain so long as any of the Supplemental Bonds is outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Governmental Agency shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority covering the supervision and inspection of the development and construction of the Project, and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority and the Governmental Agency at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

2.10 The Governmental Agency agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Governmental Agency agrees that qualified operating personnel properly certified by the State will be retained to operate the System during the entire term of this Supplemental Loan Agreement.

2.11 The Governmental Agency hereby covenants and agrees to comply with all applicable laws, rules and regulations issued by 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.

### ARTICLE III

#### Conditions to Supplemental Loan; Issuance of Supplemental Bonds

3.1 The agreement of the Authority to make the Supplemental Loan is subject to the Governmental Agency's fulfillment, to the satisfaction of the Authority, of each and all of those certain conditions precedent on or before the delivery date for the Supplemental Bonds, which shall be the date established pursuant to Section 3.4 of the Loan Agreement for delivery of the Local Bonds. 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 Supplemental Loan Agreement;

(b) The Governmental Agency shall have authorized the issuance of and delivered to the Authority for purchase the Supplemental Bonds described in this Article III and in Article IV hereof and shall have delivered to the Authority for purchase the Local Bonds in accordance with the Loan Agreement;

(c) The Governmental Agency shall have received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application, and the Authority shall have received a certificate of the Consulting Engineers to such effect;

(d) The Governmental Agency shall have obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, and the Authority shall have received a certificate of the Consulting Engineers to such effect;

(e) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the issuance of the Supplemental Bonds, construction of the Project and imposition of rates and charges and shall have taken any other action required for the imposition of such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project), and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

(f) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsection 4.1(b)(ii) hereof, and the Authority shall have received a certificate of the accountants for the Governmental Agency, or such other person or firm experienced in the finances of governmental agencies and satisfactory to the Authority, to such effect; and

(g) The net proceeds of the Supplemental Bonds, together with the net proceeds of the Local Bonds and all other 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) and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, shall be sufficient to pay the costs of construction and acquisition of

the Project as set forth in the Application, and the Authority shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of water development projects and satisfactory to the Authority, to such effect, such certificate to be in form and substance satisfactory to the Authority, and evidence satisfactory to the Authority of such irrevocably committed grants.

3.2 Subject to the terms and provisions of this Supplemental Loan Agreement, the rules and regulations promulgated by the Authority or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall make the Supplemental Loan to the Governmental Agency and the Governmental Agency shall accept the Supplemental 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 Supplemental Loan by purchasing the Supplemental Bonds in the principal amount and at the price set forth in Schedule X hereto. The Supplemental Bonds shall have such further terms and provisions as described in Article IV hereof.

3.3 The Supplemental Loan shall be secured and shall be repaid in the manner hereinafter provided in this Supplemental Loan Agreement.

3.4 The Supplemental Loan will be made only in conjunction with the Loan. The Supplemental Bond shall be delivered to the Authority, at the offices of the Authority, simultaneously with the delivery of the Local Bond to the Authority.

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Authority for loans to finance water development projects and that the obligation of the Authority to make any such loan is subject to the Governmental Agency's fulfilling all of the terms and conditions of this Supplemental Loan Agreement and the Loan Agreement on or prior to the Date of Loan Closing and to the right of the Authority to make such loans to other governmental agencies under the conditions and in the manner described in the Loan Agreement. The Governmental Agency further understands and acknowledges that the Authority's obligation to make the Supplemental Loan is subject to the availability on the Date of Loan Closing of funds legally available therefor.

3.6 Anything in this Loan Agreement notwithstanding, if the Authority is unable to pay the proceeds of the Supplemental Bonds to the Governmental Agency on the Date of Loan Closing due to the time required for processing the purchase order or requisition for such moneys with the State,

the Authority may pay such proceeds as soon as received after the Date of Loan Closing; provided, that the Supplemental Bonds shall not evidence any debt to be repaid to the Authority until the proceeds thereof are received by the Governmental Agency.

#### ARTICLE IV

#### Supplemental Bonds; Security for Supplemental Loan; Repayment of Supplemental Loan; No Interest on Supplemental Loan; Fees and Charges

4.1 The Governmental Agency shall, as one of the conditions of the Authority to make the Supplemental Loan, authorize the issuance of and issue the Supplemental Bonds pursuant to an official action of the Governmental Agency in accordance with the Local Statute, which shall, as enacted, contain provisions and covenants in substantially the form as follows:

(a) That the revenues generated from the operation of the System will be used monthly, in the order of priority listed, as set forth on Schedule Y attached hereto and incorporated herein by reference. The gross revenues of the System shall always be used for purposes of the System.

(b) Covenants substantially as follows:

(i) That the Supplemental Bonds shall be secured by the revenues from the System, as more fully set forth in Schedules X and Y attached hereto, subject to the prior and senior security therefrom granted to the Local Bonds;

(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 the Supplemental Bonds and all other obligations secured by or payable from the revenues of the System prior to or on a parity with the Local Bonds and on a parity with the Supplemental Bonds or, if the reserve accounts established for the payment of debt service on the Local Bonds (the "Reserve Account") and for the payment of debt service on the Supplemental Bonds (the "Supplemental Reserve Account") are funded (whether by bond proceeds, monthly deposits or otherwise), respectively, at an amount at least equal to the maximum amount of principal and interest which will come due on the Local Bonds in any year (the "Reserve Requirement") or on the Supplemental Bonds in any year (the "Supplemental Reserve Requirement"), as the case may be, 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 the Supplemental Bonds and any such prior or parity obligations;

(iii) That the Governmental Agency will complete the Project and operate and maintain the System in good condition;

(iv) That 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 and Supplemental 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 Supplemental Bonds, except the Local Bonds and bonds on a parity with the Supplemental Bonds, which parity bonds 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 Supplemental Bonds and parity bonds theretofore and then being issued and on the Local Bonds and any other obligations secured by or payable from the revenues of the System prior to the Supplemental Bonds; provided, however, that additional parity Local Bonds and additional parity Supplemental Bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

(vi) That the Governmental Agency will carry such insurance as is customarily carried with respect to works and properties similar to the System, including those specified by Section 2.8 hereof;

(vii) That the Governmental Agency will not render any free services of the System;

(viii) That any bond owner may, by proper legal action, compel the performance of the duties of the Governmental Agency under the Local Act, including the making and collection of sufficient rates or charges for services rendered by the System, and shall also have, in the event of a default in payment of principal or interest on the Supplemental Bonds, the right to obtain the

appointment of a receiver to administer the System as provided by law, subject to the prior and senior rights of the owner or owners of the Local Bonds;

(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 and shall submit the report of said audit to the Authority, which shall include a statement that the Governmental Agency is in compliance with the terms and provisions of the Local Act and this Supplemental Loan Agreement;

(xii) That the Governmental Agency shall annually adopt a detailed budget of the estimated expenditures for operation and maintenance of the System during the succeeding fiscal year;

(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 Supplemental Bonds, except any proceeds deposited in the Reserve Account or the Supplemental Reserve Account, must be deposited in a construction fund on which the owner of the Supplemental Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing for non-construction costs); provided, that said construction fund may be the one established for the Local Bonds, which shall have a prior and senior lien thereon, but shall otherwise be kept separate and apart from all other funds of the Governmental Agency; and

(xv) That, as long as the Authority is the owner of any of the Supplemental Bonds, the Governmental Agency shall not authorize redemption of any Supplemental Bonds by it without the written consent of the Authority.

The Governmental Agency hereby represents and warrants that the Local Act has been or shall be duly adopted in

compliance with all necessary corporate and other action and in accordance with applicable provisions of law. All legal matters incident to the authorization, issuance, sale and delivery of the Supplemental 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 Supplemental 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 the prior and senior security therefrom for the Local Bonds and to such reservations and exceptions as are described in Schedules X and Y hereto or are otherwise expressly permitted in writing by the Authority.

4.3 The principal of the Supplemental Loan shall be repaid by the Governmental Agency annually on the day and in the years provided in Schedule X hereto.

4.4 The Supplemental Loan shall not bear interest.

4.5 The Supplemental 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.

4.6 The Governmental Agency agrees to pay from time to time, as required by the Authority, the Governmental Agency's allocable share of the reasonable administrative expenses of the Authority relating to the Supplemental Program, which administrative expenses shall be as determined by the Authority and shall include, but not be limited to, legal fees paid by the Authority.

#### 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 Supplemental 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 Supplemental Loan, it has fixed

and collected, or will fix and collect, the rates, fees and other charges for the use of the System, as set forth in the Local Act and in compliance with the provisions of Subsection 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds and the Supplemental Bonds shall prove to be insufficient to produce the minimum sums set forth in the Local Act, the Governmental Agency hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges so as to provide funds sufficient to produce the minimum sums set forth in the Local Act and as required by this Supplemental Loan Agreement.

5.3 In the event the Governmental Agency defaults in the payment of any fees due to the Authority pursuant to Section 4.6 hereof, the amount of such default shall bear interest at the rate of five percent (5%) per annum, 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 Section 6a of the Act, including without limitation the right to impose, enforce and collect directly charges upon users of the System.

## ARTICLE VI

### Other Agreements of the Governmental Agency

6.1 The Governmental Agency hereby acknowledges to the Authority its understanding of the provisions of the Act, vesting in the Authority certain powers, rights and privileges with respect to water development projects in the event of default by governmental agencies in the terms and covenants of loan agreements, and the Governmental Agency hereby covenants and agrees that, if the Authority should hereafter have recourse to said rights and powers, the Governmental Agency 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 Supplemental Loan Agreement.

6.2 The Governmental Agency hereby warrants and represents that all information provided to the Authority in this Supplemental Loan Agreement, in the Application or in any other application or documentation with respect to financing the Project was at the time provided, 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 Supplemental Loan and receiving the Supplemental Bonds, the Authority shall have the right to cancel all or any of its obligations under this Supplemental Loan Agreement if (a) any representation made to the Authority by the Governmental Agency in connection with the Loan or the Supplemental 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 Loan Agreement or this Supplemental Loan Agreement.

6.3 The Governmental Agency hereby agrees to repay on or prior to the Date of Loan Closing any moneys due and owing by it to the Authority for the planning or design of the Project, and such repayment shall be a condition precedent to the Authority's making the Supplemental Loan.

## ARTICLE VII

### Miscellaneous

7.1 Additional definitions, additional terms and provisions of the Supplemental Loan and additional covenants and agreements of the Governmental Agency are set forth in Schedule Z attached hereto and incorporated herein by reference, with the same effect as if contained in the text of this Supplemental Loan Agreement.

7.2 Schedule X shall be attached to this Supplemental Loan Agreement at the time of execution hereof by the Authority 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.

7.3 If any provision of this Supplemental 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 Supplemental Loan Agreement, and this Supplemental Loan Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

7.4 This Supplemental 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 Supplemental Loan Agreement.

7.5 No waiver by either party of any term or condition of this Supplemental 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 Supplemental Loan Agreement.

7.6 This Supplemental Loan Agreement merges and supersedes all prior negotiations, representations and agreements between the parties hereto relating to the Supplemental Loan and constitutes the entire agreement between the parties hereto in respect thereof.

7.7 By execution and delivery of this Supplemental Loan Agreement, notwithstanding the date hereof, the Governmental Agency specifically recognizes that it is hereby agreeing to sell its Supplemental Bonds to the Authority and that such obligation may be specifically enforced or subject to a similar equitable remedy by the Authority.

7.8 This Supplemental Loan Agreement shall terminate upon the earlier of:

(i) termination by the Authority of the Loan Agreement pursuant to Subsections 7.8(i) or (ii) thereof;

(ii) termination by the Authority pursuant to Section 6.2 hereof; or

(iii) payment in full of the principal of the Supplemental Loan and of any fees and charges owed by the Governmental Agency to the Authority.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Loan Agreement to be executed by their respective duly authorized officers as of the date executed below by the Authority.

The Sanitary Board of The City of Moundsville  
[Proper Name of Governmental Agency]

(SEAL)

By J. B. Madd  
Its Designated Representative

Attest:

Date: 9/8/87

Thomas A. Stenik  
Its Project Coordinator

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

(SEAL)

By Edgar W. Henry  
Director

Attest:

Date: OCTOBER 15, 1987

Daniel B. Gentry  
Secretary-Treasurer

WDA-Subp. 5X  
(November 1985)

SCHEDULE X  
DESCRIPTION OF SUPPLEMENTAL BONDS

Principal Amount of Supplemental Bonds	\$ <u>453,022</u>
Purchase Price of Supplemental Bonds	\$ <u>453,022</u>

Principal of the Supplemental Bonds is payable on October 1 in each year as set forth on Exhibit 1 attached hereto and incorporated herein by reference.

As of the date of the Supplemental Loan Agreement, the Supplemental Bonds are subordinate as to source of and security for payment to the following obligations, other than the Local Bonds:

CITY OF MOUNDSVILLE  
ANALYSIS OF 7.00% BORROWING COST FOR LOC. ISSUER  
----- 1986 SERIES A BONDS -----

ZERO  
COUPON  
BONDS  
-----

	.00
1988	.00
1989	11,921.69
1990	11,921.63
1991	11,921.63
1992	11,921.63
1993	11,921.63
1994	11,921.63
1995	11,921.63
1996	11,921.63
1997	11,921.63
1998	11,921.63
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2015	11,921.63
2016	11,921.63
2017	11,921.63
2018	11,921.63
2019	11,921.63
2020	11,921.63
2021	11,921.63
2022	11,921.63
2023	11,921.63
2024	11,921.63
2025	11,921.63
2026	11,921.63

-----  
453,022.00

SCHEDULE Y  
REVENUES

In accordance with Subsection 4.1(a) of the Supplemental Loan Agreement, the revenues generated from the operation of the System will be used monthly, in the order of priority listed, as follows:

(i) as prescribed by the Loan Agreement, to pay Operating Expenses of the System;

(ii) as prescribed by the Loan Agreement, to the extent not otherwise limited by an outstanding local resolution, indenture or other act or document, as reflected on Schedule X to the Loan Agreement, and beginning seven (7) months prior to the first date of payment of interest on the Local Bonds from revenues and thirteen (13) months prior to the first date of payment of principal of the Local Bonds, respectively, to provide debt service on the Local Bonds by depositing in a sinking fund one-sixth (1/6) of the interest payment next coming due on the Local Bonds and one-twelfth (1/12) of the principal payment next coming due on the Local Bonds and, if 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 Reserve Requirement, by depositing in the Reserve Account an amount equal to one-twelfth (1/12) of one-tenth (1/10) of the amount necessary to fund the Reserve Account at 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) as prescribed by the Loan Agreement, 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;

(iv) beginning thirteen (13) months prior to the first date of payment of principal of the Supplemental Bonds, to provide debt service on the Supplemental Bonds by depositing in a sinking fund one-twelfth (1/12) of the principal payment next coming due on the Supplemental Bonds and, if the Supplemental Reserve Account was not funded

concurrently with the issuance thereof in an amount equal to the Supplemental Reserve Requirement, by depositing in the Supplemental Reserve Account an amount equal to one-twelfth (1/12) of one-tenth (1/10) of the amount necessary to fund the Supplemental Reserve Account at the Supplemental Reserve Requirement or, if the Supplemental Reserve Account has been so funded (whether by Supplemental Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Supplemental Reserve Account at the Supplemental Reserve Requirement;

(v) to provide debt service on and requisite reserves for any other subordinate indebtedness of the Governmental Agency held or owned by the Authority; and

(vi) for other legal purposes of the System, including payment of debt service on other obligations junior, subordinate and inferior to the Local Bonds.

SCHEDULE 2

Additional and Supplemental Definitions

1. "EPA" means the United States Environmental Protection Agency and any successors to the functions thereof.
2. "Local Statute" means Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended.
3. "System" means the works for the collection and/or treatment, purification and disposal of sewage, in its entirety or any integral part thereof, owned by the Governmental Agency and under the supervision and control of a sanitary board, and any extensions, improvements or betterments thereto hereafter constructed or acquired from any sources whatsoever and includes the Project.

Additional Conditions and Covenants

1. The Governmental Agency agrees that it will at all times provide operation and maintenance of the System to comply with, among other State and federal standards, the water quality standards established by the West Virginia Department of Natural Resources and EPA.
2. The Governmental Agency agrees that it will permit the EPA 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.
3. As a condition precedent to the Authority's making the Supplemental Loan, the Governmental Agency shall have obtained, among other permits required, permits from the EPA and the West Virginia Department of Natural Resources and approval of the "Part B" supplement to its EPA grant agreement.
4. The Local Act shall contain a covenant substantially as follows:

That the Governmental Agency will, to the full extent permitted by applicable law and the rules and regulations of the PSC, discontinue and shut off the services and facilities of the System and, in the event the Governmental

Agency owns a water facility (the "Water System"), the Water System to all users of services of the System delinquent in payment of charges for the services of the System and will not restore the services of either system until all delinquent charges for the services of the System have been fully paid.

5. To the extent required by law, the Governmental Agency hereby covenants and agrees to secure approval of the Authority and all other State agencies having jurisdiction before applying for federal financial assistance for pollution abatement in order to maximize the amounts of such federal financial assistance received or to be received for all water development projects in the State.

6. Subject to any prior or parity obligations described in Schedules X and Y attached to the Supplemental Loan Agreement, and to the prior lien of the Local Bonds, the net revenues derived from the operation of the System are pledged to the payment of the principal of the Supplemental Bonds.



PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

Entered: October 28, 1987

*order non appealable  
by 11/9/87  
no petition to reconsider*

CASE NO. 87-388-S-CN

CITY OF MOUNDSVILLE SANITARY BOARD,  
municipal corporation.

Application for a certificate of convenience and necessity to design and construct a 2.35 MGD "captor" Biological Treatment Plant, 12,000 LF 10-inch force main and rehabilitation of portions of existing Moundsville and Glen Dale systems to serve Moundsville and Glen Dale, Marshall County.

*Since - He need letter  
from Glen Dale re  
won't appeal.  
Jury*

FINAL ORDER

On June 25, 1987, the City of Moundsville Sanitary Board (Moundsville), a municipal corporation, filed an application, duly verified, for a certificate of convenience and necessity to design and construct a 2.35 MGD "captor" biological treatment plant; 12,000 linear feet of 10-inch force main; and the rehabilitation of portions of the existing Moundsville and City of Glen Dale (Glen Dale) systems, to serve both Moundsville and Glen Dale, Marshall County. Moundsville estimated that the project would cost approximately \$10,820,038 and would be financed by a combination of bonded indebtedness and increased user fees to retire the bonds. Accompanying the application were a Rule 42 Exhibit for the City of Moundsville Sanitary Board; a preliminary engineering report, which discussed a pilot plant study report for the captor system for Moundsville and a description of the proposed plant; an estimated project budget for the wastewater treatment system for both Glen Dale and

Moundsville; a proposed municipal agreement between Moundsville and Glen Dale for the treatment of Glen Dale's sewage by the Moundsville plant including rates, charges, terms and conditions for said treatment; a proposed bond ordinance for the City of Moundsville including interim financing; the City of Moundsville's existing rate ordinance, with the indication that no rate increase was being planned by the City to cover the cost of the sewer project; a funding letter from the Environmental Protection Agency (EPA) committing \$4,149,420 to the project; certain interim financing information; and a list of personnel working on the project.

On June 26, 1987, the Public Service Commission issued a Notice of Filing order, requiring the City of Moundsville Sanitary Board to give notice of the filing of the application by publishing a copy of the Commission's order once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in the City of Moundsville, Marshall County, making due return to the Commission of proper certification of publication immediately thereafter. Anyone desiring to make written objection to the application was given leave to do so within thirty days after the date of publication. The Commission's order further provided that, if no protests were received within the thirty-day period, the Commission could waive formal hearing and grant the application of the City of Moundsville Sanitary Board, based upon the evidence submitted with the application and the Commission's review thereof. On August 5, 1987, the City of Moundsville submitted an Affidavit of Publication from The Moundsville Daily Echo, a newspaper published and of general circulation in Marshall County, indicating that notice was provided on July 3, 1987, as required. The thirty-day period in which to file written protest to

the application expired on August 2, 1987, with no protests having been filed with the Commission at that time or as of the date of this order.

Over the course of several weeks, the City of Moundsville provided additional information regarding the project. On July 23, 1987, the project coordinator submitted information indicating that local share funds for the City of Glen Dale's portion of the project would come from a reserve of approximately \$235,000 which had been accumulated by Glen Dale in anticipation of the project and through an additional amount of approximately \$100,000, which will be borrowed by Moundsville as part of its bond issue and on which Glen Dale would make monthly payments to Moundsville to repay the debt. Additionally, the project coordinator indicated that the entire EPA grant was going to be in the name of the City of Moundsville. On August 19, 1987, Moundsville submitted a letter to the Department of Natural Resources (DNR) indicating DNR approval of the plans and specifications for this project and authorizing the City to advertise for bids.

On August 31, 1987, the project coordinator indicated that construction bids were opened on August 11, 1987, with a resulting total project cost decrease to \$10,765,487, which will decrease the expected total EPA grant to \$7,832,018 and which will require a reduction in the local share amounts for both Moundsville and Glen Dale. At that time the project coordinator also submitted a revised estimate of total project costs and financing, along with a letter from the City of Moundsville requesting that the EPA increase its grant to \$7,832,018; a Rule 42 debit for the City of Glen Dale and the calculation of the charge to be paid by Moundsville to Glen Dale for sewage treatment, which is projected to be \$56,721 annually, based upon the estimated initial flows

distributed by Glen Dale and Moundsville respectively. On September 17, 1987, the City submitted information from the Water Development Authority regarding the City of Moundsville's intention to participate in the low interest (7%) loan program for the construction of its sewer facilities and indicating that such financing was still available as of August 27, 1987.

On September 21, 1987, Young Moore & Company, the investment broker for the project, submitted information to the Commission indicating that the City intends to obtain interim financing through grant anticipation notes (GANs). Attached to the letter were a proposed GANs financing plan and cash flow summary. The proposed financing for the GANs assumes a 25% interest rate and a 7.75% earnings rate, a cost of issuance of 1000 and a 2% discount. The note size would be \$3,530,000. On September 24, 1987, the engineers for the project submitted copies of the qualified bid tabulations and engineers' recommendations for each contract for the project. On October 15, 1987, the City submitted a municipal ordinance for Glen Dale, increasing its rates for sewer service to be effective January 1, 1988.

On October 23, 1987, Staff Attorney Mary C. Wright submitted the Staff Final Recommendation in this proceeding. Ms. Wright confirmed that the project cost based on the bids received on August 11, 1987, is \$65,487. Funding is to be supplied primarily through an EPA grant in an amount of \$7,832,018. Of that amount, EPA has firmly committed \$4,150,420, with the remaining \$3,682,598 having been appropriated, according to correspondence attached to the Joint Staff Final Recommendation dated October 15, 1987, to the Director of the DNR from the Director of the WDA. Local share funding is to come from a WDA loan of

pproximately \$1,892,444, at 7% interest, and from funds accumulated by Moundsville and Glen Dale. Commission Staff has met with WDA officials twice and those officials have informed Staff that the 7% interest money is still available but WDA needs a nonappealable order from the Commission by November 20, 1987, to close on the loan. Staff believes that it can work with the bond counsel to meet the deadline if an order can be issued in the near future. Failure to meet the November 20, 1987, closing deadline will result in higher local share costs and could cause the rates for Moundsville and/or Glen Dale to increase.

The City of Glen Dale's participation in the project was also discussed by Commission Staff. The engineering plans call for the construction of collection lines to pump Glen Dale's sewage to Moundsville for treatment. Glen Dale's existing plant will be converted into a lift station for the purpose of pumping the sewage to Moundsville. Staff has received an executed copy of the Intermunicipal Agreement which was included with the original filing in this proceeding. Staff has reviewed the terms and conditions of the Intermunicipal Agreement and believes that they are fair and reasonable and that the Agreement should be approved as part of this proceeding. The rate to be charged to Glen Dale, according to the Intermunicipal Agreement is to be calculated based upon a proportionate sharing of operation and maintenance costs relating to the treatment facility. The proportion will be based on actual sewage flows. The current plans call for a meter to be placed at Moundsville's plant to measure the total combined inflow and a meter to be placed on Glen Dale's collection line to measure Glen Dale's percentage of the total flow. Preliminary estimates indicate that a rate of 37¢ per thousand gallons of sewage treated is likely, which rate will be adjusted yearly if operation

and maintenance expenses change. Commission Staff also recommends that, if either of the meters malfunction, the expenses should be apportioned by comparing the total metered water sales of the Glen Dale sewer customers to those of the other customers using Moundsville's plant. Glen Dale's share of the total project cost is approximately \$1,270,352, of which amount, \$929,552 will be funded by the EPA grant, leaving a local share of \$40,800. Moundsville is obtaining the EPA grant and WDA loan in its name and Glen Dale will make debt payments to Moundsville. Staff reviewed the file 42 Exhibit submitted on behalf of the City of Glen Dale on August 31, 1987, and that review indicated that Glen Dale's present rates would not generate sufficient revenue to make debt service payments. Staff's recommendation of approval of the project is conditioned upon no municipal appeal being filed to the rate ordinance filed with the Commission on October 15, 1987, stating increased sewer rates for the City of Glen Dale become effective on January 1, 1988.

Staff is of the opinion that, from a financial viewpoint, the project is acceptable. The rates already in effect for the City of Moundsville and the recently increased rates for the City of Glen Dale provide more than sufficient revenues to the municipalities to cover operation and maintenance expenses, other taxes and debt service payments, as indicated in cash flow statements prepared by Staff personnel and attached to an Internal Memorandum dated October 19, 1987, from C. E. Windham and Thomas Wagoner of the Water and Sewer Section of the Utilities Division, attached to the Joint Staff Final Recommendation filed in this proceeding. The sufficiency of the enacted rates, along with the grant participation from EPA and a favorable WDA interest rate, make the project financially feasible.

Staff also believes that the public convenience and necessity require the project because the project is necessary to meet EPA-mandated effluent requirements. The Moundsville and Glen Dale plants currently provide only primary sewage treatment; however, the Clean Water Act requires that effluent pumped into the Ohio River, where both Moundsville and Glen Dale currently discharge their sewage, must receive a minimum of secondary treatment. This project will achieve secondary treatment from Moundsville's plant while eliminating another discharge point at Glen Dale. Staff also believes that the project is well designed. No new customers will be added as a result of the project.

Commission Staff did point out that a portion of the project, totaling \$1,353,200 has already been completed, involving the construction of lines. Staff believes that this project exceeds the ordinary extension of an existing system in the usual course of business and therefore the City could have received a certificate of convenience and necessity from the Commission, pursuant to West Virginia Code §24-2-11, before commencing any portion of the construction of the project. Commission Staff recommends that the City follow the statutory guidelines in the future.

Staff is recommending approval of the certificate application without hearing, conditioned upon the receipt of no protests to the City of Glen Dale's recently enacted rate ordinance.

As noted above, an Internal Memorandum, dated October 19, 1987, from E. Windham, Jr., and Thomas L. Wagoner, of the Water and Sewer Section of the Utilities Division, to Staff Attorney Wright, was attached to the final Staff Final Recommendation. This Internal Memorandum reiterated that the two communities currently provide only primary sewage treatment and that the effluent standards for the Ohio River now require a minimum of

secondary treatment, requiring these cities to upgrade their existing facilities in order to comply with the Clean Water Act. The Utilities Division Memorandum indicates that this project is the most cost effective and environmentally sound approach to meeting the wastewater facility needs of the area and will enable the Moundsville sewage treatment plant to provide the required level of treatment for all anticipated flows from Glen Dale, Public Service Sewerage District A, Grandview, Roberts Ridge, York Ridge, Grave Creek, Middle Grave Creek and Tom's Run and Fairview. The Internal Memorandum reiterated that, if either of the flow meters used at Moundsville and Glen Dale for the purpose of determining the rate to be charged to Glen Dale malfunction, the appropriate rate should be determined by comparing total water meter sales of the sewer customers of the City of Glen Dale to the other water meter sales using the treatment plant. The cash flow statements for Glen Dale and Moundsville, included in the Utilities Division Internal Memorandum, both indicate that under the rates already in place for the City of Moundsville and the rates contained in the municipal ordinance filed on October 15, 1987, for the City of Glen Dale, will provide more than enough cash to cover all operating and maintenance expenses, other taxes and debt service resulting from the project, as well as provide a cash surplus.

Upon consideration of all of the above, the Administrative Law Judge (LJ) is of the opinion that a certificate of convenience and necessity could be granted to the City of Moundsville for the design and construction of a 2.35 MGD "captor" biological treatment plant; 12,000 linear feet of 10-inch force main; and the rehabilitation of portions of the existing Moundsville and City of Glen Dale systems, to serve the Cities of Moundsville and Glen Dale, as requested in the application filed in this

proceeding on June 25, 1987. The public convenience and necessity appear to require the project in order to allow the Cities of Moundsville and Glen Dale to comply with the Federal Clean Water Act and to provide secondary treatment to the sewage from the two communities. Additionally, notice of the project has been published and no protests have been received in response thereto, indicating public support for the proposed construction. The project is economically feasible, since it is fully financed through grant and loan funds and cash reserves of the Cities of Moundsville and Glen Dale, as evidenced by the letters of commitment from the EPA and WDA and other documents in the case file. Further, interim financing has been secured sufficient to allow the project to be constructed. Finally, the current rates and charges of the City of Moundsville and the recently enacted rate ordinance of the City of Glen Dale are sufficient to provide enough cash to cover all operation and maintenance expenses, other taxes and debt service, and still provide a surplus of cash following the construction of the project.

It is also reasonable to approve the Intermunicipal Agreement executed by the City of Moundsville and the City of Glen Dale, since Commission staff has reviewed the terms and conditions of the Agreement and has reviewed the rates to be charged to the City of Glen Dale by Moundsville and has determined that they are fair and reasonable. It should be noted that, if, at some point in the future, the Commission determines that the terms and conditions of the Intermunicipal Agreement between the City of Moundsville and the City of Glen Dale have become unreasonable and render it impossible or difficult for one of the two utilities to continue to supply adequate utility service to its customers, the Commission may

review the contract and make such revisions thereto as are deemed necessary, following notice and, possibly, hearing thereon.

Finally, the ALJ will direct both the City of Moundsville and the City of Glen Dale to fully comply with all of the provisions of Chapter 24 of the West Virginia Code, particularly the provisions of West Virginia Code §24-2-11, in the future, noting Commission Staff's statement that a portion of this project has already been constructed without the grant of certificate of convenience and necessity as required by Chapter 24 of the West Virginia Code.

The ALJ notes that the WDA requests a nonappealable order of the Public Service Commission by November 20, 1987, in order to commit the 7% interest funds to this project. The only parties to this proceeding are the Cities of Moundsville and Glen Dale and Commission Staff. While Commission Staff has the authority to file a petition for reconsideration of the Public Service Commission, within ten days from the date of the issuance of this Final Order, it does not have the authority to appeal orders of the Commission to the Supreme Court of Appeals of West Virginia. Since no other parties to this proceeding besides the Cities of Moundsville and Glen Dale are parties to this proceeding or would have standing to appeal this decision, it stands to reason that, if no petition for reconsideration is filed by Commission Staff within ten days from the date of this order, the order has become a nonappealable final order of the Public Service Commission, as required by WDA.

#### FINDINGS OF FACT

1. The Clean Water Act requires that effluent pumped into the Ohio River (where Moundsville and Glen Dale currently discharge sewage) must

receive a minimum of secondary treatment. (Joint Staff Final Memorandum filed October 23, 1987, p.3; Internal Memorandum attached to Joint Staff Final Memorandum, dated October 19, 1987, p. 2).

2. Currently, the City of Moundsville and Glen Dale sewage treatment plants provide only primary sewage treatment. (Joint Staff Final Memorandum, filed October 23, 1987, p. 3; Internal Memorandum attached to Joint Staff Final Memorandum, dated October 19, 1987, p. 2).

3. Notice of the Moundsville wastewater treatment project has been given by publication on July 3, 1987, and no protests have been filed in response thereto, as of the date of the order. (Affidavit of Publication filed August 5, 1987).

4. The Cities of Moundsville and Glen Dale have obtained an Environmental Protection Agency grant in the amount of \$7,832,018, of which \$149,420 has been firmly committed and the remaining \$3,682,598 has been appropriated. (Application filed June 25, 1987, Exhibit F; letter dated October 15, 1987, from WDA to the Department of Natural Resources, attached to Joint Staff Final Memorandum filed October 23, 1987).

5. WDA will provide a loan in the amount of \$1,892,444, at 7% interest, if it can obtain a nonappealable order from the Commission by November 20, 1987. (Joint Staff Final Recommendation filed October 23, 1987; letters filed September 17, 1987, by Project Coordinator, Thomas Savick).

6. Interim financing for the project will be provided through the issuance of grant anticipation notes and the investment broker for the project has prepared a proposed GANs financing sizing and cash flow summary. (Joint Staff Final Recommendation filed October 23, 1987, p. 2; documents filed September 21, 1987, by Young Moore & Company).

7. The City of Moundsville and the City of Glen Dale have executed an Intermunicipal Agreement which sets out the relationships between the two communities with regard to rates and sewage treatment, with the rates to be charged to Glen Dale to be calculated based on a proportionate sharing of operation and maintenance costs relating to the treatment facility, based on actual sewage flows, determined through actual meter readings. (Application filed June 25, 1987, Exhibit C; Joint Staff Final Recommendation filed October 23, 1987, p. 2; Internal Memorandum attached to Joint Staff Final Recommendation, dated October 19, 1987, pp. 2-3).

8. The City of Glen Dale has recently passed a municipal rate ordinance for the purpose of raising its sewage rates, in order to provide it with sufficient cash to cover its operation and maintenance expenses, other taxes and debt service payments relating to the project. (Municipal Ordinance of the City of Glen Dale filed October 15, 1987; Joint Staff Final Recommendation filed October 23, 1987, pp. 2-3).

9. At the current level of rates of the City of Moundsville, which became effective in 1985, and the rates of the City of Glen Dale enacted in the municipal ordinance filed on October 15, 1987, both Cities will have sufficient cash to pay all operation and maintenance expenses, other taxes and debt service payments relating to this project, as well as maintain a cash surplus. (Joint Staff Final Recommendation filed October 23, 1987, pp. 2-3; Internal Memorandum dated October 19, 1987, attached to Joint Staff Final Recommendation, pp. 3-5).

10. A portion of the project was constructed without obtaining a certificate of convenience and necessity from the Public Service Commission. (Joint Staff Final Recommendation filed October 23, 1987, p. 3).

CONCLUSIONS OF LAW

1. The public convenience and necessity require the project which is the subject of the application filed in this proceeding, since the Cities of Moundsville and Glen Dale are not currently providing secondary treatment for sewage discharged into the Ohio River, as required by the Clean Water Act and the Environmental Protection Agency.

2. The project is economically feasible, since it is fully funded by grant funds, loan funds and cash on hand and since both communities have now enacted rates for sewage service which provide more than enough cash to cover the expenses, other taxes and debt service payments relating to this project.

3. It is reasonable to approve the financing set forth in the application, as amended by subsequent filings, calling for a grant from the Environmental Protection Agency in the amount of \$7,832,018, a loan from the Water Development Authority of \$1,892,444, with the remainder of the funds to come from cash reserves on hand.

4. It is reasonable to approve the requested interim financing, in the form of grant anticipation notes.

5. It is reasonable to approve the Intermunicipal Agreement between the City of Moundsville and the City of Glen Dale, calling for the treatment of the City of Glen Dale's sewage by the City of Moundsville and calling for specific rates to be charged to the City of Glen Dale on a proportionate basis, based upon actual sewage flows, with the understanding that, if, at some point in the future, the terms and conditions of the contract render it difficult or impossible for one of the utilities to continue to provide adequate service to its customers at reasonable rates, the Public Service Commission has the authority to review the terms and

conditions of the contract and make such revisions thereto as may be deemed necessary.

6. It is reasonable to adopt the Staff recommendation that, if either of the flow meters utilized to determine the rate to be charged to the City of Glen Dale pursuant to the Intermunicipal Agreement malfunctions, the operation and maintenance expenses shall be proportioned by comparing total water meter sales of the sewer customers of the City of Glen Dale to the other water meter sales using the treatment plant, as requested by Commission Staff in the Joint Staff Final Recommendation filed on October 23, 1987, at p. 2, and in the Internal Memorandum dated October 19, 1987, attached to the Joint Staff Final Recommendation, at p. 3.

#### ORDER

IT IS, THEREFORE, ORDERED that a certificate of convenience and necessity be, and it hereby is, granted to the City of Moundsville for the construction of a 2.35 MGD "captor" biological treatment plant; 12,000 linear feet of 10-inch force main; and the rehabilitation of portions of the existing City of Moundsville and City of Glen Dale sewer systems, to serve the Cities of Moundsville and Glen Dale, as requested in the application filed in this proceeding on June 25, 1987.

IT IS FURTHER ORDERED that the permanent financing in the form of an Environmental Protection Agency grant in the amount of \$7,832,018 and a Water Development Authority loan in the amount of \$1,892,444 be, and it hereby is, approved.

IT IS FURTHER ORDERED that interim financing in the form of grant anticipation notes be, and it is, approved.

IT IS FURTHER ORDERED that the Intermunicipal Agreement entered into between the City of Moundsville and the City of Glen Dale regarding the treatment of the City of Glen Dale's sewage by the City of Moundsville's sewer treatment plant and the determination of rates to be charged to the City of Glen Dale be, and it hereby is, approved; provided, however, that in the future the Public Service Commission may review the Intermunicipal Agreement and make such revisions thereto as may be deemed necessary, pursuant to its authority.

IT IS FURTHER ORDERED that, in the future, the City of Moundsville and the City of Glen Dale fully comply with all of the provisions of Chapter 24 of the West Virginia Code, particularly West Virginia Code §24-2-11, regarding the construction of extensions to utility systems.

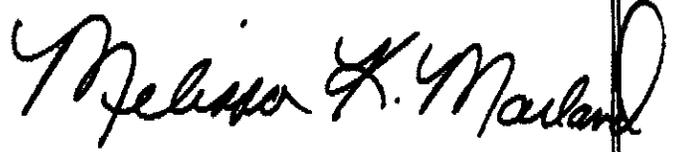
IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this order upon all parties to this proceeding by United States First Class Mail and upon Commission Staff by hand delivery.

This order is issued pursuant to General Order No. 212, dated December 16, 1982, which order designates the Division of Administrative Law Judges as the initial decision making body in the Public Service Commission and authorizes the Public Service Commission Administrative Law Judges to issue orders on behalf of the Commission in all proceedings filed pursuant to Chapter 24 of the West Virginia Code, which proceedings are not set for hearing and which orders shall have the full force and effect of Commission orders, without the provision for the filing of exceptions thereto.

Leave is hereby granted to the parties to file a petition for further hearing, reopening, or rehearing pursuant to Rule 19 of the Commission's

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

Rules of Practice and Procedure with the Executive Secretary of the Commission within ten (10) days after the date this order is mailed.



Melissa K. Marland  
Deputy Chief Administrative Law Judge

MKM:mrs



CITY OF MOUNDSVILLE

Sewer Revenue Bonds,  
Series 1987 A and Series 1987 B

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

The undersigned, DANIEL B. YONKOSKY, Secretary-Treasurer of West Virginia Water Development Authority, for and on behalf of West Virginia Water Development Authority (the "Authority") and JOHN F. GRISELL, Mayor of the City of Moundsville (the "Issuer"), hereby certify as follows:

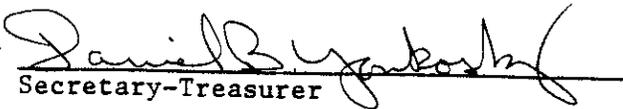
1. On the 18th day of November, 1987, the Authority received the entire original issue of \$2,300,000 in aggregate principal amount of Sewer Revenue Bonds, Series 1987 A and Series 1987 B (collectively, the "Bonds"), issued as a single, fully registered Bond of each Series, numbered AR-1 and BR-1, respectively, both dated November 18, 1987, the Series 1987 A Bond being in the principal amount of \$1,846,978 and the Series 1987 B Bond being in the principal amount of \$453,022.

2. At the time of such receipt of the Bonds upon original issuance, all of the Bonds had been executed by John F. Grisell, as Mayor of the Issuer, by his manual signature, and by Loretta J. Francis, as Recorder of the Issuer, by his manual signature, and the official seal of the Issuer had been affixed upon the Bonds.

3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Bonds, of the proceeds of the Series 1987 A Bonds in the aggregate amount of \$1,846,978 and proceeds of the Series 1987 B Bonds in the aggregate principal amount of \$453,022 (100% of par value), there being no interest accrued on either series.

IN WITNESS WHEREOF, Daniel B. Yonkosky duly signed and delivered this receipt on behalf of WEST VIRGINIA WATER DEVELOPMENT AUTHORITY and the CITY OF MOUNDSVILLE has caused this receipt to be executed by its Mayor, as of this 18th day of November, 1987.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By   
Secretary-Treasurer

CITY OF MOUNDSVILLE

By   
Mayor

11/16/87  
MOUSB1-E



CITY OF MOUNDSVILLE

Sewer Revenue Bonds,  
Series 1987 A and Series 1987 B

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

One Valley Bank, National Association  
Charleston,  
West Virginia

Ladies and Gentlemen:

There are delivered to you herewith:

(1) Bond No. AR-1, constituting the entire original issue of the City of Moundsville Sewer Revenue Bonds, Series 1987 A, in the principal amount of \$1,846,978 and Bond No. BR-1, constituting the entire original issue of the City of Moundsville Sewer Revenue Bonds, Series 1987 B, in the principal amount of \$453,022 both dated November 18, 1987 (collectively, the "Bonds"), executed by the Mayor and Recorder of the City of Moundsville (the "Issuer") and bearing the official seal of the Issuer, authorized to be issued under and pursuant to a Bond Ordinance and Supplemental Resolution duly enacted and adopted by the Issuer (collectively, the "Local Act");

(2) A copy of the Local Act authorizing the above Bond issue, duly certified by the Recorder of the Issuer;

(3) Executed counterparts of the loan agreement and the supplemental loan agreement, both dated October 15, 1987, by and between the West Virginia Water Development Authority (the "Authority") and the Issuer (collectively, the "Loan Agreement");

(4) A signed opinion of nationally recognized bond counsel regarding the validity of the Loan Agreement and Bonds.

You are hereby requested and authorized to deliver the Bonds to the Authority upon payment to the account of the Issuer of the sum of \$2,300,000, representing the agreed aggregate purchase price of the Bonds, there being no accrued interest thereon. Prior to such delivery of the Bonds, you will please cause the Bonds to be

authenticated by an authorized officer, as Bond Registrar, in accordance with the forms of Certificate of Authentication and Registration thereon.

Dated this 18th day of November, 1987.

CITY OF MOUNDSVILLE

By   
Mayor

11/11/87  
MOUSB1-F



(SPECIMEN SERIES 1987 A BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF MOUNDSVILLE  
SEWER REVENUE BOND, SERIES 1987 A

No. AR-1

\$1,846,978

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF MOUNDSVILLE, a municipal corporation and political subdivision of the State of West Virginia in Marshall 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 EIGHT HUNDRED FORTY-SIX THOUSAND, NINE HUNDRED SEVENTY-EIGHT DOLLARS (\$1,846,978), in installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest rate on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning April 1, 1988. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar") on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority, dated October 15, 1987.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the existing sewage treatment, collection and transportation facilities of the Issuer and the City of Glen Dale, West Virginia (the "Project") (ii) to fund a reserve account for the Bonds; and (iii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance and Supplemental Resolution, duly enacted and adopted, respectively, by the Issuer on November 10, 1987 (collectively called 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 contemporaneously with the Sewer Revenue Bonds, Series 1987 B, of the Issuer (the "Series 1987 B Bonds"), issued in the aggregate principal amount of \$453,022, which Series 1987 B Bonds are junior and subordinate with respect to liens and sources of and security for payment to the Bonds.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1987 A Bonds Reserve Account"), and unexpended proceeds of the Bonds and the Series 1987 B Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1987 A Bonds Reserve Account and unexpended proceeds of this Bond and the Series 1987 B Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any year of

principal of and interest on the Bonds, the Series 1987 B Bonds, and all other obligations secured by or payable from such revenues prior to or on a parity with the Bonds or the Series 1987 B Bonds, provided however, that so long as there exists in the Series 1987 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in any year, and in the respective reserve accounts established for the Series 1987 B Bonds and any other obligations outstanding prior to or on a parity with the Bonds or the Series 1987 B Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Bond 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, shall be applied solely to the payment of the Costs of the Project 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 owner of this Bond.

This Bond is a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of

West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

All provisions of the 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 CITY OF MOUNDSVILLE has caused this Bond to be signed by its Mayor and its corporate seal to be affixed hereon and attested by its City Clerk, and has caused this Bond to be dated November 18, 1987.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1987 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: \_\_\_\_\_

ONE VALLEY BANK, NATIONAL ASSOCIATION,  
as Registrar

By \_\_\_\_\_  
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

CITY OF MOUNDSVILLE  
 ANALY OF 7.00% BORROWING COST FOR LOCAL ISSUER  
 ----- 1986 SERIES A BONDS -----

PERIOD	ENDING	10/1 COUPON PRIN.	INTEREST	DEBT SERVICE
1988	8.38		134,569.79	134,569.79
1989	8.38	7,630	154,776.76	162,406.76
1990	8.38	8,270	154,137.36	162,407.36
1991	8.38	8,963	153,444.34	162,407.34
1992	8.38	9,714	152,693.24	162,407.24
1993	8.38	10,528	151,879.21	162,407.21
1994	8.38	11,410	150,996.96	162,406.96
1995	8.38	12,367	150,040.80	162,407.80
1996	8.38	13,402	149,004.45	162,406.45
1997	8.38	14,526	147,881.36	162,407.36
1998	8.38	15,742	146,664.08	162,406.08
1999	8.38	17,062	145,344.90	162,406.90
2000	8.38	18,492	143,915.10	162,407.10
2001	8.38	20,041	142,365.48	162,406.48
2002	8.38	21,720	140,686.04	162,406.04
2003	8.38	23,541	138,865.90	162,406.90
2004	8.38	25,513	136,893.17	162,406.17
2005	8.38	27,652	134,755.18	162,407.18
2006	8.38	29,969	132,437.94	162,406.94
2007	8.38	32,480	129,926.54	162,406.54
2008	8.38	35,202	127,204.71	162,406.71
2009	8.38	38,152	124,254.79	162,406.79
2010	8.38	41,350	121,057.65	162,407.65
2011	8.38	44,814	117,592.52	162,406.52
2012	8.38	48,570	113,837.11	162,407.11
2013	8.38	52,640	109,766.94	162,406.94
2014	8.38	57,052	105,355.71	162,407.71
2015	8.38	61,832	100,574.75	162,406.75
2016	8.38	67,013	95,393.23	162,406.23
2017	8.38	72,630	89,777.54	162,407.54
2018	8.38	78,716	83,691.14	162,407.14
2019	8.38	85,312	77,094.74	162,406.74
2020	8.38	92,462	69,945.60	162,407.60
2021	8.38	100,210	62,197.28	162,407.28
2022	8.38	108,607	53,799.68	162,406.68
2023	8.38	117,708	44,698.42	162,406.42
2024	8.38	127,573	34,834.49	162,407.49
2025	8.38	138,263	24,153.87	162,406.87
2026	8.38	149,850	12,557.43	162,407.43

-----  
 1,846,978 4,459,056.20 6,306,034.20

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:

\_\_\_\_\_

11/20/87  
MOUSB1-T



(SPECIMEN SERIES 1987 B BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF MOUNDSVILLE  
SEWER REVENUE BOND, SERIES 1987 B

No. BR-1

\$453,022

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF MOUNDSVILLE, a municipal corporation and political subdivision of the State of West Virginia in Marshall County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of FOUR HUNDRED FIFTY-THREE THOUSAND, TWENTY-TWO DOLLARS (\$453,022), in annual installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference, without 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 upon the terms and conditions prescribed by, and otherwise in compliance with, the Supplemental Loan Agreement between the Issuer and the Authority, dated October 15, 1987.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the existing sewage treatment, collection and transportation facilities of the Issuer and the City of Glen Dale, West Virginia (the "Project"); (ii) to fund a reserve account for the Bonds; and (iii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance and Supplemental Resolution, duly enacted and adopted, respectively,

by the Issuer on November 10, 1987 (collectively called 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 JUNIOR AND SUBORDINATE WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT TO THE OUTSTANDING SEWER REVENUE BONDS, SERIES 1987 A, OF THE ISSUER (THE "SERIES 1987 A BONDS"), ISSUED CONCURRENTLY HERewith AND DESCRIBED IN THE BOND LEGISLATION.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System after there has first been paid from said Net Revenues all payments then due and owing on account of the Series 1987 A Bonds herein described and all moneys in the Reserve Account (the "Series 1987 B Bonds Reserve Account") created under the Bond Legislation for the Bonds of this Series (the "Bonds"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the moneys in the Series 1987 B Bonds Reserve Account and unexpended Bond proceeds. 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 amount required to pay the maximum amount due in any year of principal of and interest, if any, on the Bonds, the Series 1987 A Bonds and all other obligations secured by or payable from such revenues prior to or on a parity with the Series 1987 A Bonds or the Bonds, provided however, that so long as there exists in the Series 1987 B Bonds Reserve Account and the reserve account established for the Series 1987 A Bonds, respectively, amounts at least equal to the maximum amount of principal and interest which will become due on the Bonds and the Series 1987 A Bonds in any year, and any reserve account for any such prior or parity obligations is funded at least

at the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements as 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, shall be applied solely to the payment of the Costs of the Project 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 owners of the Bonds, which lien is subordinate to the lien in favor of the registered owners of the Series 1987 A Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of 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 CITY OF MOUNDSVILLE has caused this Bond to be signed by its Mayor and its corporate seal to be affixed hereon and attested by its City Clerk, and has caused this Bond to be dated November 18, 1987.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1987 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: \_\_\_\_\_

ONE VALLEY BANK, NATIONAL ASSOCIATION,  
as Registrar

By \_\_\_\_\_  
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

## ANALYSIS OF 7.00% BORROWING COST FOR LOCAL ISSUER

## ----- 1986 SERIES A BONDS -----

ZERO  
COUPON  
BONDS  
-----

	.00
1988	.00
1989	11,921.69
1990	11,921.63
1991	11,921.63
1992	11,921.63
1993	11,921.63
1994	11,921.63
1995	11,921.63
1996	11,921.63
1997	11,921.63
1998	11,921.63
1999	11,921.63
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2015	11,921.63
2016	11,921.63
2017	11,921.63
2018	11,921.63
2019	11,921.63
2020	11,921.63
2021	11,921.63
2022	11,921.63
2023	11,921.63
2024	11,921.63
2025	11,921.63
2026	11,921.63

-----  
453,022.00

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:

\_\_\_\_\_  
11/16/87  
MOUSB1-U



# STEPTOE & JOHNSON

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RANDALL C. LIGHT

RICHARD M. YURKO, JR.

GARY W. NICKERSON

LOUIS E. ENDERLE

ROBERT J. SCHIAVONI

November 18, 1987

City of Moundsville  
Sewer Revenue Bonds, Series 1987 A

West Virginia Water Development Authority  
1201 Dunbar Avenue  
Dunbar, West Virginia 25064

Gentlemen:

We have acted as bond counsel in connection with the issuance by the City of Moundsville (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia, of \$1,846,978 Sewer Revenue Bonds, Series 1987 A, dated the date hereof (the "Local Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a loan agreement, dated October 15, 1987, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Issuer and the West Virginia Water Development Authority (the "Authority") and the Local Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are originally issued in the form of one bond, registered as to principal and interest to the Authority, with interest payable April 1 and October 1 of each year, commencing April 1, 1988, at the rate of 8.38% per annum, and with principal installments payable on October 1 in each of the years 1989 through 2026, inclusive, all as set forth in "Schedule X," attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local 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 of the Code of West Virginia, 1931, as amended (the "Local Statute"), for the purposes of (i) permanently financing a portion of the costs of acquisition and construction of new

sewerage facilities of the Issuer (the "Project"), (ii) funding a reserve account for the Local Bonds; and (iii) paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of the Local Statute, the bond ordinance duly enacted by the Governmental Agency on November 10, 1987, as supplemented by a supplemental resolution adopted November 10, 1987 (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 that has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

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

3. The Local Act and all other necessary ordinances and resolutions have been duly and effectively enacted and adopted by the Issuer and constitute valid and binding obligations of the Issuer enforceable upon the Issuer. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

4. The Local Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the net revenues of the System referred to in the Local Act and secured by a first lien on and pledge of the net revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act.

5. The interest on the Bonds (a) is excluded from gross income for federal income tax purposes and (b) is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, it should be noted that with respect to corporations

(as defined for federal income tax purposes), such interest is taken into account in determining adjusted net book income (adjusted current earnings for taxable Years ending after December 31, 1989) for the purpose of computing the alternative minimum tax imposed on such corporations. The opinion set forth in clause (a) above is subject to the condition that the Issuer comply with all requirements of the Internal Revenue Code of 1986 that must be satisfied subsequent to the issuance of the Bonds in order that interest thereon be (or continue to be) excluded from gross income for federal income tax purposes. Failure to comply with such requirements could cause the interest on the Bonds to be so included in gross income retroactive to the date of issuance of the Bonds. The Issuer has covenanted to comply with all such requirements. We express no opinion regarding other federal tax consequences arising with respect to the Bonds.

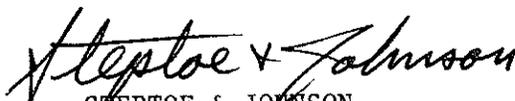
6. The Local Bonds are, under the Local Statute, exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof, and the interest on the Local Bonds is exempt from personal and corporate income taxes imposed directly thereon by the State of West Virginia.

7. The Final Order of the Public Service Commission of West Virginia entered October 28, 1987 (Case No. 87-388-S-CN) granting to the Issuer a Certificate of Convenience and Necessity, is not subject to appeal to the Supreme Court of Appeals of West Virginia by any customer, protestant or any other person who has not been made a party to the original application.

It is to be understood that the rights of the holders of the Local Bonds and the enforceability of the Local Bonds and the Local Act may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

We have examined the executed and authenticated Local 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,

  
STEPTOE & JOHNSON



# STEPTOE & JOHNSON

ATTORNEYS AT LAW

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November 18, 1987

City of Moundsville

Sewer Revenue Bonds, Series 1987 B

CHARLESTON

CHARLES W. YEAGER  
CARL F. STUCKY, JR.  
OTIS L. O'CONNOR  
WAYNE A. SINCLAIR  
JAMES R. WATSON  
DANIEL R. SCHUDA  
SPRAGUE W. HAZARD  
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OF COUNSEL  
ROBERT W. LAWSON, JR.

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RANDALL C. LIGHT  
RICHARD M. YURKO, JR.  
GARY W. NICKERSON  
LOUIS E. ENDERLE  
ROBERT J. SCHIAVONI

West Virginia Water Development Authority  
1201 Dunbar Avenue  
Dunbar, West Virginia 25064

Gentlemen:

We have acted as bond counsel in connection with the issuance by the City of Moundsville (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia of \$453,022 Sewer Revenue Bonds, Series 1987 B, dated the date hereof (the "Supplemental Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a supplemental loan agreement, dated October 15, 1987, including all schedules and exhibits attached thereto (the "Supplemental Loan Agreement"), between the Issuer and the West Virginia Water Development Authority (the "Authority") and the Supplemental Bonds, which are to be purchased by the Authority in accordance with the provisions of the Supplemental Loan Agreement. The Supplemental Bonds are originally issued in the form of one bond registered as to principal to the Authority, without interest thereon, with principal payable in installments on October 1 in each of the years 1989 through 2026, inclusive, all as set forth in "Schedule X," attached to the Supplemental Loan Agreement.

The Supplemental Loan Agreement is supplemental to a loan agreement also dated October 15, 1987, between the Issuer and the Authority (the "Loan Agreement"). The Supplemental Bonds are junior, subordinate and inferior as to lien and source of and security for payment to the bonds issued pursuant to the Loan Agreement and designated "Sewer Revenue Bonds, Series 1987 A" (the "Local Bonds"), which Local Bonds are issued simultaneously herewith.

The Supplemental Bonds are issued, together with the Local Bonds, 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 of the Code of West Virginia, 1931, as amended (the "Local Statute"), for the purposes of (i) permanently financing a portion of the costs of acquisition and construction of new sewerage facilities of the Issuer (the "Project"), (ii) funding a reserve account for the Supplemental Bonds; and (iii) paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of the Local Statute, the bond resolution duly adopted by the Governmental Agency on November 10, 1987, as supplemented by a supplemental resolution adopted November 10, 1987 (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Supplemental Bonds are authorized and issued, and the Supplemental Loan Agreement that has been undertaken. The Supplemental 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 Supplemental 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 Issuer is a duly organized and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Supplemental Loan Agreement and to issue and sell the Supplemental Bonds, all under the Local Statute and other applicable provisions of law. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Supplemental Loan Agreement.

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

3. The Local Act and all other necessary ordinances and resolutions have been duly and effectively enacted and adopted by the Issuer and constitute valid and binding obligations of the Issuer enforceable upon the Issuer.

4. The Supplemental Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the net revenues of the System referred to in the Local Act and secured by a lien on and pledge of the net revenues of said System, junior and subordinate only

to the Local Bonds, all in accordance with the terms of the Supplemental Bonds and the Local Act.

5. The Issuer has reserved the right to issue additional bonds ranking on a parity with the Supplemental Bonds, as provided in the Local Act.

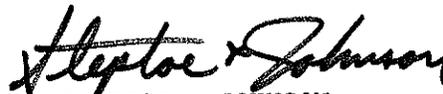
6. The Supplemental Bonds are, under the Local Statute, exempt from taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

7. The Final Order of the Public Service Commission of West Virginia entered October 28, 1987 (Case No. 87-388-S-CN) granting to the Issuer a Certificate of Convenience and Necessity, is not subject to appeal to the Supreme Court of Appeals of West Virginia by any customer, protestant or any other person who has not been made a party to the original application.

It is to be understood that the rights of the holders of the Supplemental Bonds and the enforceability of the Supplemental Bonds and the Local Act may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

We have examined the executed and authenticated Supplemental Bond numbered BR-1, and in our opinion the form of such bond and its execution and authentication are regular and proper.

Very truly yours,

  
STEPTOE & JOHNSON

11/11/87  
MOUSB1-H



# STEPTOE & JOHNSON

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November 18, 1987

CHARLESTON

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W. RANDOLPH FIFE

OF COUNSEL  
ROBERT W. LAWSON, JR.

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RICHARD M. YURKO, JR.  
GARY W. NICKERSON  
LOUIS E. ENDERLE  
ROBERT J. SCHIAVONI

City of Moundsville  
Sewer Revenue Bonds, Series 1987 A

West Virginia Water Development Authority  
1201 Dunbar Avenue  
Dunbar, West Virginia 25064

Gentlemen:

We have examined a transcript of proceedings relating to the issuance of \$1,846,978 aggregate principal amount of Sewer Revenue Bonds, Series 1987 A (the "Local Bonds"), of the City of Moundsville (the "Issuer"), and a Certificate as to Arbitrage executed by the Mayor of the Issuer on this date.

Based upon such Certificate as to Arbitrage, we are of the opinion that the facts, estimates and circumstances set forth in the Certificate as to Arbitrage are sufficient to satisfy the requirements of Section 148 of the Internal Revenue Code of 1986 (the "Code") to support the conclusion that the Local Bonds are not "arbitrage bonds" as therein defined. No matters have come to our attention which make unreasonable or incorrect such statements, expectations or representations.

Accordingly, it is our opinion that, under existing statutes, regulations, rulings and court decisions, the Local Bonds are not "arbitrage bonds" as so defined. It is our further opinion, based upon such Certificate of Arbitrage, that proceeds of the Bonds are not subject to the arbitrage rebate requirements set forth in Section 148(f) of the Code.

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West Virginia Water Development Authority  
Page 2

The opinion set forth above is subject to the condition that the Issuer comply with all requirements of the Internal Revenue Code of 1986, as amended, relating to arbitrage that must be satisfied subsequent to the issuance of the Local Bonds in order that interest thereon be (or continue to be) excluded from gross income for federal income tax purposes. Failure to comply with such requirements could cause the interest on the Local Bonds to be so included in gross income retroactive to the date of issuance of the Local Bonds. The Issuer has covenanted to comply with all such requirements.

Very truly yours,

  
STEPTOE & JOHNSON

11/11/87  
MOUSB1-1



LAW OFFICES

MADDEN & WHORTON, L.C.

635 COURT AVENUE

P. O. BOX 511

MOUNDSVILLE, W. VA. 26041

JOHN T. MADDEN  
BERT MICHAEL WHORTON  
J. THOMAS MADDEN

TELEPHONE 845-1171  
AREA CODE 304

November 18, 1987

West Virginia Water Development Authority  
1201 Dunbar Avenue  
Dunbar, West Virginia 25064

Steptoe & Johnson  
Post Office Box 2190  
Clarksburg, West Virginia 26301

City of Moundsville  
Sewer Revenue Bonds,  
Series 1987 A and Series 1987 B

Gentlemen:

We are counsel to the City of Moundsville, in Marshall County, West Virginia (the "Issuer"). As such counsel, we have examined copies of the approving opinions of Steptoe & Johnson, as bond counsel, a loan agreement and supplemental loan agreement, both dated October 15, 1987, by and between the West Virginia Water Development Authority (the "Authority") and the Issuer (collectively, the "Loan Agreement"), the Local Act (as defined therein) and other documents relating to the above-captioned Bonds of the Issuer. Terms used in said opinions, Local Act and Loan Agreement and not otherwise defined herein have the same meanings herein.

We are of the opinion that:

1. The Loan Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority, constitutes a valid and binding agreement of the Issuer in accordance with its terms.

2. The Mayor and members of the council of the Issuer have been duly and properly elected, have taken the requisite oaths, and are authorized to act on behalf of the Issuer.

3. The Local Act has been duly enacted and adopted by the Issuer and is in full force and effect.

4. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transactions contemplated by the Loan Agreement, and the carrying out of the terms

West Virginia Water Development  
Authority, et al  
November 18, 1987  
Page Two

thereof, do not and will not in any material respect conflict with or constitute on the part of the Issuer a breach of or default under any agreement or other instrument to which the Issuer is a party or any existing law, regulation, court order or consent decree to which the Issuer is subject.

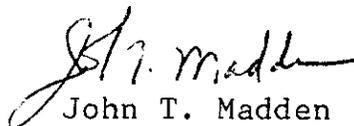
5. The Issuer has received all permits, licenses, approvals and authorizations necessary for the issuance of the Bonds, construction of the Project, operation of the System and imposition of rates and charges, including, without limitation, the receipt of all requisite orders and approvals from the Public Service Commission of West Virginia, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges. The time for appeal of such rate ordinance has expired prior to the date hereof without any appeal. The time for appeal of the Final Order of the Public Service Commission of West Virginia entered October 28, 1987 (Case No. 87-388-S-CN) granting to the Issuer a Certificate of Convenience and Necessity has not expired prior to the date hereof. However the Public Service Commission staff attorney has stated in a letter dated October 30, 1987, and the City of Glen Dale has stated in a letter dated November 2, 1987, that they do not intend to appeal such Order and there are no intervenors or other parties of record in the case.

6. To the best of our knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Loan Agreement, construction of the Project, operation of the System or the validity of the Bonds or the collection or pledge of the Net Revenues therefor.

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

Very truly yours,

MADDEN & WHORTON, L.C.

  
John T. Madden

JTM/sm



CITY OF MOUNDSVILLE

Sewer Revenue Bonds,  
Series 1987 A and Series 1987 B

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. CERTIFICATION OF COPIES OF DOCUMENTS
6. INCUMBENCY AND OFFICIAL NAME
7. LAND AND RIGHTS-OF-WAY
8. MEETINGS, ETC.
9. CONTRACTORS' INSURANCE, ETC.
10. GRANTS, ETC.
11. LOAN AGREEMENT
12. RATES
13. SIGNATURES AND DELIVERY
14. BOND PROCEEDS
15. PUBLICATION AND PUBLIC HEARING ON BOND  
ORDINANCE
16. PRIVATE USE OF FACILITIES
17. NO FEDERAL GUARANTY
18. IRS INFORMATION RETURN
19. SPECIMEN BONDS

We, the undersigned MAYOR, CITY MANAGER and RECORDER of the City of Moundsville in Marshall County, West Virginia (the "Issuer"), and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the \$2,300,000 aggregate principal amount of the City of Moundsville Sewer Revenue Bonds, Series 1987 A and Series 1987 B (collectively, the "Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined shall have the same meaning as in the Bond Ordinance of the Issuer enacted November 10, 1987, and a Supplemental Resolution adopted November 10, 1987 (collectively, the "Local Act").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Bonds, construction of the Project, operation of the System, receipt of the Grant Receipts or Gross Revenues, or in any way contesting or

affecting the validity of the Bonds or the Grants or any proceedings of the Issuer taken with respect to the issuance or sale of the Bonds, the pledge or application of the Net Revenues or any other moneys or security provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Bonds, construction of the Project, operation of the System, receipt of the Grant Receipts or such pledge or application of moneys and security or the collection of the Net Revenues or pledge thereof.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable approvals and certificates required by law for construction of the Project, operation of the System and issuance of the Bonds have been obtained and remain in full force and effect, and competitive bids for construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the Official West Virginia Code of 1931, as amended, which bids remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval and execution and delivery by the Issuer of the Loan Agreement, and the Issuer has met all conditions prescribed in the Loan Agreement entered into between the Issuer and the Authority. There are no outstanding debt obligations of the Issuer, or obligations for which full and irrevocable provision for payment has not been made, which are secured by revenues or assets of the System.

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

Charter of the City of Moundsville.

Bond Ordinance.

Ordinance Creating Sanitary Board.

Petition of Sanitary Board.

Supplemental Resolution.

Rate Ordinance.

Affidavit of Publication of Abstract of Bond Ordinance and Notice of Hearing.

Affidavit of Publication of Rate Ordinance and Notice of Public Hearing.

Minutes on Enactment of Bond Ordinance and Adoption of Supplemental Resolution.

Loan Agreement.

Public Service Commission Order entered October 28, 1987.

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is the "City of Moundsville" and it is a municipal corporation in Marshall County and presently existing under the laws of, and a political subdivision of, the State of West Virginia. The governing body of the Issuer is its Council consisting of 7 councilmembers whose names and dates of commencement and termination of current terms of office are as follows:

<u>Name</u>		<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
John F. Grisell	- Mayor and Councilmember	July 1, 1987	June 30, 1988
Robert E. Straight	- Councilmember	July 1, 1985	June 30, 1989
O. Leroy Hitt	- Councilmember	July 1, 1985	June 30, 1989
Dorothy Durig	- Councilmember	July 1, 1987	June 30, 1990
Laverne Yoders, Jr.	- Councilmember	July 1, 1987	June 30, 1990
Delbert Melott	- Councilmember	July 1, 1987	June 30, 1989

There presently is one vacancy on council.

The duly appointed City Manager of the Issuer is Mark A. Snodgrass.

The names of the duly appointed and acting members of the Sanitary Board of the Issuer are as follows:

Chairman	John F. Grisell
Member (and licensed Professional Engineer)	John Corliss, P.E.
Member	Phillip Wallace

The duly appointed and acting City Clerk is Loretta J. Francis. The duly appointed and acting counsel to the Issuer is Madden & Whorton, L.C., Moundsville, West Virginia.

7. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the construction of the Project and operation and maintenance of the System have been acquired or can and will be acquired by purchase, or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired by condemnation are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

8. MEETINGS, ETC.: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the construction, acquisition, operation and financing of the Project or the System were authorized or adopted at regular or special meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, including Chapter 6, Article 9A, of the Official West Virginia Code of 1931, as amended, and a quorum of duly elected, qualified and acting members of the Governing Body was present and acting at all times during all such meetings.

9. CONTRACTORS' INSURANCE, ETC.: All contractors have been required to maintain Worker's Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Local Act. The System is not presently covered by policies of flood or business interruption insurance, but will be if such coverages are available at reasonable cost.

10. GRANTS, ETC.: As of the date hereof, the EPA has committed to the Issuer a grant in the approximate amount of \$7,738,500. Such grant is in full force and effect as of the date hereof.

11. LOAN AGREEMENT: As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; and

(iii) to the best knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the Loan Agreement which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information in the Loan Agreement not misleading.

12. RATES: The Issuer has duly enacted an Ordinance on August 13, 1987, setting rates and charges for the services of the System. Such ordinance is presently in full force and effect, the period for appeal of such ordinance has expired and there has been no appeal thereof.

13. SIGNATURES AND DELIVERY: On the date hereof, the undersigned Mayor did officially sign all of the Bonds of the aforesaid issues, all dated November 18, 1987, by his manual signature, and the undersigned Recorder did officially cause the official seal of the Issuer to be affixed to each of said Bonds and to be attested by her manual signature, and the Registrar did officially authenticate and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the Loan Agreement. Said official seal is also impressed above the signatures appearing on this certificate.

14. BOND PROCEEDS: On the date hereof the Issuer received from the Authority the agreed purchase price of the Bonds, being \$2,300,000 (100% of par value), there being no interest accrued thereon.

15. 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 a qualified newspaper published and of general circulation in the City of Moundsville, 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 such Ordinance, stating that any person interested may appear before the Council at the public hearing held at a public meeting of Council on the 10th day of November, 1987, at 7:30 p.m., in the Council Chambers of the City Hall of the City of Moundsville and present protests, and stating that a certified copy of the Ordinance was on file at the office of the Recorder of the Issuer for review by interested parties during the office hours of the Recorder. 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.

16. PRIVATE USE OF FACILITIES: The Issuer shall at all times take, and refrain from taking, and shall not fail to take, any and all actions necessary in order to assure the initial and continued tax-exempt status of the Series A Bonds and the interest thereon. Less than 10% of the proceeds of the Series A Bonds will be used, directly or indirectly, for any private business use, and less than 10% of the payment of principal of, or the interest on, such issue, under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by any interest in property used or to be used for a private business use, payments in respect of such property, or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use. None of the proceeds of the Series A Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Series A Bonds, and none of the payment of principal on, or the interest on, such issue, under the terms of any underlying arrangement, is, directly or indirectly, secured by any interest in property used, or to be used for a private business use, payments in respect of such property or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use with respect to such private business use, which is not related to any government use of such proceeds, including the disproportionate business use of the issue of the Series A Bonds. None of the proceeds of the issue of the Series A Bonds will be used, directly or indirectly, to make or finance loans to persons other than governmental units. For purposes of this paragraph, private business use means use, directly or indirectly, in a trade or business carried on by any person other than a governmental unit, other than use as a member of the general public. All of the foregoing shall be determined in accordance with and within the meaning of the Internal Revenue Code of 1986, as amended, including any successor provisions and rules and regulations thereunder.

17. NO FEDERAL GUARANTY. The Bonds are not, in whole or part, and will not be, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

18. IRS INFORMATION RETURN: On the date hereof, the undersigned Mayor did officially sign a properly completed IRS Form 8038-G and will cause such executed Form 8038-G to be filed in a timely manner with the Internal Revenue Service Center, Philadelphia, Pennsylvania.

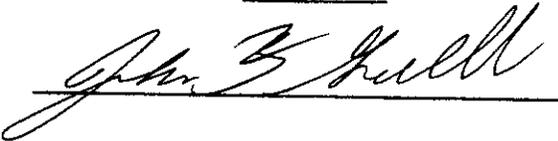
19. SPECIMEN BONDS: Delivered concurrently herewith are true and accurate specimens of the Bonds.

WITNESS our signatures and the official seal of the CITY OF MOUNDSVILLE on this 18th day of November, 1987.

[CORPORATE SEAL]

SIGNATURE

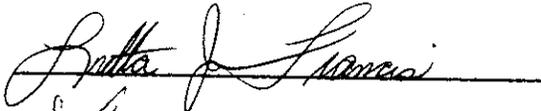
OFFICIAL TITLE

  
\_\_\_\_\_

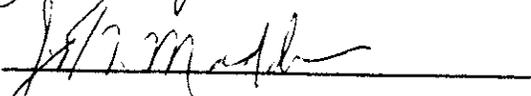
Mayor

\_\_\_\_\_

City Manager

  
\_\_\_\_\_

Recorder

  
\_\_\_\_\_

Counsel to Issuer

11/17/87  
MOUSB1-K



CITY OF MOUNDSVILLE

Sewer Revenue Bonds,  
Series 1987 A

CERTIFICATE AS TO ARBITRAGE

I, JOHN F. GRISELL, Mayor of the City of Moundsville, in Marshall County, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of \$1,846,978 aggregate principal amount of Sewer Revenue Bonds, Series 1987 A, of the Issuer, dated November 18, 1987 (the "Local Bonds"), hereby certify as follows:

1. This certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986 and applicable regulations (the "Code"). I am one of the officers of the Issuer charged with the responsibility of issuing the Local Bonds. I am familiar with the facts, circumstances, and estimates herein certified and am duly authorized to execute and deliver this certificate on behalf of the Issuer.

2. This certificate may be relied upon as the certificate of the Issuer.

3. The Issuer has not been notified by the Internal Revenue Service of any listing or proposed listing of it as an issuer the certification of which may not be relied upon by holders of obligations of the Issuer or that there is any disqualification of the Issuer by the Internal Revenue Service because a certification made by the Issuer contains a material misrepresentation.

4. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on November 18, 1987, the date on which the Local Bonds are to be physically delivered in exchange for the issue price thereof, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

5. In the ordinance pursuant to which the Local Bonds are issued, the Issuer has covenanted to make no use of the proceeds of the Local Bonds which would cause the Local Bonds to be "arbitrage bonds" within the meaning of the Code.

6. The Local Bonds and the Series 1987 B Bonds (the "Supplemental Bonds"), which bear no interest, were sold on

November 18, 1987, to the West Virginia Water Development Authority (the "Authority") for an aggregate purchase price of \$2,300,000 (100% of par).

7. The Local Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of paying a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the existing sewerage facilities of the Issuer (the "Project"), capitalizing interest on and funding a reserve account for the Local Bonds and paying costs of issuance thereof.

8. The Issuer shall, within 30 days following delivery of the Local Bonds, enter into agreements which require the Issuer to expend in excess of \$100,000 on the Project constituting a substantial binding commitment or has already done so. Acquisition, construction and equipping of the Project will proceed with due diligence to completion, and, with the exception of proceeds constituting capitalized interest and proceeds deposited in a reserve account for the Local Bonds, all of the proceeds from the sale of the Local Bonds, together with any investment earnings thereon, will be expended for payment of Costs of the Project on or before \_\_\_\_\_, 19\_\_\_\_. Construction of the Project is expected to be completed by \_\_\_\_\_, 19\_\_\_\_\_.

9. The total cost of the Project is estimated at \$10,959,817. Sources of funding for the Project are as follows:

Gross Proceeds of Local Bonds	\$1,846,978
Gross Proceeds of Supplemental Bonds	453,022
Less: EPA Grant	7,738,500
Local Funds	921,317
Funded Reserve for Local Bonds	162,408
Funded Reserve for Supplemental Bonds	11,922
Costs of Issuance	<u>20,000</u>
Total Net Proceeds	<u>\$2,105,670</u>

The amount of Project costs not expected to be reimbursed or paid from grants, Supplemental Bond proceeds and funds of the Issuer lawfully available therefor is estimated to be at least \$2,105,670. Except for the proceeds of the Local Bonds, the Supplemental Bonds, the EPA Grant and such funds of the Issuer, no other funds of the Issuer will be available to meet costs of the Project, and no balances are available to meet such costs in any account which may,

without legislative or judicial action, be invaded to pay such expenditures without a legislative, judicial or contractual requirement that such account be reimbursed.

10. Pursuant to Article V of the Local Act, the following special funds or accounts have been created:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Bond Construction Trust Fund;
- (4) Series 1987 A Bonds Sinking Fund, and within the Series 1987 A Bonds Sinking Fund the Series 1987 A Bonds Reserve Account; and
- (5) Series 1987 B Bonds Sinking Fund, and within the Series 1987 B Bonds Sinking Fund the Series 1987 B Bonds Reserve Account.

11. Pursuant to Article VI of the Local Act the proceeds of the Local Bonds (and the Supplemental Bonds ) will be deposited as follows:

- (1) Local Bonds proceeds in the amount of \$162,408 and Supplemental Bonds proceeds in the amount of \$11,922 will be deposited in the Series 1987 A Bonds Reserve Account and the Series 1987 B Bonds Reserve Account, respectively.
- (2) Local Bonds proceeds in the amount of \$796,304 will be applied to payment of certain advances made to the Issuer for the purpose of temporarily financing a portion of the Costs of the Project.
- (3) The balance of the proceeds of the Local Bonds and the Supplemental Bonds will be deposited in the Bond Construction Trust Fund and applied solely to payment of Costs of the Project, including costs of issuance of the Bonds and related costs.

12. Moneys held in the Series 1987 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Local Bonds and will not be available to meet costs of construction of the Project. All investment earnings on moneys in the Series 1987 A Bonds Sinking Fund and Series 1987 A Bonds Reserve Account will be withdrawn therefrom and deposited into the Bond Construction Trust Fund until completion of the Project, and thereafter will be

deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied in full, first to the next ensuing interest payment, if any, due on the Series 1987 A Bonds, and then to the next ensuing principal payment due thereon.

13. Except for the Series 1987 A Bonds Sinking Fund, there are no other funds or accounts established or held by the Issuer which are reasonably expected to be used to pay debt service on the Local Bonds or which are pledged as collateral for the Local Bonds and for which there is a reasonable assurance that amounts therein will be available to pay debt service on the Local Bonds, if the Issuer encounters financial difficulties. The Issuer does not expect that moneys in the Renewal and Replacement Fund will be used or needed for payments upon the Local Bonds. Except as provided herein, no funds which have been or will be used to acquire directly or indirectly securities, obligations, annuity contracts or other investment-type property producing a yield in excess of the yield on the Local Bonds have been or will be pledged to payment of the Local Bonds. None of the moneys received from the sale of the Local Bonds will be deposited in the Series 1987 A Reserve Account or any other reserve or replacement fund. The amounts deposited in the Series 1987 A Reserve Account from time to time by the Issuer will not exceed the maximum annual principal and interest on the Local Bonds and will not exceed 125% of average annual principal and interest on the Local Bonds. Amounts in the Series 1987 A Reserve Account, not to exceed 10% of the proceeds of the Local Bonds, if invested, will be invested without yield limitation. The establishment of the Series 1987 A Reserve Account is required by the Authority, is vital to its purchase of the Local Bonds and is reasonably required to assure payments of debt service on the Local Bonds.

14. The Issuer expects to enter into a contract within 6 months of the date hereof or has already entered into such a contract for the construction of the Project, and the amount to be expended pursuant to such contract exceeds the lesser of 2 1/2% of the estimated total Project cost financed with proceeds from the sale of the Bonds or \$100,000.

15. Work with respect to the construction of the Project will proceed with due diligence to completion. Construction is expected to be completed within 15 months.

16. 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.

17. The Issuer will comply with the provisions of the Code, for which the effective date precedes the date of delivery of its Bonds to the Authority.

18. The Issuer expects that no part of the Project financed by the Local Bonds will be sold or otherwise disposed of prior to the last maturity date of the Local Bonds.

19. With the exception of the amounts deposited in the Series 1987 A Bonds Sinking Fund for payment of interest on the Local Bonds, and amounts deposited in the Series 1987 A Reserve Account, all of the proceeds of the Local Bonds will be expended on the Project within 15 months from the date of issuance thereof.

20. Any money deposited in the Series 1987 A Bonds Sinking Fund for payment of the principal of or interest on the Local Bonds (other than the Series 1987 A Bonds Reserve Account therein) will be spent within a 13-month period beginning on the date of receipt.

21. The Issuer covenants and agrees to comply with the rebate requirements of the Code if not exempted therefrom, and with all other requirements of the Code necessary, proper or desirable to maintain the tax-exempt status of the Local Bonds.

22. Steptoe & Johnson is entitled to rely upon the representations, expectations, covenants, certifications and statements contained herein in rendering its opinions regarding the tax-exempt status of interest on the Local Bonds.

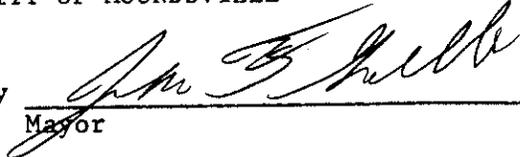
23. The original proceeds of the Local Bonds will not exceed the amount necessary for the purposes of the issue.

24. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

IN WITNESS WHEREOF, I have set my hand this 18th day of  
November, 1987.

CITY OF MOUNDSVILLE

By

  
\_\_\_\_\_  
Mayor

11/17/87  
MOUSB1-L



CITY OF MOUNDSVILLE

Sewer Revenue Bonds,  
Series 1987 A

ENGINEER'S CERTIFICATE

I, DONALD R. VAUGHN, Registered Professional Engineer, West Virginia License No. 4404, of Vaughn Consultants, Inc., Consulting Engineers, of St. Clairsville, Ohio, hereby certify as follows:

1. My firm is the consulting engineer for the construction and acquisition of certain additions, betterments and improvements for the existing sewerage system (the "Project") of the City of Moundsville, West Virginia (the "Issuer"). Certain costs of such construction and acquisition are being financed in part by proceeds of the above-captioned bonds (the "Bonds"), funds of the Issuer and the City of Glen Dale, West Virginia, and out of certain grant proceeds from the Environmental Protection Agency.

2. I hereby certify that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm, or amendments thereto and as described in the Application submitted to the West Virginia Water Development Authority (the "Authority") and approved by all necessary governmental bodies and is situate wholly or chiefly within the boundaries of the City of Moundsville; (ii) the Project is adequate for the purpose for which it was designed and all necessary governmental approvals for the construction thereof have been obtained; (iii) I have examined and reviewed all plans, specifications, bid documents and construction contracts relating to the Project and all bids for construction of the Project have been received in an amount and are otherwise compatible with the plan of financing described in said Application and I will ascertain that all contractors have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds will be verified for accuracy and completeness prior to commencement of construction of the Project; (iv) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States of America necessary for construction of the Project; (v) the construction and funding for the Project should proceed to a successful conclusion within the time schedules proposed; (vi) the useful life of the facilities constituting the Project is not less than 40 years; (vii) the rates

and charges for the sewerage system of the Issuer comply with the applicable provisions of the Loan Agreement and Supplemental Loan Agreement by and between the Authority and the Issuer; (viii) the net proceeds of the Bonds, together with the proceeds of grants irrevocably committed therefor and other moneys on deposit or to be simultaneously deposited and irrevocably committed therefor, will be sufficient to pay the costs of acquisition and construction of the Project as set forth in the application submitted to the Authority on the date of the Loan Agreement; and (ix) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this 18th day of November, 1987.

VAUGHN CONSULTANTS, INC.

By

*Donald R. Vaughn*

11/16/87  
MOUSB1-S

AMENDED SCHEDULE A

NAME OF GOVERNMENTAL AGENCY: City of Moundsville  
 TOTAL COST OF PROJECT AND SOURCES OF FUNDS

A. Cost of Project

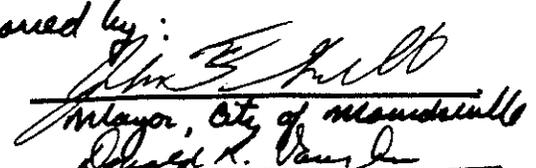
1. Construction	\$9,000,647.00	
2. Technical Services	\$ 442,364.25	
3. Legal and Fiscal	\$ 40,000.00	
4. Administrative	\$ 72,000.00	
5. Site and Other Lands	\$ 7,000.00	
6. Step I and/or Step II or Other Loan Repayment (Specify Type: See below )	\$ 796,303.75*	
7. Interim Financing Costs	\$ 30,000.00	
8. Contingency	\$ 377,172.00	
9. Total of Lines 1 through 8		\$ 10,765,487.00

B. Sources of Funds

10. Federal Grants: <sup>1</sup> (Specify Source)	EPA	\$ 7,738,500.00	
11. State Grants: <sup>1</sup> (Specify Source)		\$	
12. Other Grants: <sup>1</sup> (Specify Source)		\$	
13. Any Other Source <sup>2</sup> (Specify)	Glen Dale Funds	\$ 254,000.00	
	Moundsville Funds	\$ 667,317.00	
14. Total of Lines 10 through 13		\$ 8,659,817.00	
15. Proceeds Required from Bond Issue (Line 9 less Line 14)		\$ 2,105,670.00	
16. Cost of Financing <sup>3</sup>			
(a) Capitalized Interest	\$ -0-		
(b) Funded Reserve Account <sup>4</sup>	\$ 174,330.00		
(c) Other Costs <sup>5</sup>	\$ 18,000.00		
	\$ 2,000.00 <sup>6</sup>		
Total Cost of Financing		\$ 194,330.00	
17. Size of Bond Issue (Line 15 plus Total from Line 16)		\$ 2,300,000.00	

<sup>1</sup> Attach supporting documentation not previously submitted. If not yet available, state such and expectations as to availability.  
<sup>2</sup> For example, interest earnings during construction, if applicable. Include the proceeds of any parity or subordinate bond issue to be used for such purpose and attach supporting documentation if available (if not yet available, state such and expectations as to availability). Do not include the Authority's costs of financing.  
<sup>3</sup> Confirm with bond counsel that funding will not impact tax-exempt status of bond issue.  
<sup>4</sup> For example, fees of bond counsel for the Governmental Agency.  
<sup>5</sup> Legal fees paid by the Authority but allocable to the Governmental Agency.

\*WDA Step I Loan \$ 22,725.00  
 Design Loan 773,578.75  
 \$796,303.75

Approved by:  
  
 Mayor, City of Moundsville  
 Edward R. Vaughn



**DOBBS, ABRAHAM, MAJOR & CO.**

**CERTIFIED PUBLIC ACCOUNTANTS**

P.O. BOX 248

**MOUNDSVILLE, WEST VIRGINIA 26041**

(304) 845-7914

November 18, 1987

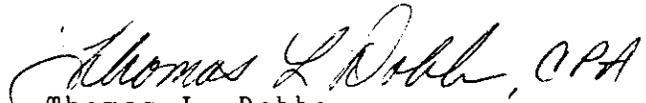
City of Moundsville  
Sewer Revenue Bonds  
Series 1987 A and Series 1987 B

West Virginia Water Development Authority  
1201 Dunbar Avenue  
Dunbar, WV 25065

Gentlemen:

Based upon the rates and charges as set forth in the ordinance of the City of Moundsville enacted August 15, 1985, and projected operation and maintenance expenses and anticipated customer usage as furnished to us by Vaughn Consultants, Inc., consulting engineers, it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the sewerage system of the City of Moundsville, will pay all repair, operation and maintenance expenses and leave a balance each year equal to at least 110% of the maximum amount required in any year for debt service on the Sewer Revenue Bonds, Series 1987 A and Series 1987 B, to be issued to West Virginia Water Development Authority and all other obligations secured or payable from the revenues of the System prior to or on a parity with such Bonds.

Very Truly Yours,

  
Thomas L. Dobbs  
Certified Public Accountant

TLD/jc



ARTICLE I

INCORPORATION: FORM OF GOVERNMENT: POWERS

Section 1. Incorporation

2. Form of Government

3. Powers of City

Incorporation

# 1. The inhabitants of The City of Moundsville, Marshall County, West Virginia, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the "City of Moundsville."

Form of Government

# 2. The municipal government provided by this charter shall be known as the "council-manager government". Pursuant to its provisions and subject only to the limitations imposed by the State Constitution, the general laws of the State, and this charter, all powers of the city shall be vested in an elective council, hereinafter referred to as "the council", which shall enact local legislation, adopt budgets, determine policies, and appoint the city manager, who shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by law and in this Charter.

Powers of the City

# 3. The city shall have all the powers now or hereafter granted to municipal corporations and to cities by the Constitution and general laws of this State, including but not limited to Chapter 8 of the Official Code with all the implied powers necessary to carry into execution all the powers granted. The city may acquire property within or without its corporate limits for any city purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require; and, except as prohibited by the Constitution of this State or restricted by

this charter, the city shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all powers which, under the Constitution of this State, it would be competent for this charter specifically to enumerate.

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Article II  
THE COUNCIL

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- Section 4. Number, selection, term
5. Qualifications
  6. Salary
  7. Presiding officer, Mayor and Vice Mayor
  8. Powers
  9. Appointment of city manager
  10. Removal of city manager
  11. Council not to interfere in appointments or removals
  12. Vacancies in council
  13. Creation of new departments or offices; change of duties
  14. City Clerk
  15. City Attorney
  16. Meetings of council
  17. Council to be judge of qualifications of its own members
  18. Rules of procedure; journal
  19. Ordinances
  20. Procedure for passage of ordinances
  21. Annual audit
  22. Merit System

Number, Selection, Term

# 4. The council shall have seven members with one elected from each ward and three elected at large as provided in Article VII, by

the Qualified voters of the city for terms of four years or until their successors have been elected and take office as provided in Section 16.

Qualifications

# 5. Members of Council shall be qualified electors of the City. Council members elected as Ward Council Members shall be qualified voters of the Ward for which they are elected. If a member of Council shall cease to possess any of these qualifications or shall be convicted of a crime involving moral turpitude, his or her office shall immediately become vacant.

Salary

# 6. The annual salary of each member of Council shall be \$1,200.00 payable monthly until changed by ordinance, but shall not be increased during the current term of the members of Council enacting such ordinance. The mayor shall receive an additional salary of \$300.00 while serving in that capacity.

Presiding Officer: Mayor and Vice Mayor

# 7. The council at the last regular meeting held in June of each year, shall elect one of its remaining members to serve as mayor for a term of one year commencing on the first day of July of that year. The mayor shall preside at meetings of the council and shall be recognized as head of the city government for all ceremonial and military purposes, but shall have no regular administrative duties. A person who has been elected or who has served as mayor during all or any part of two consecutive terms shall be ineligible for the office of mayor during any part of the term immediately following the second of the two consecutive terms. The council at the last regular meeting held in June of each year, shall elect one of its remaining members to serve as vice mayor for a term of one year commencing on the first day of July of that year. The vice mayor shall perform all the duties of the mayor in the event of the absence or disability of the mayor.

Powers

# 8. All powers of the city, the determination of all matters

of policy, and authority to pass all laws and ordinances relating to its municipal affairs shall be vested in the council. Without limitation of the foregoing, the council shall have power to:

- (1) Establish administrative departments and distribute the work of divisions, upon recommendation of the City Manager;
- (2) Adopt the city budget;
- (3) Authorize the issuance of bonds by a bond ordinance;
- (4) Inquire into the conduct of any office, department or agency of the city and make investigation as to municipal affairs;
- (5) Appoint the members of the planning commission;
- (6) Appoint the members of the zoning board of appeals;
- (7) Adopt and modify the official map of the city;
- (8) Adopt plats;
- (9) Regulate and restrict the height and number of stories of buildings and other structures, the size of yards and courts, the density of populations, and the location and use of buildings for trade, industry, business, residence or other purposes; subject, however, to the provisions of Article 24 of Chapter 8 of the Code of West Virginia, as amended;
- (10) Adopt, modify and carry out plans proposed by the Planning commission for the clearance of slum districts and rehabilitation of blighted areas;
- (11) Adopt, modify and carry out plans proposed by the planning commission for the replanning, improvement and redevelopment of neighborhoods and for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster;
- (12) Provide for an independent audit;
- (13) At the end of each calendar year, council shall formally evaluate the performance of the City Manager and suggest items for improvement and priorities for the coming year. This shall be done in executive session as a personnel

matter;

- (14) The council may provide by ordinance for a procedure for the appeal to council of the firing or discharge of any employee not covered by the Civil Service Laws of the State of West Virginia.

Appointment of City Manager

# 9. The council shall appoint a city manager who shall have the powers and perform the duties provided in this charter. No councilmen shall receive such appointment during the term for which he shall have been elected, nor within one year after the expiration of his term.

Removal of City Manager

#10. The council shall appoint the city manager for an indefinite term and may remove him by a majority vote of its members and the appointment must be affirmed by a majority of Council every two years from the date of the appointment of the City Manager. At least thirty days before such removal shall become effective, the council shall by a majority vote of its members adopt a preliminary resolution stating the reasons for his removal. The manager may reply in writing and may request a public hearing which shall be held not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing, if one be requested and after full consideration, the council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution, the council may suspend the manager from duty, but shall in any case cause to be paid him forthwith any unpaid balance of his salary for the next two calendar months following the adoption of the preliminary resolution.

Council Not to Interfere in Appointments and Removals

#11. Neither the council nor any of its members shall direct or request the appointment of any person to, or his removal from office by the city manager or by any of his subordinates, or in any manner take part in the appointment or removal of officers in the

administrative service of the city; except that the council may by ordinance provide for a procedure for the appeal to council of the firing or discharge of any employee not covered by the Civil Service law of the State of West Virginia. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager, and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately. Any councilmen violating the provisions of this section shall, after due notice and a hearing, be subject to removal as a member of Council.

#### Vacancies in Council

#12. If a vacancy occurs in the Council, the council shall by a majority vote of the remaining members appoint a qualified person to fill the vacancy until the next regular election, at which time a member of council to fill the unexpired term shall be elected.

#### Creation of New Departments or Offices; Change of Duties

#13. The council by ordinance may create, change, and abolish offices, departments or agencies, other than the offices, departments and agencies established by this charter. The council by ordinance may assign additional functions or duties to offices, departments or agencies established by this charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this charter to a particular office, department or agency.

#### City Clerk

#14. The city manager shall appoint an officer of the city who shall have the title of city clerk. The clerk shall give notice of meetings of the council, shall keep the journal of its proceedings, shall authenticate by his or her signature and record in full in a book kept for the purpose all ordinances and resolutions and shall perform such other duties as shall be required by this Charter, the Code of West Virginia, or by ordinance.

City Attorney

#15. The city manager shall appoint the city attorney, who shall be a resident of Marshall County, West Virginia and a member of the bar of Marshall County in good standing, and shall perform and discharge all duties and exercise all powers which shall be conferred upon him or her by any ordinance or resolution of the city council, and in addition he or she shall exercise the following powers:

(A) Be the legal advisor of and attorney and counsel for the city and for all of the administrative officers thereof, in respect to their official duties.

(B) Prosecute and defend all suits for or against the city, and prepare all contracts, bonds or other writings in which the city is concerned, and endorse on each, his approval of the form and correctness thereof.

(C) Be Prosecuting Attorney of the Police Court and prosecute all cases brought before such court, and perform the same duties so far as they are applicable thereto as are required of the Prosecuting Attorney of the county.

(D) The city council and all administrative officers of the city may require the opinion of the city attorney upon any question of law involving their respective powers and duties, and he or she shall furnish the same in writing.

(E) Apply in the name of the city to a court of competent jurisdiction for an order of injunction restraining the misapplication of funds of the city or the abuse of its corporate powers, or the execution or performance of any contract, made on behalf of the city in contravention of law, or which was procured by fraud or corruption.

(F) When an obligation or contract made on behalf of the city granting a right or easement, or creating a public duty, is evaded or violated, the city attorney shall require the specific performance of the duty by any administrative officer by application for a writ of mandamus to a court of competent jurisdiction. The city attorney shall receive a salary to be fixed by council. The city manager or

city council, whenever the exigencies of the business of the city require such action shall have the right to employ special counsel to assist the city attorney.

#### Meetings of Council

#16. The terms of office of newly elected members of council shall commence on the first day of July next following their election. The council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than twice each month. All meetings of the council shall be open to the public.

#### Council to be Judge of Qualifications of its Members

#17. The council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the council in any such case shall be subject to review by the courts.

#### Rules of Procedure: Journal

#18. The council shall determine its own rules and order of business. It shall keep a journal of its proceedings and the journal shall be open to public inspection, on any question or issue any member of Council may require a roll call vote which shall be conducted as follows: The matter to be voted on shall be stated by the presiding officer, and each member of Council shall cast a signed ballot. The ballots shall be given to the Clerk who shall read and record the same, and announce the result.

#### Ordinances

#19. In addition to such acts as are required by statute or by this charter to be by ordinance, every act of the council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness shall be by ordinance. The enacting clause of all ordinances shall be, "The council of the city of Moundsville hereby ordains".

#### Procedure for Passage of Ordinances

#20. Every ordinance shall be passed and enacted in accordance

with the general laws of the State of West Virginia.

Annual Audit

#21. In addition to the annual audit conducted by the State, the council may employ qualified public accountants to make an independent audit of accounts and other evidences of financial transactions of the city government.

Merit System

#22. The Council by ordinance may provide for a merit system for all or any class of city employees in addition to those classes for which a merit system is made mandatory by general law.

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Article III

THE CITY MANAGER

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Section 23. The city manager; qualifications

24. The city manager; powers and duties

25. Absence of city manager

26. Administrative departments

27. Directors of departments

28. Departmental divisions

The City Manager; Qualifications

#23. The city manager shall be chosen by the council solely on the basis of his or her executive and administrative qualifications with special reference to his or her actual experience in, or his or her knowledge of, accepted practice in respect to the duties of the office as hereinafter set forth. At the time of appointment, he or she need not be a resident of the city or state, but during his or her tenure of office he or she shall reside within the city.

The City Manager; Powers and Duties

#24. The city manager shall be the chief executive officer and head of the administrative branch of the city government. He or she shall be responsible to the council for the proper administration of all affairs of the city and to that end, shall have powers and shall be required to:

city council, whenever the exigencies of the business of the city require such action shall have the right to employ special counsel to assist the city attorney.

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#### Procedure for Passage of Ordinances

#20. Every ordinance shall be passed and enacted in accordance

(1) Appoint and, when deemed necessary or advisable, remove all officers and employees of the city except as otherwise provided by this charter or by the Code of West Virginia and except as he or she may authorize the head of a department or office to appoint and remove subordinates in such department or office;

(2) Prepare the budget annually and submit it to the council and be responsible for its administration after adoption;

(3) Prepare and submit to the council as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year;

(4) Keep the council advised of the financial condition and future needs of the city and make such recommendations as may seem desirable;

(5) Perform such other duties as may be prescribed by this charter or required by the council, not inconsistent with this charter.

#### Absence of City Manager

#25. The manager may designate by letter filed with the city clerk a qualified administrative officer of the city to perform his or her duties during his or her temporary absence or disability. In the event of failure of the manager to make such designation, the council may by resolution appoint an officer of the City to perform the duties of the manager until he or she shall return or the disability shall cease.

#### Administrative Departments

#26. There shall be a department of finance, a police department, fire department, and such other administrative departments as may be established by ordinance upon the recommendation of the manager.

#### Directors of Departments

#27. At the head of each department there shall be a director, who shall be an officer of the city and who shall have supervision and control of the department subject to the direction of the city manager. With the approval of Council, two or more departments may be headed by the same individual, the manager may head one or more departments, and directors of departments may also serve as chiefs

of divisions, and the compensation shall be determined by Council.

Departmental Divisions

#28. The work of each department may be distributed among such divisions thereof as may be established by ordinance upon the recommendation of the city manager. Pending the passage of an ordinance or ordinances distributing the work of departments under the supervision and control of the city manager among specific divisions thereof, the city manager may establish temporary divisions.

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Article IV

BUDGET

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Section 29. Fiscal year

30. Preparation and submission of budget
31. Budget a public record
32. Public hearing on budget
33. Vote required for adoption

Fiscal year

#29. The fiscal year of the city government shall begin on the first day of July and shall end on the last day of June of each calendar year. Such fiscal year shall also constitute the budget and accounting year. As used in this charter the term "Budget Year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

Preparation and Submission of Budget

#30. The city manager, on or before February 28th of each budget year, shall submit to the council a budget and explanatory budget message. For such purpose, at such date as he shall determine, he, or an officer designated by him, shall obtain from the head of each office, department or agency estimates of revenue and expenditures of that office, department or agency, detailed by organization units and character and object of expenditure, and such other supporting data as he may request; together with an estimate of all capital projects pending or which such department head believes should be

undertaken (a) within the budget year, and (b) within five next succeeding years. In preparing the budget, the city manager shall review the estimates, shall hold hearings thereon and shall consult with the Finance Committee of Council and may revise the estimate as he may deem advisable.

Budget a Public Record

#31. The budget and budget message and all supporting schedules shall be a public record in the office of the city clerk. The city manager shall cause sufficient copies of the budget and budget message to be prepared for distribution to interested persons.

Public Hearing on Budget

#32. At the meeting of the council at which the budget and budget message are submitted, the council shall determine the place and time of the public hearing on the budget, at which all interested persons shall be given an opportunity to be heard, for or against the estimates or any item thereof. The council shall enter of record any objections so made and the reasons and grounds therefore.

Vote Required for Adoption

#33. The budget shall be adopted by the favorable votes of at least a majority of all the members of the council.

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Article V

DEPARTMENT OF FINANCE

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- Section 34. Director of finance; appointment, qualification and salary
- 35. Director of finance; powers and duties
  - 36. Transfers of appropriations
  - 37. Accounting supervision and control
  - 38. When contracts and expenditures prohibited
  - 39. Appropriations lapse at end of year
  - 40. Fees shall be paid to city government
  - 41. Competitive bidding
  - 42. Contracts for city improvements

Director of Finance; Appointment, Qualifications and Salary

#34. There shall be a department of finance, the Director of which shall be the city manager, or a person appointed by him.

The director of finance shall have knowledge of municipal accounting and taxation and shall have had experience in budgeting and financial control.

The annual salary of the director of finance shall be determined by the council.

Director of Finance; Powers and Duties

#35. The director of finance shall have charge of the administration of the financial affairs of the city and to that end shall have the authority and shall be required to:

(1) Compile the current expense estimates.

(2) Compile the capital estimates for the budget.

(3) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to insure that budget appropriations are not exceeded.

(4) Maintain a general accounting system for the city government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over each office, department and agency; keep separate accounts for items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amount paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city to be made daily or at such intervals as he may deem expediant.

(5) Submit to the council through the city manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city.

(6) Prepare, as of the end of each fiscal year, a complete financial statement and report.

(7) Collect all taxes, fees, and service charges, except those collectable by the county treasurer, special assessments, license

fees and all other revenues of the city, and receive all money receivable by the city from other levels of government, or from any court, or from any office, department or agency of the city.

(8) Have custody of all public funds belonging to or under control of the city, or any office, department or agency of the city government, and deposit all funds coming into his hands in such depositories as may be designated by resolution of the council, or, if no such resolution be adopted, by the city manager, subject to the requirements of law as to surety and the payment of interest on deposits, but all such interest shall be the property of the city and shall be accounted for and credited to the proper account.

(9) Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and any other articles used by any office, department or agency of the city government.

(10) Approve all proposed expenditures; unless he shall certify that there is an unencumbered balance of appropriation and available funds, no appropriation shall be encumbered and no expenditure made.

#### Transfers of Appropriations

#36. The city manager may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or agency; at the request of the city manager and within the last three months of the budget year, the council may by resolution transfer any unencumbered appropriation balance or portion thereof from one office, department or agency to another.

#### Accounting Supervision and Control

#37. The director of finance shall have powers and shall be required to:

(1) Prescribe the forms of receipts, requisitions, vouchers, bills or claims to be used by all the offices, departments and agencies of the city government;

(2) Examine and approve all contracts, orders and other documents by which the city government incurs financial obligations having

previously ascertained that moneys have been appropriated and allotted and will be available when the obligations shall become due and payable:

(3) Audit and approve before payment all bills, invoices, payrolls and other evidences of claims, demands or charges against the city government and with the advice of the city attorney determine the regularity, legality and correctness of such claims, demands or charges;

(4) Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the city government apart from or subsidiary to the accounts kept in his office.

#### When Contracts and Expenditures Prohibited

#38. No officer, department, or agency shall during any budget year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated for that general classification of expenditure pursuant to this charter. Any contract, verbal or written, made in violation of this charter shall be null and void. Any officer or employee of the city who shall violate this section shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to hold his office or employment. Nothing in this section contained, however, shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for the services for a period exceeding the budget year in which each contract is made, when such contract is permitted by law.

#### Appropriations Lapse at End of Year

#39. All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered.

#### Fees Shall be Paid to City Government

#40. All fees received by any officer or employee shall belong

to the city government and shall be paid daily to the department of finance.

Competitive Bidding

#41. Before the director of finance makes any purchase of or contract for supplies, materials or equipment, he shall give ample opportunity for competitive bidding, under such rules and regulations, and with such exceptions as the council may prescribe by Ordinance; provided, however, that the council shall not except individual contracts, purchases or sales from the requirement of competitive bidding.

Contracts for City Improvements

#42. Any city improvement costing more than \$2,500.00 shall be executed by contract except where such improvement is authorized by the council to be executed directly by a city department in conformity with detailed plans, specifications and estimates. All such contracts for more than \$2,500.00 shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed by ordinance, provided the city manager shall have the power to reject all bids and advertise again. Alterations in any contract may be made when authorized by the council upon the written recommendation of the city manager. In the event of an emergency requiring immediate action the Council by Resolution may waive the requirement for competitive bidding providing that the resolution set forth the nature of the emergency and necessity for immediate action.

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Article VI

POLICE COURT

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- Section 43. Appointment of Police Judge; Qualifications; Salary  
44. Police Court Judge; Jurisdiction; duties and Powers  
45. Temporary Judge

Appointment of Police Judge; Qualifications; Salary

#43. The city manager shall appoint as an officer of the city a person who shall have the title of police judge and who shall be

any qualified resident of the City of Moundsville. The police judge shall serve at the will and pleasure of the city manager and shall receive an annual salary as determined by the council.

Police Court Judge; Jurisdiction; Duties and Powers

#44. The police court judge shall have the following duties, jurisdiction and powers:

(A) He or she shall have charge of and preside over the municipal court of the City. He or she shall have the power to summons witnesses for the trial of any case before him or her; to compel the attendance of police officers of the city; to require of said police officers the enforcement of any order of judgment entered or rendered by him or her under the powers herein given said police court judge; and to issue executions for all fines, penalties and cost imposed by him. All cases for alleged ordinance violations may be tried by the police court judge without a jury, or with a jury if one is demanded. He or she shall have all of the powers, authorities and duties which are now or may hereafter be granted by Section 1, Article 10, Chapter 8 of the Code of West Virginia, or other statutes of the State of West Virginia.

(B) He or she shall issue warrants upon complaint under oath of any person or officer for the arrest of anyone charged with the violation of any ordinance of the city, or on a state warrant as ex-officio County Magistrate.

(C) He or she shall keep a record of all warrants issued by him or her, of all persons arrested and brought before him or her, and of all trials, fines, or sentences imposed or judgments entered by him or her in a well-bound book to be known as the Police Court Docket. A record of the entries made each day in said docket shall be signed by the police court clerk or the police court judge at the close of the day. An appeal shall lie to the circuit court or to the criminal court of Marshall County from all judgments of the police court judge wherein and in the manner an appeal from the judgment of a mayor of a city is allowed by law, or as may otherwise be provided by law.

(D) He or she shall exercise the power to punish within the

limits prescribed by the ordinances of the city or by the laws of the State of West Virginia applicable to the city and not in conflict with this charter.

Temporary Judge

#45. In the event of and during the temporary absence or disability of the police judge, the city manager shall appoint a qualified person to preside over said Court, and perform the duties of the judge thereof. The compensation of the temporary judge shall be determined by council.

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Article VII

NOMINATIONS AND ELECTIONS

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Section 46. Municipal elections

47. Wards

48. Nominations

49. Council ballots

50. Election regulations

51. Canvass

Municipal Elections

#46. The regular election of members of the council shall be held on the first Tuesday in June in odd numbered years, the first said regular election shall be held on the first Tuesday in June, 1987. At the election to be held on the first Tuesday in June, 1987 there shall be elected one councilman from Second Ward and one councilman from the Fourth Ward and one member of council at large. At the next regular election the remainder of Council shall be elected. Special elections shall be held at such times as may be fixed by the council, or required by law or this charter.

Wards

#47. The city shall be divided into not more than four wards the boundaries of which shall be determined by the council, provided,

however, that the wards shall be as nearly equal as may be in area and populations, and each ward shall be composed of contiguous territory.

Nominations

#48. Any qualified elector of the city may be nominated for the council by petition; provided, however, that no person may be nominated for more than one office at one election.

The term "qualified elector" as used in this charter shall mean a citizen having the qualifications required by law to vote, and who has been a resident of the city for at least thirty days next preceding the election at which he desires to vote. A petition for this purpose shall be signed by not fewer than 50 qualified electors who shall be residents of the ward from which they seek to nominate a candidate, and for nomination of a candidate at large by 100 qualified electors of the city. No elector shall sign more than one petition for persons nominated by wards, and not more than one petition for each position to be filled for persons to be nominated at large, and should an elector do so, his signature shall be void except as to the petition first filed. The signatures on the nominating petition need not all be subscribed to one paper, but to each separate paper there shall be attached a signed statement of the circulator thereof, stating the number of signers of such paper and that each signature appended thereto was made in his presence and is the genuine signature or mark of the person whose name it purports to be. With each signature including the signature of the circulator, shall be stated, the place of residence of the signer, giving the street and number or other description sufficient to identify it. The form of the nominating petition shall be substantially as follows:

We, the undersigned electors of the ( \_\_\_\_\_ ward in the) \*City of Moundsville hereby nominate \_\_\_\_\_ at large\*\* whose residence is \_\_\_\_\_ for the office of member of Council from the \_\_\_\_\_ ward, to be voted for at the election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_; and

we individually certify that we are qualified to vote for a candidate for the council and that we have not signed any other nominating petition for that office.

Name	Street and Number	Address from which last registered (if different)	Date of Signing
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(Spaces for signature and required date)

\*Where appropriate

\*\*Cross out one

Statement of Circulator

The undersigned is the circulator of the foregoing paper containing \_\_\_\_\_ signatures. Each signature appended thereto was made in my presence and is the genuine signature of the person whose name it purports to be.

Signature of Circulator \_\_\_\_\_

Address \_\_\_\_\_

Any signature made earlier than the first day of February next preceding the election shall be void. All nominating papers comprising a petition shall be filed as one instrument with the city clerk, not later than the 15th day of March before the election. The city clerk shall make a record of the exact time at which each petition is filed. No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination in substantially the following form:

Acceptance of Nomination

I hereby accept the nomination for the council and agree to serve if elected.

Signature of Candidate \_\_\_\_\_

All petitions so filed shall be submitted by the clerk to the council no later than its next regular meeting, for its determination as to their sufficiency. If a petition is found insufficient, the clerk shall return it immediately to the person who filed it with a statement certifying wherein the petition is found insufficient.

Within the regular time for filing petitions such a petition may be amended and filed again as a new petition (in which case the time of the first filing shall be disregarded in determining the validity of signatures thereon) or a different petition may be filed for the same candidate.

#### Council Ballots

#49. The full names of all candidates nominated for the council as hereinbefore provided, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots without party designations. If two candidates with the same surname, or with names so similar as to cause confusion, are nominated, the addresses of their places of residence shall be placed with their names on the ballots.

In the printing of the ballots the names of candidates shall be arranged so that each appears first on an equal number of ballots. The ballot shall bear instructions as to the number of candidates for whom the voter is entitled to vote. If voting machines are used, the names shall be arranged by lot, as provided by ordinance.

Unless voting machines are used, members of council shall be voted for on ballots separate and distinct from ballots used for any other office or question.

#### Election Regulations

#50. Except as otherwise provided by this charter, city elections shall be conducted and the results determined and certified in accordance with the provisions of general law governing elections, so far as they are applicable. The duties imposed by such general election laws upon County Clerks and Circuit Clerks shall as to city elections devolve upon the City Clerk, and the duties imposed by such laws upon County Courts shall devolve upon the governing body of the City. The council shall appoint three commissioners and two clerks to serve as election officials in each precinct in the city. At least three days before the date of the election the city clerk shall procure from the clerk of the county court the necessary registration records and other election supplies and shall deliver

them on the day of the election to the election officials. Ballots shall be delivered to the election officials on the day of the election. The election officials shall as soon as possible after the closing of the polls on election day return to the city clerk the ballots, tally sheets, certificates of the results of the election, registration reports, ballot boxes and all other election supplies. The council may prescribe other rules for the conduct of elections not inconsistent with general law or the provisions of this charter. The registration of voters for city elections shall be done in the manner provided by the general laws of the state pertaining to the registration of voters for municipal elections, provided, however, that the registration lists for municipal elections shall not make any reference to the political party affiliations of the registered voters.

Canvass

#51. On the first Monday following the election the council shall canvass the returns of the election and declare the result. Whenever two or more of the persons voted for have received the highest and equal number of votes for election for the same office, so that the election to the office is not decided by the returns, the council shall decide by lot which of the candidates shall be declared elected.

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Article VIII  
GENERAL PROVISIONS

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- Section 52. Removal of officers and employees
- 53. Right of city manager and other officials in council
  - 54. Investigations by city manager and council
  - 55. Publicity of records
  - 56. Personal interest
  - 57. Official bonds
  - 58. Oath of Office

59. Effect of this charter on existing law
60. Amending the charter
61. Separability clause

Removal of Officers and Employees

#52. Any officer or employee to whom the city manager, or head of any office, department or agency, may appoint a successor, may be removed by the manager or other appointing officer at any time. Except as otherwise provided by general law or by City Ordinance, the decision of the manager, or other appointing officer, shall be final and there shall be no appeal therefrom to any other office, body, or court whatsoever.

Right of City Manager and other Officers in Council

#53. The city manager, the heads of all departments, and such other officers of the city as may be designated by vote of the council shall be entitled to seats in the council, but shall have no vote therein. The city manager shall have the right to take part in the discussion of all matters coming before the council, and the directors and other officers shall be entitled to take part in all discussions of the council relating to their respective offices, departments or agencies.

Investigations by Council or City Manager

#54. The council, the city manager, or any person or committee authorized by either of them, shall have power to inquire into the conduct of any offices, department, agency or officer of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$500.00 or by imprisonment not to exceed six months or both.

Publicity of Records

#55. All records and accounts of every office, department or

agency of the city shall be open to public inspection at all reasonable times and under reasonable regulations established by the city manager, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish.

Personal Interest

#56. No member of the council or any officer or employee of the city shall have a financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract or in the sale to the city or to a contractor supplying the city or any land or rights or interests in any land, material, supplies or services. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge express or implied of the person or corporation contracting with the city shall render the contract voidable by the city manager or the council. Any employee or officer of the City who shall take office as a member of Council shall forfeit his office or position.

Official Bonds

#57. All officers or employees as the council may by ordinance require to do so or as may be required by law shall give bond in such amount and with such surety as may be approved by the council. The premiums of such bonds shall be paid by the city.

Oath of Office

#58. Every officer of the city shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the city clerk:

"I solemnly swear ( or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of West Virginia, that I will, in all respects, observe the provisions of the charter and ordinances of the City of Moundsville and will faithfully discharge the duties of the office of \_\_\_\_\_ to the best of my skill and judgment".

Effect of this Charter on Existing Law

#59. (a) All laws and parts of laws relating to or affecting the City of Moundsville in force when this charter shall take effect are hereby repealed and superceded to the extent that the same are inconsistent with the provisions of this charter;

(b) Insofar as the provisions of this charter are the same in terms or in substance and effect as provisions of law in force when this charter shall take effect, relating to or affecting the City of Moundsville the provisions of this charter are intended to be not a new enactment but a continuation of such provisions of law, and this charter shall be so construed and applied.

Amending the Charter

#60. Amendments to this charter shall be made in accordance with the general laws of the State.

Separability Clause

#61. If any section or part of this charter shall be held invalid by a court of competent jurisdiction such holding shall not affect the remainder of this charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

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Article IX

SUCCESSION IN GOVERNMENT

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- Section 62. Rights of officers and employees preserved
- 63. Continuance of present officers
  - 64. Transfer of records and property
  - 65. Continuity of offices, departments or agencies
  - 66. Continuance of contracts and public improvements
  - 67. Pending actions and proceedings
  - 68. Termination of Offices of Elective Officials

#### Rights of Officers and Employees Preserved

#62. Nothing in this charter contained, except as specifically provided, shall effect or impair the right or privileges of appointive officers or employees of the city or any department or agency existing at the time when this charter shall take effect and not inconsistent with the provisions of this charter, in relation to the personnel, ranks, grades, tenure of office, promotion, removal, pension and retirement rights, civil rights or any other right or privileges of appointive officers or employees of the city or any department or agency thereof.

#### Continuance of Present Officers

#63. All persons holding administrative office at the time this charter takes effect shall continue in office and in the performance of their duties until provisions shall have been made in accordance herewith for the performance of such duties or the discontinuance of such office. The powers conferred and the duties imposed upon any office, department or agency of this city by the laws of the state shall, if such office, department or agency, be abolished by this charter, or under its authority, be thereafter exercised and discharged by the office, department or agency designated by the council unless otherwise provided herein.

#### Transfer of Records and Property

#64. All records, property and equipment whatsoever of any office, department or agency or part thereof, all the powers and duties of which are assigned to any other office, department or agency by this charter, shall be transferred and delivered to the office, department or agency to which such powers and duties are so assigned. If part of the powers and duties of any office, department or agency which are by this charter assigned to another office, department or agency, all records, property and equipment relating exclusively thereto shall be transferred and delivered to the office, department or agency to which such powers and duties are so assigned.

Continuity of Offices, Departments, or Agencies

#65. Any office, department or agency provided for in this charter with a name or with powers and duties the same or substantially the same as those of an office, department or agency heretofore existing shall be deemed to be a continuation of such office, department or agency and shall exercise its powers and duties in continuation of their exercise by the office, department or agency by which the same were heretofore exercised and shall have power to continue any business proceeding or other matter within the scope of its regular powers and duties commenced by any office, department or agency by which such powers and duties were heretofore exercised. Any provision in any law, rule, regulation, contract, grant or other document relating to such a formerly existing office, department or agency, shall, so far as not inconsistent with the provisions of this charter, apply to such office, department or agency provided for by this charter.

Continuance of Contracts and Public Improvements

#66. All contracts entered into by the city, or for its benefit, prior to the taking effect of this charter, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or charter provisions existing at the time this charter takes effect may be carried to completion as nearly as practicable in accordance with the provisions of such existing laws and charter provisions.

Pending Actions and Proceedings

#67. No action or proceeding, civil or criminal, pending at the time when this charter shall take effect, brought by or against the city or any office, department or agency or officer thereof, shall be affected or abated by the adoption of this charter or by anything therein contained; but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any office, department or agency or officer party thereto may be or under this charter be assigned or transferred to another office, department or agency or office, but in that event the same may be prosecuted or defended by the head of the office, department or

agency to which such function, powers and duties have been assigned or transferred by or under this charter.

Termination of Offices of Elective Officials

#68. The terms of all elective officials of the City in office on the effective date of this charter shall continue until the end of the term for which they were elected.

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Article X

DEFINITION OF TERMS

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As used in this charter, the following definitions shall apply:

The word state shall mean State of West Virginia.

The word city shall mean City of Moundsville.

The word manager shall mean City Manager.

Where the context so permits, the plural shall include the singular, the singular shall include the plural, and any gender shall include all genders.

We, the undersigned, being a majority of the members of the Charter Board of the City of Moundsville, certify that the foregoing is a true copy of the Charter of the City of Moundsville as finally revised by the Charter Board of the City of Moundsville on March 28, 1985.

James A. McElroy  
Jay Lissett  
Nidia L. Blodi  
William M. Roper  
Robert C. Straight, Chairman  
Gregory W. Knapp  
Monell F. Whitson  
Erin V. Jack Baker



STATE OF WEST VIRGINIA, COUNTY OF MARSHALL,

CITY OF MOUNDSVILLE, To-wit:

"I, John F. Grisell solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of West Virginia, that I will, in all respects, observe the provisions of the Charter and ordinances of the City of Moundsville and will faithfully discharge the duties of the office of First Ward Councilman to the best of my skill and judgment."

Signed

Attested:

*Spencer J. Harwood*

Effective:

*July 1, 1925*

*John F. Grisell*

STATE OF WEST VIRGINIA, COUNTY OF MARSHALL,

CITY OF MOUNDSVILLE, To-wit:

"I, Dorothy Durig solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of West Virginia, that I will, in all respects, observe the provisions of the Charter and ordinances of the City of Moundsville and will faithfully discharge the duties of the office of Council Person At Large to the best of my skill and judgment."

Signed

Attested: Sally France

Effective: July 1, 1987

Dorothy Durig

STATE OF WEST VIRGINIA, COUNTY OF MARSHALL,

CITY OF MOUNDSVILLE, To-wit:

"I, O. Leroy Hitt solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of West Virginia, that I will, in all respects, observe the provisions of the Charter and ordinances of the City of Moundsville and will faithfully discharge the duties of the office of Fourth Ward Councilman to the best of my skill and judgment."

Signed

O. Leroy Hitt

Attested: Walter J. Turner

Effective: July 1, 1937

STATE OF WEST VIRGINIA, COUNTY OF MARSHALL,

CITY OF MOUNDSVILLE, To-wit:

"I, Delbert L. Melott solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of West Virginia, that I will, in all respects, observe the provisions of the Charter and ordinances of the City of Moundsville and will faithfully discharge the duties of the office of Third Ward Councilman to the best of my skill and judgment."

Signed

Attested: 

Effective: July 1, 1987



STATE OF WEST VIRGINIA, COUNTY OF MARSHALL,

CITY OF MOUNDSVILLE, To-wit:

"I, Robert E. Straight solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of West Virginia, that I will, in all respects, observe the provisions of the Charter and ordinances of the City of Moundsville and will faithfully discharge the duties of the office of Councilperson-At-Large to the best of my skill and judgment."

Signed

Attested: Shirley J. Turner

Effective: July 1, 1925

Robert E. Straight

STATE OF WEST VIRGINIA, COUNTY OF MARSHALL,

CITY OF MOUNDSVILLE, To-wit:

"I, Laverne Yoders, Jr. solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of West Virginia, that I will, in all respects, observe the provisions of the Charter and ordinances of the City of Moundsville and will faithfully discharge the duties of the office of Second Ward Councilman to the best of my skill and judgment."

Signed

Laverne Yoders

Attested: Lotta J. Lanza

Effective: July 1, 1987



Authority of city to acquire and maintain waterworks, etc., W. Va. Code, Sec. 8-12-5, subsec. (32) (33).

4.10 SANITARY BOARD. (a) Establishment; Composition. There is hereby established a Sanitary Board for the custody, supervision, control, administration, operation and maintenance of the city sewage system, all as permitted and provided by Article 13 of Chapter 16 of the West Virginia Code.

The Sanitary Board shall be composed of the City Manager and two other persons appointed by the City Council.

The organization of the Sanitary Board and the qualifications, term of office and bond of the members shall be as provided in the West Virginia Code, Section 16-13-18.

(b) Appointment of Members. To provide staggered terms of office, as provided in the West Virginia Code, Section 16-13-18, the two members of the Sanitary Board who are to be appointed by the City Council shall be appointed as follows: At the first regular meeting of the Council in March, 1970, and every three years thereafter, one member shall be appointed; and at the first regular meeting of the Council in March, 1972, and every three years thereafter, one member shall be appointed. Members shall take office on March 24 of the year of their appointment.

(c) Officers; Bond. The City Manager shall be the Chairman of the Sanitary Board, and the Board shall elect a Vice-Chairman and also designate a Secretary and Treasurer (who may be separate persons or one and the same); and the City Council hereby reserves the right and privilege from time to time by ordinance or resolution to fix the compensation of the members of the Sanitary Board and the Secretary and Treasurer thereof, and also to require and fix the amount of bond which any or all of such officials may be required to furnish.

(d) Compensation. Unless otherwise provided by ordinance or resolution of the City Council, the members of the Sanitary Board each shall be paid the sum of \$20 for each meeting of the Board they shall attend.

The compensation of members of the Sanitary Board shall be paid from the funds of the Sanitary Board, at the direction of such Board, and from no other source.

(e) Rules and Regulations. The Sanitary Board shall make and enforce such bylaws and regulations as may be deemed necessary for the safe, economical and efficient management of the city's sanitary sewerage system

and sewage treatment works, for the construction and use of house sewers and connections to the sewerage system, and for the regulation, collection, rebating, and refunding of rates and charges for the use thereof.

The Sanitary Board is authorized to prohibit dumping of wastes into the city sewage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works of the city, or to require methods affecting pretreatment of such wastes to reduce the characteristics of the waste satisfactory to the Sanitary Board.

(f) Funds, Collections, Disbursements. All revenue from any source shall be deposited in a bank or banks designated by the Sanitary Board. Checks and drafts against the account shall be drawn upon the signatures of the Mayor of the City of Moundsville and the Treasurer of the Sanitary Board of the City of Moundsville, West Virginia, and no other signature shall be necessary. Any provision of any other ordinance in conflict with this section is hereby expressly repealed. (3/10/55, 12/14/59, 1/8/73, 3/12/73)

4.11 EMERGENCY SERVICES. (a) "Emergency Services" Defined. For the purposes of this section, the term "emergency services" shall mean the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters caused by enemy attack, sabotage or other hostile action, or by fire, flood, earthquake or other natural or man-made causes. These functions include, without limitation, fire-fighting services, police services, medical and health services, rescue, engineering, air raid warning services, communications, radiological, chemical and other special weapons, defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services, and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for the carrying out of the foregoing functions.

Disaster includes the imminent threat of disaster as well as its occurrence and any power or authority exercisable on account of a disaster may be exercised during the period when there is an imminent threat thereof.

(b) Policy and Purpose of Section. In view of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from enemy attack, sabotage, or other hostile action, or from fire, flood, earthquake or other natural or man-made causes, and in order to insure that preparations of this city will be adequate to deal with such disasters, and generally to provide for the common defense and to protect the public peace, health and safety, and to preserve the lives and property of the people of this city, it is hereby found and declared to be necessary:



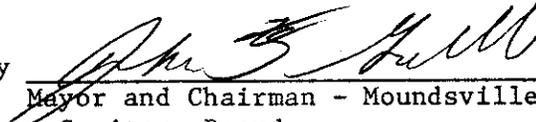
PETITION

The Sanitary Board of the City of Moundsville, on motion duly passed at its meeting on the 13th day of October, 1987, respectfully petitions the Council of the City of Moundsville to enact an ordinance directing that sewer revenue bonds of the municipality be issued pursuant to the provisions of Chapter 16, Article 13 of the West Virginia Code, in an aggregate amount not to exceed \$3,200,000 (and providing for the optional issuance of not more than \$8,000,000 interim construction financing notes) for the purpose of paying a portion of the costs of acquisition and construction of the City's sewerage system improvements.

All as required by Chapter 16, Article 13 of the West Virginia Code.

SANITARY BOARD OF THE CITY OF MOUNDSVILLE

By

  
\_\_\_\_\_  
Mayor and Chairman - Moundsville  
Sanitary Board

10/19/87  
MOUSB1-A



Each clipping of ad here, permanent

**AFFIDAVIT OF PUBLICATION**

STATE OF WEST VIRGINIA,  
 COUNTY OF MARSHALL, to wit:

I, Alleah Fahey, being first duly sworn upon my oath, do depose and say:  
 — that I am Legal Advertising Manager of the MOUNDSVILLE DAILY ECHO, an Independent Democratic newspaper;  
 — that I have been duly authorized by the publisher, Samuel Shaw, to execute this affidavit;  
 — that such newspaper has been published for over 93 years, is regularly published afternoons daily except Sundays, for at least fifty weeks during the calendar year, in the municipality of Moundsville, Marshall county, West Virginia;  
 — that such newspaper is a newspaper of "general circulation" as defined in Art. 3, Chap. 50 of the Code of West Virginia 1931 as amended, within Moundsville and Marshall 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, advertisements and other notices;  
 — and that the annexed notice described as follows:

PARTY(ies) City of Moundsville

NATURE (and agency if heard before one) Public Hearing on Sewer Revenue bond & Notes Ordinance

**CERTIF-BILL TO**

Steptoe & Johnson  
Vincent A. Collins  
PO Box 2190  
Clarksburg, WV 26302

**WAS PUBLISHED IN SAID NEWSPAPER AS FOLLOWS:**

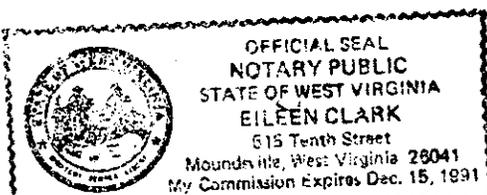
TIMES	DATES
2	Oct. 28, Nov. 4, 1987

By WORDS	OR By INCHES	PUBLICATION CHARGES
	21	\$44.10

(signed) Alleah Fahey

**NOTARIZATION**

Taken, sworn to and subscribed before me this 10 day of November, 1987



Eileen Clark  
 Notary p  
Marshall Co

**LEGAL NOTICE**

**CITY OF MOUNDSVILLE  
 NOTICE OF PUBLIC HEARING ON SEWER REVENUE BOND AND NOTES ORDINANCE**

A public hearing will be held on the following-entitled Ordinance at a regular meeting of the Council of the City of Moundsville to be held on November 10, 1987, at 7:30 p.m. in the Council chambers at the Moundsville City Hall, and at such hearing all objections and suggestions shall be heard by the Council and it shall then take such action as it shall deem proper in the premises upon an Ordinance entitled:

**ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF PUBLIC SEWERAGE FACILITIES OF THE CITY OF MOUNDSVILLE AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$2,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1987 A, NOT MORE THAN \$700,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1987 B, AND NOT MORE THAN \$8,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES OR BOTH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO.**

The above-entitled Ordinance was adopted by the Council of the City of Moundsville on October 28, 1987.

The above quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bond and Note issues contemplated thereby. The proceeds of the Bonds will be used to provide permanent financing of a portion of the costs of acquisition and construction of public sewerage facilities of the City of Moundsville (the "Project"). The proceeds of the Notes will be used to provide temporary financing of a portion of such costs. The Bonds are payable solely from revenues to be derived from the ownership and operator of the sewerage system of the City. The Notes are payable solely from certain grant proceeds to be received by the City and certain other sources described in the Ordinance. No taxes may at any time be levied for the payment of the Bonds of the Notes or the interest thereon.

A certified copy of the above-entitled Ordinance is on file at the office of the Recorder of the City of Moundsville for review by interested parties during regular office hours.

Following said public hearing, the City Council intends to enact said Ordinance upon final reading.

Dated: October 28, 1987.  
Francis Recorder

ALL-STATE LEGAL SUPPLY CO. ONE COMMERCE DRIVE CRANFORD  
NEW JERSEY 07016

ED 11-1C

AN ORDINANCE OF THE CITY OF MOUNDSVILLE, WEST VIRGINIA AMENDING THE EXISTING RATE SCHEDULES FOR THE SANITARY DEPARTMENT OF THE CITY OF MOUNDSVILLE, WEST VIRGINIA

---

WHEREAS, the Sanitary Board of the City of Moundsville, West Virginia, and the Council of said City have determined that in order for the Sanitary Department to effectively and efficiently provide sanitary sewer service to the citizens of the City, and provide funds for construction of a secondary treatment plant and related facilities, said Department must increase the rate it charges its customers for sanitary sewer and other services provided by said Department.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MOUNDSVILLE, WEST VIRGINIA:

That the new rate schedule to be used by the Moundsville Sanitary Department shall be effective as of the 1st day of October, 1985, and shall be as follows:

SANITARY DEPARTMENT OF THE CITY OF MOUNDSVILLE  
TARIFF

AVAILABILITY OF SERVICE

Available for sanitary sewer service.

RATE

(Based upon the metered amount of water supplied or water discharged).

CHARGE FOR GALLONS USED

Ninety Seven Cents (\$.97) per 1,000 Gallons.

BASE CHARGE

The above schedule is subject to a base charge of \$5.00 per month for each customer in addition to the charge for gallons used.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full within twenty (20) days of date of bill, ten percent (10%) will be added to the net amount shown. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

PUMPING SERVICE

The above rates and charges are subject to a twenty-five percent (25%) surcharge where it is necessary for the City to provide pumping service in order that the existing gravity sanitary sewer system can receive wastes from all or a part of a particular drainage area, exclusive of the main pumping service now provided at the treatment works.

SERVICE CONNECTION CHARGE

A charge of One Hundred Dollars (\$100) shall be made for each new connection to the sewer system after the effective date hereof.

EXPIRATION DATE

This ordinance shall be operative for a period of thirty (30) months from and after the effective date hereof and shall thereafter become null and void.

PASSED FIRST READING: July 29, 1985  
PASSED SECOND READING: August 13, 1985

LORETTA J. FRANCIS  
CITY CLERK

PUBLISH: July 31, 1985  
August 7, 1985

ALL-STATE LEGAL SUPPLY CO. ONE COMMERCE DRIVE GRANFON, NEW JERSEY 07011

ED 11-10



(304) 845-2660  
 PO BOX 369  
 MOUNDSVILLE  
 WV 26041

**AFFIDAVIT OF PUBLICATION**

STATE OF WEST VIRGINIA,  
 COUNTY OF MARSHALL, to wit:

I, Barbara L. Wood, being first duly sworn

on my oath, do depose and say:  
 - that I am Legal Advertising Manager of the MOUNDSVILLE DAILY ECHO, an independent Democratic newspaper;  
 - that I have been duly authorized by the publisher, Samuel Law, to execute this affidavit;  
 - that such newspaper has been published for over 93 years, regularly published afternoons daily except Sundays, for at least 7 weeks during the calendar year, in the municipality of Moundsville, Marshall county, West Virginia;  
 - that such newspaper is a newspaper of "general circulation" defined in Art. 3, Chap. 30 of the Code of West Virginia 1931 as intended, within Moundsville and Marshall 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 finite 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, advertisements and other notices;  
 - and that the annexed notice described as follows:

PARTY(ies) Sanitary Department

NATURE (and agency if heard before one) Announcing the existing rate schedules

**CERTIFY-BILL TO**

City of Moundsville  
 Loretta J. Francis, Clerk  
 300 6th Str.  
 Moundsville, WV 26041

**WAS PUBLISHED IN SAID NEWSPAPER AS FOLLOWS:**

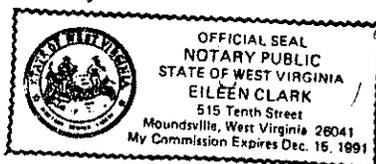
TIMES	DATES
2	July 31, August 7, 1985

By WORDS	OR By INCHES	PUBLICATION CHARGES
	15	\$55.30

(signed) Barbara L. Wood

**NOTARIZATION**

Taken, sworn to and subscribed before me this 8 day of August, 1985



Eileen Clark

**-LEGAL NOTICE-**  
 AN ORDINANCE OF THE CITY OF MOUNDSVILLE, WEST VIRGINIA AMENDING THE EXISTING RATE SCHEDULES FOR THE SANITARY DEPARTMENT OF THE CITY OF MOUNDSVILLE, WEST VIRGINIA

WHEREAS, the Sanitary Board of the City of Moundsville, West Virginia, and the Council of said City have determined that in order for the Sanitary Department to effectively and efficiently provide sanitary sewer service to the citizens of the City, and provide funds for construction of a secondary treatment plant and related facilities, said Department must increase the rate it charges its customers for sanitary sewer and other services provided by said Department.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MOUNDSVILLE, WEST VIRGINIA:

That the new rate schedule to be used by the Moundsville Sanitary Department shall be effective as of the            day of            1985, and

shall be as follows:  
 SANITARY DEPARTMENT OF THE CITY OF MOUNDSVILLE

**TARIFF**

AVAILABILITY OF SERVICE  
 Available for sanitary sewer service.

RATE:  
 (Based upon the metered amount of water supplied or water discharged).  
 CHARGE FOR GALLONS USED

Ninety Seven Cents (\$.97) per 1,000 Gallons.

MINIMUM CHARGE  
 The above schedule is subject to a minimum charge of \$5.00 per month.

DELAIED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full within twenty (20) days of date of bill, ten percent (10%) will be added to the net amount shown. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

PUMPING SERVICE

The above rates and charges are subject to a twenty-five percent (25%) surcharge where it is necessary for the City to provide pumping service in order that the existing gravity sanitary sewer system can receive wastes from all or a part of a particular drainage area, exclusive of the main pumping service now provided at the treatment works.

SERVICE CONNECTION CHARGE

A charge of One Hundred Dollars (\$100) shall be made for each new connection to the sewer system after the effective date hereof.

EXPIRATION DATE

This ordinance shall be operative for a period of thirty (30) months from and after the

effective date hereof and shall thereafter become null and void.

PASSED FIRST READING July 29, 1985

PASSED SECOND READING:

The foregoing ordinance will be considered for second reading and adoption at the regular session of Moundsville City Council on August 13, 1985, at 7:30 p.m. at the City Building.

Interested parties may appear and be heard.

Copies of the proposed ordinance are available at the office of the City Clerk at the City Building.

Loretta J. Francis  
 City Clerk

PUBLISH: July 31, August 7, 1985.

*This was amended 8/13/85*

**PRICING RATES (rate)**

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 per word 8.75cc  
 per word 12.5c

space, according to applicable for regular Echo

ch. \$2.12  
 inch. \$3.72  
 per inch \$4.68  
 per inch \$5.95

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STATE OF WEST VIRGINIA, COUNTY OF MARSHALL, CITY OF MOUNDSVILLE, OCTOBER 13, 1987.

The Council of the City of Moundsville met in regular session in the Council Chamber of the City Building on October 13, 1987 at 7:30 p.m.

Meeting was called to order by Mayor John Grisell.

Invocation was given by Mayor John Grisell.

The following council members were present: Durig, Hitt, Melott, Straight, Yoders, and Mayor Grisell. Others present: City Manager Mark Snodgrass, City Attorney Michael Whorton and City Clerk Loretta Francis.

MINUTES:

Councilman Hitt moved, seconded by Councilman Melott to accept the minutes of the September 22, 1987 regular meeting and to approve as if read. Motion carried.

GENERAL PUBLIC HEARING:

Attorney Jack Madden, Attorney for the Sanitary Board informed council that he had received word that seven communities had dropped their requests for federal funding for sewage projects, moving Moundsville-Glen Dale request nearer to the top.

Attorney Madden requested council to pass Bonding Ordinance on first reading this evening. second reading to be held October 27th and third reading November 10th.

Attorney Madden informed council that the only way funding would become available for the joint project was for the Moundsville & Glen Dale to pass bond ordinance before November 22nd.

Discussion was held between Attorney Madden and City Council concerning the bond ordinance.

Ordinance - Bond Ordinance for Secondary Sewage Treatment Plant

Attorney Whorton read ordinance hereby offered on first reading by title only as follows:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF PUBLIC SEWAGE FACILITIES OF THE CITY OF MOUNDSVILLE AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$3,000,000.00 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1987 A, NOT MORE THAN \$2,500,000.00 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1987 B, AND NOT MORE THAN \$700,000.00 INTERIM CONSTRUCTION FINANCING, CONSISTING OF GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES OR BOTH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO. (First Reading) Ordinance in full on page 47. )

Councilman Hitt moved to pass the above ordinance on first reading, seconded by Councilman Yoders.

Mayor Grisell called for a signed ballot vote. Vote as follows: Durig-Yea; Hitt-Y Melott-Yea; Straight-Yea; Yoders-Yea; and Mayor Grisell-Yea. Motion carried. (6 Yeas)

OLD BUSINESS:

Ordinance - Abandonment

Attorney Whorton submitted the notice of publication of proposed ordinance and on a motion by Councilman Hitt, seconded by Councilman Melott notice was received and filed. Motion carried. (Publication on page 47.)

Attorney Whorton read ordinance hereby offered on second and final reading by title only as follows:

25A

25

ORDINANCE VACATING, ABANDONING AND ANNULLING A CERTAIN ALLEY SITUATED ON ARLINGTON AVENUE, BETWEEN HANCOCK STREET AND B & O RAILROAD LINES (TRACK REMOVED), AND RUNNING IN A GENERAL NORTHEASTERLY DIRECTION APPROXIMATELY 200 FEET, AND THEN RUNNING IN A GENERAL NORTHWESTERLY DIRECTION APPROXIMATELY 309 FEET TO ITS INTERSECTION WITH SAID B & O RAILROAD LINES (TRACK REMOVED). Second & Final Reading.

Councilman Hitt moved to pass the above ordinance on second & final reading, seconded by Councilman Melott.

Mayor Grisell called for a signed ballot vote. Vote as follows: Durig-Yea; Hitt-Yea; Melott-Yea; Straight-Yea; Yoders-Yea and Mayor Grisell-Yea. Motion carried. (6 Ye

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Ordinance - Paving of Jason Drive

Attorney Whorton submitted the notice of publication and on a motion by Councilman Hitt, seconded by Councilman Melott notice of publication was received and filed. Motion carried. (Publication on page 47.)

Attorney Whorton read ordinance hereby offered on second and final reading by title only as follows:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MOUNDSVILLE DECLARING THE NECESSITY AND CONVENIENCE OF PERMANENTLY IMPROVING CERTAIN DESIGNATED STREETS OR PORTIONS THEREOF IN THE CITY OF MOUNDSVILLE, WEST VIRGINIA; PROVIDING FOR THE PERMANENT IMPROVEMENT OF SAID STREETS OR PORTIONS THEREOF; APPROVING PLANS AND SPECIFICATIONS; PROVIDING FOR PAYMENT BY ASSESSING ALL OF THE COST ON ABUTTING PROPERTY AND THE ISSUANCE OF ASSESSMENT CERTIFICATES; ALL AS PROVIDED BY ARTICLE 18, CHAPTER 8 OF THE CODE OF WEST VIRGINIA, AS AMENDED. (Second & Final Reading)

Jason Drive, from its intersection with Highland Avenue, to its intersection with the corporate limits of the City of Moundsville.

Councilman Hitt moved to pass the above ordinance on second and final reading, seconded by Councilman Melott.

Mayor Grisell called for a signed ballot. Vote as follows: Durig-Yea; Hitt-Yea; Melott-Yea; Straight-Yea; Yoders-Yea; and Mayor Grisell-Yea. Motion carried. (6 Years)

NEW BUSINESS:

Resolution - Assessments for Drummond Street

Attorney Whorton read the following Resolution to be considered for adoption:

RESOLUTION OF THE CITY OF MOUNDSVILLE, ASSESSING THE COST OF IMPROVEMENTS ON CERTAIN STREETS, OR PORTIONS OF STREETS, ON ABUTTING PROPERTY, CONSTITUTING LIENS AGAINST THE PROPERTY; PROVIDING FOR THE ISSUANCE AND DELIVERY OF ASSESSMENT CERTIFICATES; AND A NOTICE OF THE ASSESSMENT LIENS TO BE CERTIFIED BY THE CITY CLERK TO THE COUNTY COURT FOR RECORDATION.

Drummond Street from its intersection with a street commonly known as Campground Road, northerly to its intersection with Simpson Avenue.

Councilman Hitt moved to accept the affidavit of publication, seconded by Councilman Durig. Motion carried. (Affidavit of publication on page 47.)

Councilman Hitt moved to pass the above Resolution, seconded by Councilman Straight Motion carried.

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Ordinance - Zone Change

Attorney Whorton read ordinance hereby offered on first reading by title only as follows:

AN ORDINANCE OF THE CITY OF MOUNDSVILLE, WEST VIRGINIA, PROVIDING TO CHANGE A CERTAIN DESIGNATED AREA IN THE CITY OF MOUNDSVILLE FROM A GENERAL RESIDENTIAL (R-G) DISTRICT TO A HIGHWAY COMMERCIAL AND INTERGRATED COMMERCIAL CENTERS (C-H) DISTRICT. (First Reading) Ordinance in full on page 47.

Councilman Hitt moved to pass ordinance on first reading, seconded by Councilman Melott.

Mayor Grisell called for a signed ballot vote. Vote as follows: Durig-Yea; Hitt-Yea; Melott-Yea; Straight-Yea; Yoders-Yea; and Mayor Grisell-Yea. Motion carried. (6 Yeas)

MANAGER ITEMS:

City Manager Snodgrass informed council that the city had joined the Downtown Research & Development Center organization and felt this organization would be a big help to the city administration. Cost to join the organization would be \$95 and costs would come out of the Revitalization Grant fund.

Manager announced that the groundbreaking ceremony for the Middle Grave Creek Watershed Project will be held Tuesday at 1:30 p.m. and anyone wishing to take part in the program to contact him.

Manager announced that the State Auditor was here this week and will be coming back next week and will be here approximately six weeks. Auditor will be available to answer questions, however questions not within the normal scope of the audit, the city will be charged for extra time. Fee for the audit is \$32.00 per hour.

Manager reported that he had signed contract with the Cameron Gas Company to furnish natural gas to all the City buildings and savings would amount to approximately \$6,000.

MAYOR ITEMS:

Mayor Grisell announced that he signed proclamation designating the month of October for the annual sale of Buddy Poppies by the Veterans of Foreign Wars of the United States.

Mayor Grisell reported that he proclaimed the month of October as Business and Professional Women's Membership month in the City of Moundsville.

Mayor Grisell reported he had received letter from Senator Robert C. Byrd informing him that the Housing Authority of Moundsville had received \$441,000 from the Comprehensive Improvement Assistance Program for modernization of the housing units.

Mayor wanted it noted in the news media that Cherokee Hills was within the limits of the City and that people are hunting and shooting in the area, also to the west is Reilly's property, and to the north is Grand Vue Park and no hunting is permitted.

Mayor announced that he would be out of town and would not be here for the next meeting and that Vice Mayor Straight would be presiding.

COUNCIL ITEMS:

Councilwoman Durig, Chairperson of the Recreation Committee has called a joint meeting with the Recreation Commission for Tuesday, October 20th at 6:30 p.m. at the Four Seasons Pool.

Councilman Melott requested that two additional fire hydrants be installed on Parriott Avenue as per information that was handed out to all council members this evening.

Discussion was held and City Manager Snodgrass reported that hydrant plus valve would cost \$1,100 each and possibly one could be installed this year and maybe one next year.

The following was handed out to all council members, city manager and Attorney Whorton before the meeting was started:

A revision of the codified ordinances of the City of Moundsville, Part One - Administrative Code - Chapter Five - Administration - Article 141 Fire Department - 141.03 (a), which reads:

FIRE CHIEF DUTIES AND AUTHORITY

Supervision Over Apparatus and Equipment. The Chief of the Fire Department shall have supervision over the engine houses, truck and all the apparatus belonging to the Fire Department.

To be rescinded and revised to read:

FIRE CHIEF DUTIES AND AUTHORITY

cooklofts, etc.) and the use thereof.  
He shall have complete control and supervision of all trucks, other vehicles, apparatus and equipment belonging to and/or within the Fire Department Complex as described above and the use thereof.

Councilman Melott moved to instruct the City Attorney to draft ordinance for the above, seconded by Councilman Hitt.

Discussion followed by Councilman Straight, City Manager and Councilman Yoder.

Attorney Whorton was asked for his opinion on this matter and he informed council that he had just received this matter before council meeting and probably this was a violation of the Charter and was subject to the ultimate authority the City Manager.

Mayor Grisell called for vote on the motion. Motion carried. (4 Yeas & 2 Nays)

The following was handed out to all council members, city manager and Attorney Whorton before the meeting started:

WHEREAS, the Council of the City of Moundsville has found and determined that its employees are a valuable asset to the City, and

WHEREAS, in the budgetary process it is possible these same employees' budgeted positions can and have been eliminated, and

WHEREAS, these same employees can and have been returned to budget positions with the City, and

WHEREAS, these same employees bring back with them skills, knowledge, and abilities that a new employee would lack.

THE COUNCIL OF THE CITY OF MOUNDSVILLE HEREBY ORDAINS:

Article 155 of the Code of the City of Moundsville, concerning Policy Regulations for employees, is hereby amended and reenacted by adding thereto a new Article 155, designated "Former Employee" as follows:

Any employee of the City whose job position is eliminated due to budgetary changes and at a later date is returned to employment shall receive the same salary, incentive, sick leave, vacation, longevity and any other considerations given to a like employee not affected. This employee's original hire date, minus time suspended by budgetary considerations, shall be used in determining time of completed service.

The above shall be in effect from the employees recall date not with standing any waiting period or delay provided for in any other Policy Regulation.

This ordinance shall apply to all present and former employees who qualify.

Councilman Melott moved to direct the City Attorney to amend the code for the above seconded by Councilman Hitt.

Councilman Straight inquired to see if this pertained to the two firemen just called back to work and Councilman Hitt replied no, just for future employees.

Discussion was held between Councilwoman Durig, City Clerk Francis and City Manager as why these proposals were not placed in their packets.

Councilman Melott again stated that proposal was only for future employees.

Mayor Grisell called for vote on the motion and it passed. (4 Yeas & 2 Nays)

Councilman Melott moved to adjourn, seconded by Councilman Hitt. Motion carried. Councilman Straight voting Nay.

Meeting adjourned at approximately 8:25 p.m.

Approved as if read this 27th day of October, 1987.

  
\_\_\_\_\_  
City Clerk

  
\_\_\_\_\_  
Mayor

The following were sent out to all council members:

Department Head Reports  
Resolution - Assessments on Drummond Street  
Ordinance - Zone Change  
Street Lights, Streets, Alleys and Sidewalks Committee recommendations

STATE OF ~~WEST~~ VIRGINIA, COUNTY OF MARSHALL, CITY OF MOUNDSVILLE, OCTOBER 22, 1987.

The Council of the City of Moundsville met in Special Session in the Council Chamber of the City Building on October 22, 1987 at 7:30 P.M.

Meeting was called to order by Mayor John Grisell

The following council members were present: Durig, Hitt, Melott, Straight, Yoders, and Mayor Grisell. Others present: City Manager Mark Snodgrass, City Attorney Michael Whorton and City Clerk Francis.

Mayor Grisell read the following special call:

Mayor John Grisell has called a Special Council Meeting for Thursday, October 22, 1987 at 7:30 p.m. for the following purpose:

1. Passage of Bond Ordinance for Sewage Treatment Plant -  
Second Reading

Bond Ordinance

Attorney Whorton read ordinance hereby offered on second reading by title only as follows:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF PUBLIC SEWAGE FACILITIES OF THE CITY OF MOUNDSVILLE AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$3,000,000.00 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1987 A, NOT MORE THAN \$2,500,000.00 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1987 B, AND NOT MORE THAN \$700,000.00 INTERIM CONSTRUCTION FINANCING, CONSISTING OF GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES OR BOTH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO. (Second Reading)

Councilman Yoders moved to pass the above ordinance on second reading, seconded by Councilman Hitt.

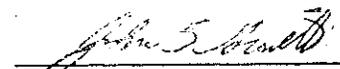
Mayor Grisell called for a signed ballot vote. Vote as follows: Durig-Yea; Hitt-Yea; Melott-Yea; Straight-Yea; Yoders-Yea; and Mayor Grisell-Yea. Motion carried. (6 Yeas)

Councilman Yoders moved to adjourn, seconded by Councilman Straight. Motion carried.

Meeting adjourned at approximately 7:34 p.m.

Approved as if read this October 27, 1987.

  
\_\_\_\_\_  
City Clerk

  
\_\_\_\_\_  
Mayor

25B

STATE OF WEST VIRGINIA, COUNTY OF MARSHALL, CITY OF MOUNDSVILLE, NOVEMBER 10, 1987

The Council of the City of Moundsville met in regular session in the council chamber of the City Building on November 10, 1987 at 7:30 p.m.

Meeting was called to order by Mayor John Grisell.

Invocation was given by Rev. Stephen Mitchell, Presbyterian Church.

The following council members were present: Durig, Hitt, Melott, Straight, Yoders, and Mayor Grisell. Others present: City Manager Mark Snodgrass, City Attorney Mike Whorton and City Clerk Loretta Francis.

MINUTES:

Councilman Yoders questioned the minutes concerning the election holiday on December 8th. Councilman Yoders felt since it was a bond issue on the ballot and felt the city should not be shut down for that day and it was a big expense to the city to give that day off.

Discussion was held between council and city manager and he reported it was in the Policy Regulations that employees be given that day off and Councilman Yoders requested the City Attorney to check into this matter.

Councilman Hitt moved to accept minutes of October 27, 1987 regular meeting and to approve as if read. Motion carried. Councilman Yoders voting Nay.

Mayor Grisell presented Mark Simms with certificate for completing another course in the treatment of waste water from California University.

GENERAL PUBLIC HEARING:

Mr. Earl Mercer, 1416 Eighth Street appeared and informed council that the gentleman that was here at last council meeting complaining about water running in his basement was in error and that water had not run in his basement for seven years and requested council to go ahead and pave the alley.

The following merchants from the Uptown Merchants Association were present and voiced their objection on passing ordinance to repeal any regulation prohibiting the location of liquor establishment within 300 feet of another such liquor establishment.

Mr. Doug Strong, Strong Appliances  
Jim Pettit, Allen's Bootery  
Denny Howard - Denny's Barber Shop  
Fay Fissett - Fays Jewelry  
Hilda Blake - Blake's Kiddie Korral

Mr. Strong requested council to take a long look before passage of ordinance and requested council to oppose the ordinance.

OLD BUSINESS:

Attorney Whorton submitted the legal notice where public hearing was held on the Sewer Revenue Bonds and Notes Ordinance and hearing was to be held on November 10, 1987 at 7:30 p.m. at the Moundsville City Hall. Publication on page 62.

Councilman Hitt moved to receive and file the Legal Notice, seconded by Councilwoman Durig. Motion carried.

Attorney Whorton submitted the Legal Notice for the application for WV-National Pollutant Discharge Elimination System Water Pollution Control Permit No. S-1360-87 to be received and filed. Publication on page 62.

Councilman Hitt moved to receive and file the legal notice, seconded by Councilwoman Durig. Motion carried.

Ordinance - Sewer Revenue Bond & Notes Ordinance

Attorney Whorton read the following ordinance by title only with consent of council to be passed on third and final reading:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF PUBLIC SEWAGE FACILITIES OF THE CITY OF MOUNDSVILLE AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF MOUNDSVILLE OF NOT MORE THAN \$2,500,000

IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1987 A, NOT MORE THAN \$700,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1987 B, AND NOT MORE THAN \$8,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES OR BOTH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO. (Third & Final Reading)

Councilman Hitt moved to adopt the above ordinance on third and final reading, seconded by Councilman Melott.

Mayor Grisell called for a signed ballot vote. Vote as follows: Durig-Yea; Hitt-Yea; Melott-Yea; Straight-Yea; Yoders-Yea and Mayor Grisell-Yea. Motion carried. (6 Yeas and 1 Nay)

- - - - -

Mayor Grisell announced that Mr. Vince Collins, Bond Counselor wanted to be here this evening concerning a Supplemental Resolution for the Sewer Revenue Bonds but was unable to make it because of the weather.

Mayor informed council that a Supplemental Resolution had to be passed this evening for the Sewer Revenue Bonds.

Attorney Whorton read the following Resolution to be considered for adoption:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITIES, INTEREST RATES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1987 A AND SERIES 1987 B OF THE CITY OF MOUNDSVILLE; AUTHORIZING, APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS. (Resolution in full on page 62.)

Councilman Hitt moved to pass the above Resolution for adoption, seconded by Councilman Melott. Motion carried.

- - - - -

Ordinance - Adding a new Section to the Policy Regulations 155.19. "Former Employee"

Attorney Whorton submitted the Affidavit of Publication for the above ordinance to be received and filed. (Notice of Publication on page 62.)

Attorney Whorton read the following ordinance by title only with consent of council to be passed on second and final reading:

AN ORDINANCE OF THE CITY OF MOUNDSVILLE, WEST VIRGINIA, AMENDING AND REENACTING ARTICLE 155 OF THE CODE OF THE SAID CITY OF MOUNDSVILLE, CONCERNING POLICY REGULATIONS FOR EMPLOYEES, BY ADDING THERETO A NEW SECTION 155.19, DESIGNATED "FORMER EMPLOYEE" WHICH SAID NEW SECTION PROVIDES CERTAIN SALARIES AND BENEFITS TO THOSE WHO QUALIFY AS FORMER EMPLOYEES. (Second & Final Reading)

Councilman Melott moved to adopt the above ordinance on second and final reading, seconded by Councilwoman Durig.

Councilman Straight moved to amend and Delete Item C from the ordinance. Councilman Straight's amendment received no second.

Mayor Grisell called for a signed ballot vote. Vote as follows: Durig-Yea; Hitt-Yea; Melott-Yea; Straight-Nay; Yoders-Yea; and Mayor Grisell-Yea. Motion carried. (5 Yeas and 1 Nay)

NEW BUSINESS:

Ordinance - Amending and reenacting Section 1381.18 - Liquor Establishments

Attorney Whorton read the following ordinance by title only with consent of council to be passed on first reading:

AN ORDINANCE OF THE CITY OF MOUNDSVILLE, WEST VIRGINIA AMENDING AND REENACTING SECTION 1381.18 OF THE CODE OF THE SAID CITY OF MOUNDSVILLE, CONCERNING SUPPLEMENTAL PLANNING AND ZONING REGULATIONS FOR LIQUOR ESTABLISHMENTS, BY REPEALING ANY REGULATION PROHIBITING THE LOCATION OF A LIQUOR ESTABLISHMENT WITHIN 300 FEET OF ANOTHER SUCH LIQUOR ESTABLISHMENT. (First Reading) Ordinance in full on page 62.

Councilman Hitt moved to pass the above ordinance on first reading, seconded by Councilman Melott.

Discussion was held on the ordinance.

Mayor Grisell called for a signed ballot vote. Vote as follows: Durig-Nay; Hitt-Yea; Melott-Yea; Straight-Nay; Yoders-Nay; and Mayor Grisell-Nay. Motion failed. (4 Nays and 2 Yeas)

#### CITY MANAGER ITEMS:

City Manager Snodgrass reported that two bids were received for the paving of Jason Drive.

Savage Construction Company	\$28,558.00
Klug Brothers	\$21,830.00

City Manager Snodgrass reported that he had researched the bids and recommended to Council to accept the low bid from Klug Brothers in the amount of \$21,830.00.

Councilman Straight moved to accept the low bid, seconded by Councilman Yoders.

Long discussion was held between city manager and council concerning the drainage on Jason Drive and City Manager Snodgrass felt the entire cost of the project should be assessed and that approximately 60% of the cost would be drainage and catch-basins.

Estimate cost per front foot for Jason Drive was reported at \$21.80.

Council members Straight & Melott felt that people should know the cost before proceeding with the bid.

Councilman Straight moved to table bid till next council meeting, seconded by Councilman Hitt. Motion carried. Mayor Grisell voting Nay.

Attorney Whorton submitted the Legal Notice inviting bids for paving of Jason Drive. (Legal Notice on page 62.)

Councilman Hitt moved to receive and file the notice of publication, seconded by Councilman Melott. Motion carried.

#### MAYOR ITEMS:

Mayor Grisell submitted the following Resolution to be considered for council's adoption:

A RESOLUTION TO ALLOW AND DIRECT THE CITY MANAGER TO TAKE NECESSARY STEPS TO ASCERTAIN THE COST AND NEED FOR UPGRADING THE CITY'S WATER SYSTEM AND TO EXPLORE THE STEPS NEEDED TO SECURE A BOND ISSUE OR OTHER MEANS OF FINANCING FOR THAT WORK.

Councilman Hitt moved to pass the above Resolution, seconded by Councilman Yoders. Motion carried.

Mayor Grisell brought up the Solicitation Permit granted to the Palace Charties and reported they took out permit for door-to-door solicitation and they ended up on Jefferson Avenue, Krogers and the Murphy Mart, also felt they should not have used the words "Meals on Wheels" on their canisters because it was misleading. Mayor Grisell felt in the future applications for solicitation should be looked into very carefully.

Mayor Grisell noted letter had been received from the Marshall County Meals on Wheels Steering Committee expressing its concern over the recent issuance of a soliciting permit to the Hare Krishna community and felt the name Meals on Wheels which was printed on the buckets used for collection of community dollars, leads citizens of the community to believe that their program was involved.

Committee felt that this opens the door for future solicitations that may also be misleading to the public.

City Manager Snodgrass wanted the following part of the record:

As part of that devil spond solicitation board I researched the ordinances on charitable solicitation and examined the permit that was offered to me and I could

not find no legal reason to deny the permit, however, the petitioners took advantage knowing or unknowing of what I considered to be a hole in our solicitation ordinance. Ordinance does not provide any time period between the submission of the petition and the actual dates of the solicitation. These were presented to me on a Tuesday the dates were Friday, Saturday & Sunday from noon to five and I could find nothing in the ordinance that allowed me to even delay the decision. I would recommend that our ordinances be changed to the extent that a lead time, a period of time be required to elapse between the time of submission of the petition and the first issuance of solicitation to give board enough time to look into permit and if necessary to seek the wise counsel.

Mayor Grisell made a public apologize to City Manager Snodgrass concerning the solicitation permit and had forgotton he had discussed this matter with him previous

Councilman Straight moved to refer the Solicitation Ordinance to the Policy and Ordinance Committee for study, seconded by Councilman Hitt. Motion carried.

#### COUNCIL COMMITTEE REPORTS:

Councilman Hitt, Chairman of the Roads, Streets and Alley Committee reported that committee had met but report was not ready yet.

Councilwoman Durig, Chairman of the Recreation Committee called a meeting of her committee for Tuesday, November 17th at 7:00 at the Four Seasons Pool.

Councilwoman Durig, Chairman of the Traffic Commission called a meeting of the Traffic Commission for Monday, November 16th at 4:00 p.m.

Mayor Grisell reported that the Policy & Ordinance had met prior to the council meeting and as chairman of Policy Committee the committee is recommending to council in a form of a motion to give Don Durig and John Terek all benefits they had before unemployment.

Councilman Melott moved to make a motion to that affect, seconded by Councilwoman Durig.

Discussion was held between City Manager and Mayor Grisell and manager questioned if new items had been submitted since the executive session and mayor reported he could not find new items.

City Manager Snodgrass felt this matter was beyond discretion of council.

Mayor Grisell agreed with City Manager and felt that council should not decide.

Councilman Straight inquired to see if this motion was in violation of the City Charter and City Attorney Whorton reported that he felt it was in violation since the administrative head of the municipality does the hiring and the firing.

Councilman Straight moved to table this motion for a response from the city attorney in writing. Councilman Straight's motion received no second.

City Manager Snodgrass explained the difference between incentive pay and longevity and that firemen were laid off and hired back as new employees and city manager informed council that he based his opinion on the actions of the two previous City Managers.

Councilman Straight questioned the city attorney to see if it was legal for all council members to vote on this matter and wanted to know if it might be a conflict of interest.

City Attorney reported it was not directly in conflict because relationship has nothing to do with it and many cases have been decided on this matter.

Mayor Graisell called for a roll call vote. Vote as follows: Durig-Yea; Hitt-Yea; Melott-Yea; Straight-Nay; Yoders-Yea; and Mayor Grisell-Nay. Motion passed. (4 Yeas & 2 Nays)

Councilman Straight felt the motion was contrary to law and wondered what action could take place.

#### COUNCIL ITEMS:

Councilwoman Durig brought up the subject of the Christmas Parade and felt it would be nice if something could be worked out with the Mercantile Bank to use part of their lot for a space for handicapped people. City Manager will check into this mat

Discussion was held on letter that was received from a student from Glen Dale Grade School inquiring why the Mound could not be lighted and she felt it was a main attraction to the city.

Councilwoman Durig reported that the museum would be lit all the way around even though it looked like the mound would not be lighted up for Christmas.

Councilman Melott inquired again if an opinion had been received from the City Attorney concerning selling the E. Car for \$1.00. Attorney Whorton reported he thought he had sent a letter but would check his files again.

Councilman Yoders moved to adjourn, seconded by Councilman Hitt. Motion carried.

Council meeting adjourned at approximately 9:00 p.m.

Approved as if read this 24th day of November, 1987.

  
\_\_\_\_\_  
City Clerk

  
\_\_\_\_\_  
Mayor

The following were sent out to all council members:

Department Head Reports  
Financial Statement for the month of October  
Memorandum to Councilman Yoders concerning Water deposits.  
Planning Commission minutes dated August 21, 1987  
Memorandum to Councilwoman Durig concerning Public Safety Fee collections from the collection agency.  
Accounts payable listing for October  
Letter from 5th grade student from Glen Dale Grade School concerning lighting of the Mound  
Zoning Appeals Board minutes dated September 1, 1987  
Copy of code for Charitable Solicitations  
Ordinance - Liquor Establishments  
Letter from Meals on Wheels was handed out to all council members



AGREEMENT

THIS AGREEMENT, Made this 24th day of AUGUST, 1987, by and between the City of Moundsville, a municipal corporation, hereinafter designated as "MOUNDSVILLE", and the City of Glen Dale, a municipal corporation, hereinafter designated as "GLEN DALE".

WITNESSETH

WHEREAS, the State of West Virginia has ordered and directed MOUNDSVILLE to upgrade its wastewater treatment facilities and to install secondary treatment; and

WHEREAS, GLEN DALE proposes to connect to the sewer system of MOUNDSVILLE at various locations and will be provided treatment by MOUNDSVILLE; and

WHEREAS, MOUNDSVILLE proposes to change its treatment facilities to meet State and Federal requirements of treatment and eligibility for construction grant aid as set forth in Title 40, Chapter 1, Sub-chapter B, Part 35, State and Local Assistance; and

WHEREAS, MOUNDSVILLE intends to construct the new facilities with a capacity reserved for use by GLEN DALE of 462,000 gallons per day; and

WHEREAS, it is the intent and purpose of these contracting parties to cooperate with each other, and with the State and Federal Authorities to reduce and prevent pollution of the streams and waterways, thereby protecting the health of the inhabitants and serving the public health and welfare of all; and

WHEREAS, MOUNDSVILLE, on the 25<sup>th</sup> day of August, 1987, enacted an ordinance approving the terms and conditions of this agreement, which terms and conditions were heretofore fixed by the Sanitary Board of the City of Moundsville; and

WHEREAS, GLEN DALE, on the 24th day of AUGUST, 1987, enacted an ordinance approving the terms and conditions of this agreement, which terms and conditions were heretofore fixed by the Sanitary Board of the City of Glen Dale.

NOW, THEREFORE, in consideration of the mutual promises and covenants of the parties hereto, it is mutually agreed by and between the parties hereto, as follows:

1. MOUNDSVILLE agrees to receive into its intercepting sewers the sanitary sewage discharged from GLEN DALE's sewers at such agreed locations and times requested by GLEN DALE, so long as the flows and strengths are equal to or lower than those for which MOUNDSVILLE has reserved for GLEN DALE. If additional commercial and/or residential development within GLEN DALE requires more capacity at MOUNDSVILLE's treatment facility than the capacity reserved for GLEN DALE, MOUNDSVILLE will negotiate with GLEN DALE in good faith and sell GLEN DALE additional capacity if it is available.

2. GLEN DALE agrees to maintain its sewers in good condition, to contain infiltration and inflow so that the total flow does not exceed the reserve capacity of 462,000 gallons per day, to adopt a user charge system in accordance with current and future guidelines as promulgated by Federal and State authorities having jurisdiction over such matters, and to cooperate with MOUNDSVILLE in its efforts to comply with any requirements of a higher authority.

3. GLEN DALE will provide recording meters at all entry points of connection to MOUNDSVILLE's sewers. MOUNDSVILLE will maintain these meters in order to establish the flows delivered by GLEN DALE to MOUNDSVILLE. GLEN DALE will have the privilege of inspection and calibration check. Samples of the flow shall be taken periodically as deemed necessary to ascertain relative strength of the sewage. The flow charts and strength analysis will be kept as permanent records. MOUNDSVILLE will forward duplicates of these records to GLEN DALE in a routine manner.

4. GLEN DALE shall pay capital costs based on the treatment plant capacity reserved for GLEN DALES's use. The amount reserved for use by GLEN DALE is 462,000 gallons per day, which represents 19.74% of the total plant capacity. Capital costs are defined as bond repayment, interest, and amortization costs as they relate to the treatment plant construction and related costs. Provided, however, in the event GLEN DALE or MOUNDSVILLE pay any of their respective share of the capital costs prior to, or at the time of, going into the indebtedness, the share of either entity shall be reduced proportionately to the amount so paid.

5. GLEN DALE will reimburse MOUNDSVILLE for handling and treating its waste on the basis of proportionate sharing of operation and maintenance costs relating to the treatment facility, which operation costs are defined as the cost of all labor, power, chemicals, vehicle expenses, maintenance, repair, replacement, improvement and administrative expenses. Provided, however, that vehicular expense shall only relate to vehicle expense associated with the operation of the treatment plant.

6. The proportionate share paid by GLEN DALE will be based on actual sewage flows. GLEN DALE's flow will be metered and compared to the total flow treated at MOUNDSVILLE's treatment plant.

7. The account numbers used in calculating GLEN DALE's share of treatment expense shall be:

- 228 - Taxes Accrued
- 741 - Operation, Supervision & Engineering
- 742 - Operation, Labor
- 743-1- Supplies and Expenses
- 743-2- Chemical Treatment Expenses
- 744 - Maintenance, Supervision & Engineering
- 745 - Maintenance of Structures & Improvements
- 746 - Maintenance of Treatment & Disposal System Equipment
- 795 - Special Services
- 797 - Regulatory Commission Expenses
- 798 - Insurance
- 799 - Injuries and Damages
- 800-1- Employee's Welfare Expenses
- 800-2- Pensions

8. MOUNDSVILLE will bill GLEN DALE on a monthly basis for these services. The amount of this bill will initially be based on projected operation and maintenance costs.

9. The total annual cost paid by GLEN DALE to MOUNDSVILLE will be adjusted at the end of the first year to account for actual vs. projected operation and maintenance costs.

10. Any adjusted amounts due or receivable upon completion of the annual review of expenses shall be prorated over three months.

11. MOUNDSVILLE will provide GLEN DALE with financial reports verifying the costs of operation and maintenance items and the flows treated at the plant.

12. MOUNDSVILLE will, after service to GLEN DALE is in effect, provide GLEN DALE, at least annually with:

(i) A copy of its annual report filed with the Public Service Commission of West Virginia.

(ii) A copy of such audited financial statements as MOUNDSVILLE provided for holders of revenue bonds issued by MOUNDSVILLE, payable from revenues of its sewer system.

(iii) A copy of all reports of audit of its records prepared by its auditors or by the State or Federal auditors.

13. This Agreement shall continue in full force and effect for a period of Forty (40) years.

#### 14. Use of Connecting Sewers

A. Except as hereinafter provided, GLEN DALE shall not discharge or cause to be discharged any of the following described waters or wastes into MOUNDSVILLE's system:

(1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Centigrade).

(2) Any waters or wastes which contain grease or oil or other substance that will solidify or become discernably viscous at temperatures between 32 degrees and 150 degrees Fahrenheit.

(3) Any waters or wastes containing emulsified oil and grease exceeding an average of 50 parts per million (417 pounds per million gallons) other soluble matter.

(4) Any gasoline, benzine, naphtha, fuel oil, or mineral oil or other flammable or explosive liquid, solid or gas.

(5) Any noxious or malodorous gas such as hydrogen sulfide, sulfur dioxide or nitrous oxide or other substance, which either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

(6) Any garbage that has not been properly pulverized or ground to fine powder.

(7) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, paunch manure, hair and fleshing, entrails, lime slurry, lime residues, beer and distillery slops, chemical residues, paint residues, cannery waste, bulk solids or any other solid or viscous substance capable of causing obstruction to the flow of the sewers or other interference with the proper operation of the sewage system.

(8) Any waters or wastes, acid and alkaline in reaction, having corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the sewage system. Free acids and alkalis must be neutralized, at all times, within a permissible pH range of 6.0 or 9.6.

(9) Any cyanides in excess of two parts per million by weight as CN.

(10) Any long half-life (over 100 days) of toxic radioactive isotopes without a specific permit.

(11) Any waters or wastes that, for a duration of 15 minutes, have concentration greater than five (5) times the average of that of "normal sanitary sewage" (defined in Paragraph B (1) of this section).

(12) GLEN DALE shall not discharge, permit, or cause to be discharged any waters or wastes containing a toxic or poisonous substance, a high chlorine demand or suspended solids in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters or the effluent of MOUNDSVILLE's sewage treatment plant. Such toxic substances shall be limited to the average concentrations listed hereinafter in the sewage as it arrives at the treatment plant and at no time shall the hourly concentration at the treatment plant exceed three times the average concentration. If concentrations listed are exceeded, individual establishments will be subject to control in volume and concentration by GLEN DALE and appropriate action will be taken by GLEN DALE to meet the requirements of the Sanitary Board of the City of Moundsville.

## LIMITS OF TOXIC SUBSTANCES IN SEWAGE

Iron, as Fe	5.0 ppm
Chromium, as Cr (hexavalent)	3.0 ppm
Copper, as Cu	0.2 ppm
Chlorine Requirement	15.0 ppm
Phenol	10.0 ppm
Cyanide, as CN	0.1 ppm
Cadmium, as Cd	0.3 ppm
Zinc, as ZN	0.3 ppm
Nickel, as Ni	2.0 ppm

B. "Normal Sanitary Sewage" shall be construed to fall within the following ranges:

(1)	CONSTITUENTS	NORMAL RANGE
	Suspended Solids	180 to 350 ppm
	B.O.D.	140 to 300 ppm
	Chlorine Demand	5 to 15 ppm

The admission into the public sewers of any waters or wastes exceeding the "normal sanitary sewage" limits shall be subject to the review and approval of the Sanitary Board of the City of Moundsville.

(2) GLEN DALE shall require its users to install and maintain grease, oil and sand interceptors when in the opinion of the Sanitary Board of the City of Moundsville they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand and other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. GLEN DALE shall require that all grease, oil and sand interceptors shall be of type and capacity approved by the Sanitary Board of the City of Moundsville.

(3) When required by MOUNDSVILLE through its Sanitary Board or otherwise, GLEN DALE shall install or cause to be installed in the sewer of the owner of any property contributing industrial waste to GLEN DALE sewer system a suitable control manhole in order to facilitate observation, sampling and measurement of waste. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by MOUNDSVILLE.

(4) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made shall be determined in accordance with the current edition of "Standard Methods of Examination of Water and Sewage".

(5) No statement contained in this article shall be construed as preventing any special agreement or arrangement between MOUNDSVILLE and GLEN DALE to handle industrial waste of unusual strength or character which may be accepted by GLEN DALE so long as MOUNDSVILLE has the capabilities to handle said industrial waste of unusual strength and character.

(6) There is hereby created by this Agreement a five (5) member board, to be known and designated as the Moundville - Glen Dale Wastewater Treatment Advisory Board, hereinafter referred to as the BOARD. The BOARD shall consist of two (2) members appointed by the Mayor of the City of Glen Dale, and three (3) members appointed by the Mayor of the City of Moundville, all of the members so appointed shall be members of the respective Sanitary Boards of the two cities. The BOARD shall elect a chairman and a secretary by majority vote of its members and shall adopt rules to govern its meetings. The members shall serve for a period of two (2) years and until their successors are appointed. The function of the BOARD shall be to meet at least four times yearly to review the expenses incurred in the handling and treating of the waste to the Moundville plant and report their findings to their respective councils.

MOUNDSVILLE and GLEN DALE agree to submit this Agreement to any and all State and Federal agencies which, by law, have final approval of this Agreement.

IN WITNESS WHEREOF, the City of Moundville has caused this Agreement to be signed on its behalf by its City Manager, and its corporate seal to be hereunto affixed by its City Clerk, by authority of an Ordinance of the Council of the City of Moundville, duly adopted on the 25<sup>th</sup> day of August, 1987, and also,

IN WITNESS WHEREOF, the City of Glen Dale has caused this Agreement to be signed on its behalf by its Mayor, and its corporate seal to be hereunto affixed by its City Clerk, by authority of an Ordinance of the Council of the City of Glen Dale, duly adopted on the 24<sup>th</sup> day of AUGUST, 1987.

THE CITY OF MOUNDSVILLE

(SEAL)

By: Mark A. Swygons  
City Manager

THE CITY OF GLEN DALE

(SEAL)

By: John R. Hill  
Mayor



# STEPTOE & JOHNSON

ATTORNEYS AT LAW

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DANIEL R. SCHUDA  
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HERSCHEL H. ROSE III  
CHRISTOPHER P. BASTIEN  
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W. RANDOLPH FIFE

OF COUNSEL  
ROBERT W. LAWSON, JR.

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JACKSON L. ANDERSON  
ROBERT G. STEELE  
JAMES M. WILSON  
PATRICK D. DEEM  
ROBERT M. STEPTOE, JR.  
ANNE R. WILLIAMS  
JAMES D. GRAY  
VINCENT A. COLLINS  
JAMES A. RUSSELL  
FRANK E. SIMMERMAN, JR.  
WILLIAM T. BELCHER  
MICHAEL L. BRAY  
DAVID C. CLOVIS  
J. GREG GOODYKOONTZ  
IRENE M. KEELEY  
EVANS L. KING, JR.  
WALTER L. WILLIAMS  
SUSAN S. BREWER  
RONALD H. HANLAN  
C. DAVID MORRISON  
HARRY P. WADDELL  
CLEMENT D. CARTER III  
W. HENRY LAWRENCE IV  
WILLIAM E. GALEOTA  
GORDON H. COPLAND  
RANDALL C. LIGHT  
RICHARD M. YURKO, JR.  
GARY W. NICKERSON  
LOUIS E. ENDERLE  
ROBERT J. SCHIAVONI

November 18, 1987

WRITER'S DIRECT DIAL NUMBER

City of Moundsville  
Sewer Revenue Bonds, Series 1987 A and Series 1987 B

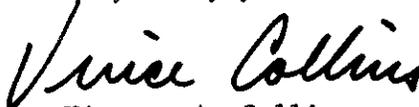
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Internal Revenue Service  
Internal Revenue Service Center  
Philadelphia, Pennsylvania 19255

Gentlemen:

Enclosed herewith is a completed and executed Internal Revenue Service Form 8038-G and a file copy thereof with regard to the above-captioned bond issue. Please file the original form in the appropriate Internal Revenue Service records and return the copy marked in red as the "File Copy" to me (after acknowledging receipt of the same) in the enclosed self-addressed, stamped envelope. Thank you for your attention to this matter.

Very truly yours,

  
Vincent A. Collins

Enclosure

Copies of letter with enclosure to:  
Taunja Willis Miller, Esquire  
Donald R. Vaughn, P.E.  
John T. Madden, Esquire  
Ms. Loretta J. Francis

11/20/87  
MOUSB1-X

Form **8038-G**

(December 1986)

Department of the Treasury  
Internal Revenue Service

# Information Return for Tax-Exempt Governmental Bond Issues

Under Section 149(e)

(Use Form 8038-GC if issue price is under \$100,000.)

OMB No. 1545-0720

Expires 12-31-89

<b>Part I Reporting Authority</b>		Check box if Amended Return <input type="checkbox"/>
1 Issuer's name CITY OF MOUNDSVILLE	2 Issuer's employer identification number 55-6000216	
3 Number and street 635 Court Street	4 Report number G198 7 - 1	
5 City or town, state, and ZIP code Moundsville, West Virginia 26041	6 Date of issue November 18, 1987	

<b>Part II Type of Issue (check box(es) that applies)</b>		Issue Price
7 <input type="checkbox"/> Check box if bonds are tax or other revenue anticipation bonds	<input type="checkbox"/>	
8 <input type="checkbox"/> Check box if bonds are in the form of a lease or installment sale	<input type="checkbox"/>	
9 <input type="checkbox"/> Education		
10 <input type="checkbox"/> Health and hospital		
11 <input type="checkbox"/> Transportation		
12 <input type="checkbox"/> Public safety		
13 <input checked="" type="checkbox"/> Environment (including sewage bonds) Sewer Revenue Bonds, Series 1987 A		\$1,846,978
14 <input type="checkbox"/> Housing		
15 <input type="checkbox"/> Utilities		
16 <input type="checkbox"/> Other. Describe (see instructions)		

<b>Part III Description of Bonds</b>							
	(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
17 Final maturity	10-1-26	8.38%	12,558	12,558			
18 Entire issue			1,846,978	1,846,978	*29.4 years	8.38%	8.38%

<b>Part IV Uses of Original Proceeds of Issue (including underwriters' discount) (Level Amortized Payments)</b>		
19 Proceeds used for accrued interest	19	-0-
20 Proceeds used for bond issuance costs (including underwriters' discount)	20	\$ 20,000
21 Proceeds used for credit enhancement	21	-0-
22 Proceeds allocated to reasonably required reserve or replacement fund	22	\$162,408
23 Proceeds used to refund prior issues Design Notes	23	\$773,579
24 Nonrefunding proceeds of the issue (subtract lines 20, 21, 22, and 23 from line 18, column (c))	24	\$890,991

<b>Part V Description of Refunded Bonds (complete this part only for refunding bonds)</b>	
25 Enter the remaining weighted average maturity of the bonds to be refunded	-0- years
26 Enter the last date on which the refunded bonds will be called	11/18/87
27 Enter the date(s) the refunded bonds were issued	12/31/85

<b>Part VI Miscellaneous</b>	
28 Enter the amount (if any) of the state volume cap allocated to this issue	-0-
29 Arbitrage rebate:	
a Check box if the small governmental unit exception to the arbitrage rebate requirement applies	<input checked="" type="checkbox"/>
b Check box if the 6-month temporary investment exception to the arbitrage rebate requirement is expected to apply	<input type="checkbox"/>
c Check box if you expect to earn and rebate arbitrage profits to the U.S.	<input type="checkbox"/>
30 Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(ii)	
31 Pooled financings:	
a Check box if any of the proceeds of this issue are to be used to make loans to other governmental units and enter the amount	<input type="checkbox"/>
b Check box if this issue is a loan made from the proceeds of another tax-exempt issue and enter the name of the issuer and the date of the issue	<input checked="" type="checkbox"/> W.Va. Water Development Authority and the date of the issue May 1, 1986

**Please Sign Here**

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature of officer: *John G. Hull* Date: 11/18/87 Title: Mayor



WV MUNICIPAL BOND COMMISSION  
 Suite 337 Building 3  
 1800 Washington St. E  
 State Capitol Complex  
 Charleston, WV 25305  
 (304) 348-3971

SERIES A

NEW ISSUE REPORT FORM

Date of Report: November 18, 1987

(See Reverse for Instructions)

ISSUER & ISSUE: <u>City of Moundsville - Sewer Revenue Bonds, Series 1987 A</u>	
ADDRESS: <u>800 6th Street, Moundsville, WV 26041</u>	COUNTY: <u>Marshall</u>
PURPOSE: <u>New Money</u> <input checked="" type="checkbox"/> <u>Refunding</u> <input type="checkbox"/>	
OF ISSUE: <u>Refunding</u> Refunds issue(s) dated: _____	
ISSUE DATE: <u>November 18, 1987</u>	CLOSING DATE: <u>November 18, 1987</u>
ISSUE AMOUNT: \$ <u>1,846,978</u>	RATE: <u>8.38%</u>
1st DEBT SERVICE DUE: <u>April 1, 1988</u>	1st PRINCIPAL DUE: <u>October 1, 1989</u>
1st DEBT SERVICE AMOUNT: <u>\$134,569.79</u>	PAYING AGENT: <u>One Valley Bank, N.A.</u>
ISSUERS BOND COUNSEL: <u>Steptoe &amp; Johnson</u>	UNDERWRITERS BOND COUNSEL: <u>Jackson Kelly Holt &amp; O'Farrell</u>
Contact Person: <u>Vincent A. Collins, Esq.</u> Phone: <u>624-8161</u>	Contact Person: <u>Taunja Willis Miller, Esquire</u> Phone: <u>340-1317</u>
CLOSING BANK: <u>United National Bank - North</u>	ESCROW TRUSTEE: _____
Contact Person: <u>Phil Wallace</u> Phone: _____	Contact Person: _____ Phone: _____
KNOWLEDGEABLE ISSUER CONTACT	OTHER: _____
Contact Person: <u>Loretta Francis</u> Position: <u>Recorder</u> Phone: _____	Contact Person: _____ Function: _____ Phone: _____
DEPOSITS TO MBC AT CLOSE: Accrued Interest: _____ Days \$ _____	
By <u>Wire</u> Capitalized Interest: \$ _____	
<u>X</u> Check Reserve Account: \$ <u>162,408</u>	
<u>IGT</u> Other: \$ _____	
REFUNDS & TRANSFERS BY MBC AT CLOSE:	
By _____ Wire To Escrow Trustee: \$ _____	
_____ Check To Issuer: N/A \$ _____	
_____ IGT To CIF-State Treasury \$ _____	
To Other: _____ \$ _____	
NOTES: <u>Cash escrow of outstanding Sewer Revenue Bonds = \$42,000</u>	
FOR MUNICIPAL BOND COMMISSION USE ONLY:	
DOCUMENTS REQUIRED: _____	
TRANSFERS REQUIRED: _____	

WV MUNICIPAL BOND COMMISSION  
Suite 337 Building 3  
1800 Washington St. E  
State Capitol Complex  
Charleston, WV 25305  
(304) 348-3971

NEW ISSUE REPORT FORM

Date of Report: November 18, 1987

(See Reverse for Instructions)

ISSUER & ISSUE: <u>City of Moundsville - Sewer Revenue Bonds, Series 1987 B</u>	
ADDRESS: <u>800 6th Street, Moundsville, WV 26041</u>	COUNTY: <u>Marshall</u>
PURPOSE: <u>New Money <input checked="" type="checkbox"/></u>	
OF ISSUE: <u>Refunding <input type="checkbox"/></u>	Refunds issue(s) dated: _____
ISSUE DATE: <u>November 18, 1987</u>	CLOSING DATE: <u>November 18, 1987</u>
ISSUE AMOUNT: <u>\$453,022</u>	RATE: <u>0%</u>
1st DEBT SERVICE DUE: <u>October 1, 1989</u>	1st PRINCIPAL DUE: <u>October 1, 1989</u>
1st DEBT SERVICE AMOUNT: <u>\$11,921.69</u>	PAYING AGENT: <u>One Valley Bank, N.A.</u>
ISSUERS	UNDERWRITERS
BOND COUNSEL: <u>Steptoe &amp; Johnson</u>	BOND COUNSEL: <u>Jackson, Kelly Holt &amp; O'Farrell</u>
Contact Person: <u>Vincent A. Collins, Esq.</u>	Contact Person: <u>Taunia Willis Miller, Esquire</u>
Phone: <u>624-8161</u>	Phone: <u>340-1317</u>
CLOSING BANK: <u>United National Bank - North</u>	ESCROW TRUSTEE: _____
Contact Person: <u>Phil Wallace</u>	Contact Person: _____
Phone: _____	Phone: _____
KNOWLEDGEABLE ISSUER CONTACT	OTHER: _____
Contact Person: <u>Loretta Francis</u>	Contact Person: _____
Position: <u>Recorder</u>	Function: _____
Phone: _____	Phone: _____
DEPOSITS TO MBC AT CLOSE:	Accrued Interest: <u>-</u> Days \$ <u>-</u>
By <u>Wire</u>	Capitalized Interest: \$ <u>-</u>
<u>X</u> Check	Reserve Account: \$ <u>11,922</u>
<u>IGT</u>	Other: \$ _____
REFUNDS & TRANSFERS BY MBC AT CLOSE:	
By <u>Wire</u>	To Escrow Trustee: \$ _____
<u>Check</u>	To Issuer: \$ _____ N/A
<u>IGT</u>	To CIF-State Treasury \$ _____
	To Other: \$ _____
NOTES: <u>Cash escrow of outstanding Sewer Revenue Bonds = \$42,000</u>	
FOR MUNICIPAL BOND COMMISSION USE ONLY:	
DOCUMENTS	
REQUIRED: _____	
TRANSFERS	
REQUIRED: _____	





Rose

STATE OF WEST VIRGINIA  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF WATER RESOURCES  
1201 Greenbrier Street  
Charleston, West Virginia 25311

ARCH A. MOORE, JR.  
Governor

RONALD R. POTESTA  
Director

ROBERT K. PARSONS  
Deputy Director

November 13, 1987

Mr. John T. Madden  
City of Moundsville  
635 Court Street  
Moundsville, West Virginia 26041

RE: City of Moundsville  
C-540276-02

Dear Mr. Madden:

You are hereby advised that the bidding procedures for Contracts 1, 1A and 5 have been reviewed and approved. The contracts may now be awarded to the low, responsive bidders, George W. Cattrell and Sons Company, Golden Equipment Company, Incorporated, and Hemlock Pipeline, Incorporated, as indicated by the proposal you have submitted.

The Contracts 3 and 4B Water & Waste Systems Construction, Incorporated, and Hanson Excavating may be conditionally awarded provided the following are included on the contracts between the low bidders and grantee and that the grantee agrees to oversee the compliance of the low bidders:

1. The grantee shall aid the low bidder in identifying every reasonable subcontracting opportunity.
2. The low bidder shall contact West Virginia Association of Minority Contractors, West Virginia Governor's Office of Small Business Development Center.
3. The solicitations shall consist of either formal letters or telephone calls, describing as completely as possible the sub-contracting opportunities; follow-up telephone calls and personal meetings should be made with any interested party to negotiate in good faith, price and other terms (if the low bidder opts to solicit M/WBE's by telephone a detailed log should be maintained).
4. The low bidder is responsible for the completeness of the above mentioned items.

Mr. John T. Madden  
City of Moundsville  
Page 2

5. The grantee acknowledges its responsibility to promptly furnish all information pertaining to the fulfillment of these conditions to DNR and EPA. The grantee and EPA will review the efforts made to comply with these conditions.

Certain construction activities have been assigned to our Engineering Section. You will be contacted by a representative of this Section in the near future.

The Part B documents that you submitted have been reviewed by this office. The Environmental Protection Agency (EPA) Form 5780-1B has been approved with some revisions. The official approval letter and the grant amendment are currently being processed and will be forwarded under separate cover. Total allowable project costs have been determined to be \$10,162,400 reflecting a revised EPA grant amount of \$7,738,500 which includes \$7,621,800 in conventional funds and \$116,700 in innovative funds.

Should you have any questions, please contact Rosalie Ortega at (304) 348-0637 or Elbert Morton at (304) 348-0633.

Sincerely,

CONSTRUCTION GRANTS BRANCH



Mike Johnson, P. E.  
Branch Head

MJ/ROa

cc: R. Fenton Roudabush, EPA  
Ed Henry, WDA  
Howard Cunningham, PSC  
Vaughn Consultants, Inc. (w/enc.)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III

841 Chestnut Building  
Philadelphia, Pennsylvania 19107

*Vaughan  
Consult.*  
**RECEIVED**

NOV 05 1987

**Construction Grants Branch**

NOV 05 1987

Mr. Mike Johnson, P. E.  
Construction Grants Branch  
Dept. of Natural Resources  
617 Broad Street  
Charleston, WV 25301

Re: City of Moundsville  
C-540276-02  
M/WBE

Dear Mr. Johnson:

We have completed our review of M/WBE documentation by the grantee to demonstrate compliance for the above referenced project.

We have no objection to the award of Contracts No. 1, 1a and Contract No. 5 to low responsive bidders. The documentation provided demonstrates compliance with the M/WBE requirements.

However, we are unable to recommend award of contracts 3 and 4B at this time. The low bidders on these contracts have not demonstrated their compliance with the M/WBE requirements.

We are willing to recommend conditional award of Contracts if the following provisions are included on the contracts between the low bidders and grantee and that the grantee agrees to oversee the compliance of the low bidder.

1. The grantee shall aid the low bidder in identifying every reasonable subcontracting opportunity.
2. The low bidder shall contact West Virginia Association of Minority Contractors, West Virginia Governor's Office of Small Business Development Center.
3. The solicitations shall consist of either formal letters or telephone calls, describing as completely as possible the sub-contracting opportunities; follow-up telephone calls and personal meetings should be made with any interested party to negotiate in good faith, price and other terms (if the low bidder opts to solicit M/WBE's by telephone a detailed log should be maintained).

4. The low bidder is responsible for the completeness of the above mentioned items.
5. The grantee acknowledges its responsibility to promptly furnish all information pertaining to the fulfillment of these conditions to DNR and EPA. The grantee and EPA will review the efforts made to comply with these conditions.

If you have any questions, please contact Mr. Alan Hollis at (215) 597-9876.

Sincerely,



Bernard Sarnoski, Chief  
Program Control Section  
Construction Grants Branch

cc: Roaslie Ortega, WV SWCB

<b>U.S. ENVIRONMENTAL PROTECTION AGENCY</b> <b>EPA ASSISTANCE AGREEMENT/AMENDMENT</b> <b>PART I - ASSISTANCE NOTIFICATION INFORMATION</b>	ASSISTANCE ID NO. 40276-02-0	2. LOG NUMBER Three - C
	3. DATE OF AWARD SEP 26 1984	4. MAILING DATE OCT 3 1984

5. AGREEMENT TYPE <input type="checkbox"/> Cooperative Agreement <input checked="" type="checkbox"/> Grant Agreement <input type="checkbox"/> Assistance Amendment		6. PAYMENT METHOD <input type="checkbox"/> Advance <input checked="" type="checkbox"/> Reimbursement <input type="checkbox"/> Letter of Credit	
Send Payment Request To: Grants Management Section		7. TYPE OF ACTION Continuation	

RECIPIENT ORGANIZATION	8. RECIPIENT City of Moundsville 635 Court Street Moundsville, West Virginia 26041		9. PAYEE City of Moundsville 635 Court Street Moundsville, West Virginia 26041	
------------------------	---	--	---	--

EPA CONTACT	10. RECIPIENT TYPE City		11. PROJECT MANAGER AND TELEPHONE NO. John T. Madden (304) 245-1171	
	12. CONSULTANT (WWT Construction Grants Only) Cerrone & Vaughn, Incorporated 401 Main Street Wheeling, West Virginia 26003 (304) 232-5550		13. ISSUING OFFICE (City/State) Philadelphia, Pennsylvania	

14. EPA PROJECT/STATE OFFICER AND TELEPHONE NO. R. Fenton Roudabush, Chief West Virginia Section (215) 597-9131		15. EPA CONGRESSIONAL LIAISON & TEL. NO. Patricia Gaskins 202-382-5184		16. STATE APPL ID (Clearinghouse) WV 830705-020		17. FIELD OF SCIENCE N/A		18. PROJECT STEP (WWT CG Only) II/III	
--	--	---	--	--	--	-----------------------------	--	--	--

19. STATUTORY AUTHORITY Clean Water Act, Title II		20. REGULATORY AUTHORITY 40 CFR, Parts 30 & 35		21. STEP 2 + 3 & STEP 3 (WWT Construction Only)	
				a. Treatment Level 3	
				b. Project Type ICT	
				c. Treatment Process 2C	
				d. Sludge Design 5	

22. PROJECT TITLE AND DESCRIPTION Design and construction of a 2.35 MGD "CAPTOR" Biological Treatment Plant, 12,000 LF 10" force main and rehabilitation of portions of the existing Moundsville and Glendale systems, to serve Moundsville and Glendale. The eligible project includes allowable associated costs as defined in 40 CFR 35.2250 up to the amounts shown in Part II of the Assistance Agreement.

23. PROJECT LOCATION (Areas Impacted by Project)			
City/Town Moundsville/Glendale	County Marshall	State WV	Congressional District 1st
24. ASSISTANCE PROGRAM/CFDA Program No. & Title 66.418		25. PROJECT PERIOD 09/84 - 12/88	
26. BUDGET PERIOD N/A		27. COMMUNITY POPULATION (WWT CG Only) 15,710	
28. TOTAL BUDGET PERIOD COST N/A		29. TOTAL PROJECT PERIOD COST \$5,322,400	

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
30. EPA Amount This Action		4,143,100	
31. EPA In-Kind Amount			
32. Unexpended Prior Year Balance			
33. Other Federal Funds			
34. Recipient Contribution			
35. State Contribution			
36. Local Contribution			
37. Other Contribution			
38. Allowable Project Cost		5,322,400	

39. FISCAL	Program Element	FY	Appropriation	Doc. Control No.	Account Number	Object Class	Obligation/Deoblig. Amount
		GKAW80	83-C	68X0103.F	W83013	MGKA036006	41.11
	GHRW80	77-R	68X0103.9	W77003	MGHRO36006	41.11	557,607
	GLAW80	84	68X0103.G	W84002	4GLA036006	41.11	3,146,203
	GRCW80	83-C	68X0103.F	W18301	MGKC036006	41.11	151,300

TABLE A - PROJECT CLASS CATEGORY (Non-construction)		TOTAL APPROVED ALLOWABLE BUDGET PERIOD COST	
1. PERSONNEL			
2. FRINGE BENEFITS			
3. TRAVEL			
4. EQUIPMENT			
5. SUPPLIES			
6. CONTRACTUAL			
7. CONSTRUCTION			
8. OTHER			
9. TOTAL DIRECT CHARGES			
10. INDIRECT COSTS: RATE % BASE			
11. TOTAL (Share: Recipient _____% Federal _____%)			
12. TOTAL APPROVED ASSISTANCE AMOUNT		\$	N/A
TABLE B - PROGRAM ELEMENT CLASSIFICATION (Non-construction)			
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12. TOTAL (Share: Recipient _____% Federal _____%)			
13. TOTAL APPROVED ASSISTANCE AMOUNT		\$	N/A
TABLE C - PROGRAM ELEMENT CLASSIFICATION (Construction)		Basic (75%)	Innovative (10%)
1. ADMINISTRATION EXPENSE		1,821	508
2. <del>PROJECT COORDINATOR EXPENSE</del> Project Coordinator		63,179	17,627
3. LAND STRUCTURES, RIGHT-OF-WAY			
4. ARCHITECTURAL ENGINEERING BASIC FEES		83,846	23,393
5. OTHER ARCHITECTURAL ENGINEERING FEES		96,208	26,842
6. PROJECT INSPECTION FEES		210,350	58,688
7. <del>LAND DEVELOPMENT</del> Captor Study		39,050	39,050
8. RELOCATION EXPENSES			
9. RELOCATION PAYMENTS TO INDIVIDUALS AND BUSINESSES			
10. DEMOLITION AND REMOVAL		4,182,000	1,167,000
11. CONSTRUCTION AND PROJECT IMPROVEMENT			
12. EQUIPMENT			
13. <del>MISCELLANEOUS</del> Design Allowance		227,932	63,593
14. TOTAL (Lines 1 thru 13)			
15. ESTIMATED INCOME (If applicable)			
16. NET PROJECT AMOUNT (Line 14 minus 15)			
17. LESS: INELIGIBLE EXCLUSIONS			
18. ADD: CONTINGENCIES		418,014	116,299
19. TOTAL (Share: Recipient <u>22.2</u> % Federal <u>77.8</u> %)		5,322,400	1,513,000
20. TOTAL APPROVED ASSISTANCE AMOUNT	\$4,143,100	\$ 3,991,800	151,300

**PART III-AWARD CONDITIONS**

**a. GENERAL CONDITIONS**

The recipient covenants and agrees that it will expeditiously initiate and timely complete the project work for which assistance has been awarded under this agreement, in accordance with all applicable provisions of 40 CFR Chapter I, Subpart B. The recipient warrants, represents, and agrees that it, and its contractors, subcontractors, employees and representatives, will comply with: (1) all applicable provisions of 40 CFR Chapter I, Subchapter B, INCLUDING BUT NOT LIMITED TO the provisions of Appendix A to 40 CFR Part 30, and (2) any special conditions set forth in this assistance agreement or any assistance amendment pursuant to 40 CFR 30.425.

**b. SPECIAL CONDITIONS:**

*(For cooperative agreements include identification or summarization of EPA responsibilities that reflect or contribute to substantial involvement.)*

The grantee is subject to all the requirements of 40 CFR Part 35, Subpart I, Part 30, Part 33 and other pertinent regulations. The grantee is directed to certain following special considerations of those requirements.

(1) Regulations Affecting Federal Grant Payments

- (a) Payments shall not be made for Step III professional services until the grantee complies with the procurement requirements of 40 CFR Part 33, Subpart A.
- (b) The Regional Administrator shall not pay more than 50% of the Federal share unless the grantee has furnished a satisfactory final plan of operation, and shall not pay more than 90% unless the grantee has furnished a satisfactory operation and maintenance manual (40 CFR 35.2206).
- (c) Payments shall be made in accordance with 40 CFR 35.2300.
- (d) The grantee may submit requests for payment for allowable costs incurred in accordance with the following schedule:

<u>Payment No.</u>	<u>Date</u>	<u>Payment</u>	<u>Cumulative Amount</u> (not to be exceeded)
1	10/84	10,200	10,200
2	11/84	5,100	15,300
3	12/84	5,900	21,200
4	01/85	5,100	26,300
5	02/85	6,890	33,190
6	06/85	88,790	121,980
7	07/86	183,183	305,163
8	08/86	267,090	572,253
9	09/86	267,090	839,343
10	10/86	228,930	1,068,273
11	11/86	150,600	1,218,873
12	12/86	150,600	1,369,473
13	01/87	150,000	1,519,473
14	02/87	150,000	1,669,473
15	03/87	150,000	1,819,473
16	04/87	228,930	2,048,403
17	05/87	267,090	2,315,493
18	06/87	381,500	2,696,993
19	07/87	341,500	3,038,493
20	08/87	341,500	3,379,993
21	09/87	175,085	3,555,078
22	10/87	152,271	3,707,349
23	11/87	409,361	4,116,710
24	01/88	11,445	4,128,155
25	04/88	4,980	4,133,135

Special Conditions C

<u>Payment No.</u>	<u>Date</u>	<u>Payment</u>	<u>Cumulative Amount</u> (not to be exceeded)
26	07/88	4,980	4,138,115
27	11/88	4,985	4,143,100

(2) Project Schedule Changes

For any changes in the project which increase the cost, delay or accelerate the project or alter the project in other ways (40 CFR 35.2204), the grantee must receive a formal grant amendment from the Regional Administrator before implementing the changes. Of particular interest is any change in completion of final design drawings and specifications, date of advertisement for bids, the building completion date as referenced in 40 CFR 35.2216, and the initiation of project operation date. The latter date is considered, at the time of this grant, to be 11/87. The grantee further agrees to provide the Regional Administrator, upon request, with a revised schedule for payment.

(3) Project Initiation

The grantee agrees to initiate the building of all significant elements of the project within 12 months after authorization to advertise for bids has been given (40 CFR 35.2212). To the extent practicable this initiation should not occur before all sites, easements and rights-of-way are acquired. The grantee shall notify the Regional Administrator immediately upon award of the contracts.

(4) Sewer Use Ordinance and User Charge System

The grantee agrees to adopt its sewer use ordinance and implement its user charge system before the treatment works is placed in operation (40 CFR 35.2208).

(5) Project Replacement

The grantee shall inform the Regional Administrator within two years after the initiation of the operation of the project if the project is failing to meet the project performance standards. If necessary the Regional Administrator may award 100% of the allowable costs for modification or replacement (40 CFR 35.2032(c)).

(6) Project Performance

The grantee agrees to certify to the Regional Administrator on the date one year after the initiation of operation whether or not the project is capable of meeting the project performance standards (40 CFR 35.2218(c)).

(7) Subagreements and Contracts

- (a) The grantee agrees to negotiate a subagreement and contract for all services to be awarded under this grant. Such subagreements and contracts shall be in conformance with and incorporate the required clauses of 40 CFR Part 33.
- (b) A copy of the proposed subagreements and contracts shall be submitted to the Regional Administrator for review and pre-award approval as appropriate under 40 CFR Part 33. The submittal of the proposed subagreements and contracts shall include the procurement records required in Appendix A to 40 CFR Part 33.

Special Conditions Con

- (c) The grantee shall submit to the Regional Administrator the proposed subagreement and contract cost or price data on EPA Form 5700-41 or on a form which contains similar information.

(8) Land Acquisition

The grantee shall not make any offer to acquire allowable real property until the Regional Administrator approves the price the grantee will offer the property owner (40 CFR 35.2210).

(9) Review

The grantee recognizes that approval of any part of this grant, change orders, grant increase amendments, subagreements, any specific items, or eligibility of any other costs will be subject to final review, including project officer review, audit review, and final determination of the Grant Approving official.

(10) Advertisement for Bids

Prior to the advertisement for construction bids, the grantee agrees to submit to the Regional Administrator for approval the following:

- (a) A draft plan of operation (40 CFR 35.2106);
- (b) A user charge system (40 CFR 35.2140);
- (c) Final design drawings and specifications (refer to 40 CFR 35.2040 (b)(5)).

(11) Captor Study

- a. A field test proposal must be submitted to DNR and EPA for review and approval prior to the initiation of the actual field testing.
- b. Prior to the design of the Captor System, the Captor System Pilot study must be submitted for review and approval by DNR in accordance with the submitted project schedule.

(12) MBE/WBE Requirements

The recipient agrees to submit to the Chief, Construction Grants Branch, Attn: EEO Specialist, EPA Region III, a completed EPA Form 6005-1 within 30 days after the date the recipient begins building the project (see 40 CFR 35.2202). This 6005-1 will contain the information on subagreement awards to minority and women's businesses used during the design phase of the project.

The recipient further agrees to submit to the Chief, Construction Grants Branch, Attn: EEO Specialist, EPA-Region III, a completed Form 6005-1 within 15 days after the end of each Federal fiscal quarter during which the recipient or its contractors award any subagreements to a minority or women's business for building and building-related services and supplies.

b. SPECIAL CONDITIONS (Continued)

PART IV

**NOTE:** The Agreement must be completed in duplicate and the Original returned to the Grants Administration Division for Headquarters awards and to the appropriate Grants Administrations Office for State and local awards within 3 calendar weeks after receipt or within any extension of time as may be granted by EPA.

Receipt of a written refusal or failure to return the properly executed document within the prescribed time, may result in the withdrawal of the offer by the Agency. Any change to the Agreement by the recipient subsequent to the document being signed by the EPA Award Official which the Award Official determines to materially alter the Agreement shall void the Agreement.

OFFER AND ACCEPTANCE

The United States of America, acting by and through the U.S. Environmental Protection Agency (EPA), hereby offers assistance/amendment to the City of Moundville for 77.8 % of all approved costs incurred up to and not exceeding \$ 4,143,100 for the support of approved budget period effort described in application (including all application modifications) C-540276-02-0 City of Moundville included herein by reference.

ISSUING OFFICE (Grants Administration Office)	AWARD APPROVAL OFFICE
ORGANIZATION/ADDRESS Environmental Protection Agency Grants Management Section (3PM32) Curtis Building, 6th & Walnut Streets Philadelphia, Pennsylvania 19106	ORGANIZATION/ADDRESS Environmental Protection Agency Water Management Division (3WMOO) Curtis Building, 6th & Walnut Streets Philadelphia, Pennsylvania 19106

THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY

SIGNATURE OF AWARD OFFICIAL <i>Thomas P. Eichler</i>	TYPED NAME AND TITLE Thomas P. Eichler Regional Administrator	DATE SEP 26 1984
---	---	---------------------

This Agreement is subject to applicable U.S. Environmental Protection Agency statutory provisions and assistance regulations. In accepting this award or amendment and any payments made pursuant thereto, (1) the undersigned represents that he is duly authorized to act on behalf of the recipient organization, and (2) the recipient agrees (a) that the award is subject to the applicable provisions of 40 CFR Chapter I, Subchapter B and of the provisions of this agreement (Parts I thru IV), and (b) that acceptance of any payments constitutes an agreement by the payee that the amounts, if any found by EPA to have been overpaid will be refunded or credited in full to EPA.

BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION

SIGNATURE <i>John T. Madden</i>	TYPED NAME AND TITLE John T. Madden - Legal Counsel - City of	DATE 10/24/84
------------------------------------	--	------------------



CITY OF MOUNDSVILLE

Sewer Revenue Bonds,  
Series 1987 A and Series 1987 B

ACCEPTANCE OF DUTIES OF REGISTRAR

ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association with its principal office in the City of Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the City of Moundsville Sewer Revenue Bonds, Series 1987 A and Series 1987 B, all dated November 18, 1987, in the aggregate principal amount of \$2,300,000 and agrees to perform all duties of Registrar in connection with such Bonds, all as set forth in the Local Act authorizing issuance of the Bonds.

Dated this 18th day of November, 1987.

ONE VALLEY BANK, NATIONAL ASSOCIATION

By

  
Its Corporate Trust Administrative  
Officer

11/11/87  
MOUSB1-M



CITY OF MOUNDSVILLE

Sewer Revenue Bonds,  
Series 1987 A and Series 1987 B

ACCEPTANCE OF DUTIES OF DEPOSITORY BANK

UNITED NATIONAL BANK - NORTH, a national banking association, with principal office in Moundsville, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond and Notes Ordinance of the City of Moundsville, enacted November 10, 1987, authorizing issuance of the City's Sewer Revenue Bonds, Series 1987 A and Series 1987 B, both dated November 18, 1987, in the aggregate principal amount of \$2,300,000 (collectively, the "Bonds") and agrees to perform all duties of Depository Bank in connection with such Bonds, all as set forth in said Ordinance.

Dated this 18th day of November, 1987.

UNITED NATIONAL BANK - NORTH

By Phillip A. Wallace  
Its Exec. Vice President

11/11/87  
MOUSB1-N



CITY OF MOUNDSVILLE

Sewer Revenue Bonds,  
Series 1987 A and Series 1987 B

CERTIFICATE OF REGISTRATION OF BONDS

I, CHARLOTTE S. MORGAN, Trust Administrative Officer of One Valley Bank, National Association, as Registrar under the Local Act and Registrar's Agreement providing for the \$2,300,000 aggregate principal amount of Sewer Revenue Bonds, Series 1987 A and Series 1987 B, of the City of Moundsville (the "Issuer"), hereby certify that on the 18th day of November, 1987, the single fully registered Series 1987 A Bond of the Issuer in the principal amount of \$1,846,978 designated "Sewer Revenue Bond, Series 1987 A," numbered AR-1, and the single fully registered Series 1987 B Bond of the Issuer in the principal amount of \$453,022 designated "Sewer Revenue Bond, Series 1987 B," numbered BR-1, were registered as to principal and interest (the Series 1987 B Bond being 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 One Valley Bank, National Association, as Registrar.

WITNESS my signature as of this 18th day of November, 1987.

ONE VALLEY BANK, NATIONAL ASSOCIATION

By

  
Its Trust Administrative Officer

11/16/87  
MOUSB1-0



## REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 18th day of November, 1987, by and between the CITY OF MOUNDSVILLE, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$2,300,000 aggregate principal amount of Sewer Revenue Bonds, Series 1987 A and Series 1987 B, in fully registered form (collectively, the "Bonds"), pursuant to a Bond Ordinance enacted November 10, 1987, and a Supplemental Resolution adopted November 10, 1987 (collectively, the "Local Act");

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 Local Act, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Local Act provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Local Act and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Local Act 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 Local Act, 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 exemption of interest on the Bonds from federal income taxation, 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, from time to time, the compensation for services rendered as provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection therewith.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Local Act with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Local Act, the terms of the Local Act 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 Local Act will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER:                   City of Moundsville  
                              City Hall  
                              635 Court Street  
                              Moundsville, West Virginia 26041  
                              Attention: Mayor

REGISTRAR: One Valley Bank, National Association  
Post Office Box 1793  
One Valley Square  
Charleston, West Virginia 25326  
Attention: Corporate Trust Department

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Local Act.

IN WITNESS WHEREOF, the CITY OF MOUNDSVILLE and ONE VALLEY BANK, NATIONAL ASSOCIATION have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

CITY OF MOUNDSVILLE

By *John B. Hill*  
Mayor

ONE VALLEY BANK, NATIONAL ASSOCIATION

By *Charlotte Morgan*  
Its Corporate Trust  
Administrative Officer

11/11/87  
MOUSB1-P

EXHIBIT A

[Included in transcript as Document No. 1]

# Invoice

**ONE VALLEY  
BANK**

Town of Moundsville, WVA  
Attn: Mayor

DATE November 18, 1987

UNITS	ITEM DESCRIPTION	TOTAL
	Town of Moundsville WV Sewer Revenue Bonds - 1987 Series A - \$1,846,978 and Series B - \$453,022	
	One Time Fee for Services as Authenticating Agent and Registrar	\$500.00
	Total Due	<u>\$500.00</u>

SEND REMITTANCE TO: One Valley Bank  
One Financial Place - 6th Floor  
One Valley Square  
P.O. Box 1793  
Charleston, WV 25326  
Attn: Charlotte Morgan



ASSIGNMENT SEPARATE FROM BOND

FOR VALUE RECEIVED, the West Virginia Water Development Authority hereby sells, assigns and transfers unto One Valley Bank, National Association, Charleston, West Virginia, the Sewer Revenue Bond, Series 1987 A, of the City of Moundsville in the principal amount of \$1,846,978, numbered AR-1, standing in the name of West Virginia Water Development Authority on the books of said Issuer.

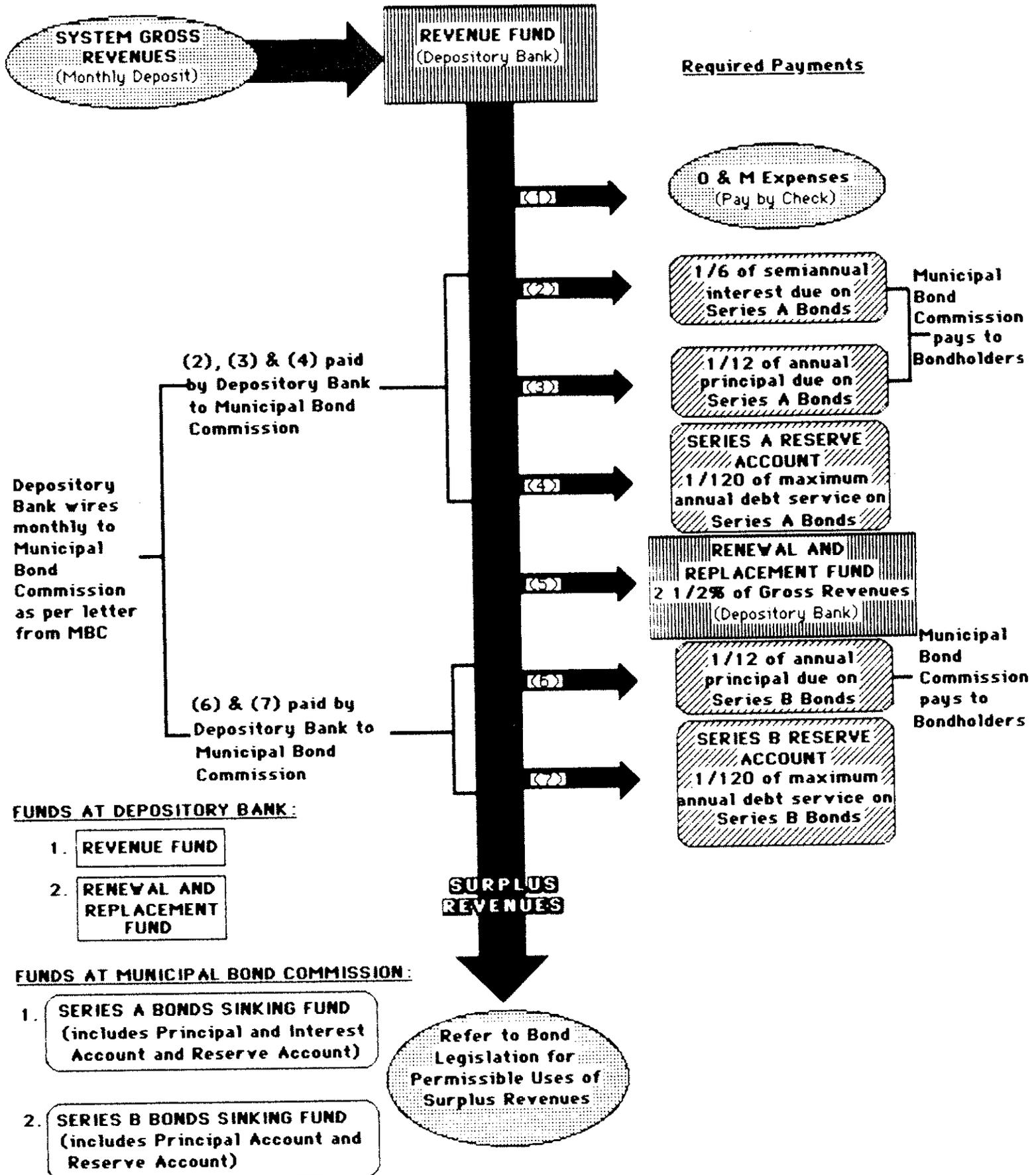
Dated: November 18, 1987.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

  
Authorized Representative

11/11/87  
MOUSB1-Q

# FLOW OF FUNDS SCHEMATIC DIAGRAM - SYSTEM REVENUES



# STEPTOE & JOHNSON

ATTORNEYS AT LAW

SIXTH FLOOR

UNION NATIONAL CENTER EAST

P. O. BOX 2190

CLARKSBURG, W. VA. 26302-2190

(304) 624-8000

TELECOPIER (304) 624-8183

CHARLESTON OFFICE

715 CHARLESTON NATIONAL PLAZA

P. O. BOX 1588

CHARLESTON, W. VA. 25326

(304) 342-2191

TELECOPIER (304) 342-0726

December 30, 1987

City of Moundsville

Sewer Revenue Bonds, Series 1987 A and 1987 B

CHARLESTON

CHARLES W. YEAGER  
CARL F. STUCKY, JR.  
OTIS L. O'CONNOR  
WAYNE A. SINCLAIR  
JAMES R. WATSON  
DANIEL R. SCHUDA  
SPRAGUE W. HAZARD  
HERSCHEL H. ROSE III  
CHRISTOPHER P. BASTIEN  
STEVEN P. MCGOWAN  
MARTIN R. SMITH, JR.  
W. RANDOLPH FIFE

OF COUNSEL  
ROBERT W. LAWSON, JR.

WRITER'S DIRECT DIAL NUMBER

(304) 624-8161

CLARKSBURG

RALPH BOHANNON  
ERNEST C. SWIGER  
HERBERT G. UNDERWOOD  
JACKSON L. ANDERSON  
ROBERT G. STEELE  
JAMES M. WILSON  
PATRICK D. DEEM  
ROBERT M. STEPTOE, JR.  
ANNE R. WILLIAMS  
JAMES D. GRAY  
VINCENT A. COLLINS  
JAMES A. RUSSELL  
FRANK E. SIMMERMAN, JR.  
WILLIAM T. BELCHER  
MICHAEL L. BRAY  
DAVID C. CLOVIS  
J. GREG GOODYKOONTZ  
IRENE M. KEELEY  
EVANS L. KING, JR.  
WALTER L. WILLIAMS  
SUSAN S. BREWER  
RONALD H. HANLAN  
C. DAVID MORRISON  
HARRY P. WADDELL  
CLEMENT D. CARTER III  
W. HENRY LAWRENCE IV  
WILLIAM E. GALEOTA  
GORDON H. COPLAND  
RANDALL C. LIGHT  
RICHARD M. YURKO, JR.  
GARY W. NICKERSON  
LOUIS E. ENDERLE  
ROBERT J. SCHIAVONI

John T. Madden, Esquire  
Madden & Whorton, L.C.  
P. O. Box 511  
Moundsville, West Virginia 26041

Dear Jack:

Enclosed is your copy of the transcript of proceedings for this issue which closed November 18, 1987. Please call me if you have any questions with respect to any of the documents or any other matter in connection with the financing.

Very truly yours,



Vincent A. Collins

VAC/jlt

122887-1

Enclosure

Copy of letter with enclosure to:

Mr. Phillip D. Wallace  
Donald R. Vaughn, P.E.  
Edgar N. Henry, P.E.  
Mr. Harry S. Moore  
Taunja Willis Miller, Esquire  
Honorable John F. Grisell  
Ms. Charlotte Morgan  
Mr. R. Witter Hallan

SEARCHED  
SERIALIZED  
INDEXED  
FILED  
DEC 31 1987  
FBI - CLARKSBURG