THE CITY OF MULLENS
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1998 A AND SERIES 1998 B

Closing Date: December 17, 1998

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TRANSCRIPT OF PROCEEDINGS

I. Authorizing Documents

INDEX

1.1	Certified copies of Chapter 16, Article 13, Chapter 22C, Article 2 and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended.	1
1.2	(A) Copy of the Charter of The City of Mullens, West Virginia (the "City")	
	(B) Rules of Procedure.	2
1.3	Oaths of office of Mayor, City Manager and members of the Board of Commissioners of the City.	3
1.4	Rate Ordinance.	4
1.5	(A) Ordinance creating the Sanitary Board.	
	(B) Appointment of Members to the Sanitary Board.	
	(C) Oaths of Office of Members of the Sanitary Board.	5
1.6	Petition of the Sanitary Board.	6
1.7	Minutes of the regular meeting of the Board of Commissioners held on November 12, 1998 regarding the first reading of the Bond Ordinance.	7
1.8	Bond Ordinance (the "Ordinance") passed by the Board of Commissioners on November 19, 1998.	8
1.9	Minutes of the special meeting of the Board of Commissioners held on November 19, 1998 regarding the second reading and passage of the Ordinance.	9

1.10	Supplemental Resolution adopted by the Board of Commissioners on December 10, 1998 authorizing the sale of the above-referenced Bonds.	10
1.11	Excerpt of the minutes of the December 10, 1998 public hearing and regular meeting of the Board of Commissioners regarding the adoption of the Supplemental Resolution.	11
1.12	Affidavit of publication of the Notice of Public Hearing and Abstract of Bond and Note Ordinance published in The Mullens Advocate.	12
1.13	(A) Loan Agreement, dated November 19, 1998 between the City, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection ("DEP") for the Series 1998 A Bonds.	
	(B) Loan Agreement, dated December 17, 1998 between the City and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") for the Series 1998 B Bonds.	13
1.14	(A) Evidence of the grant from the Appalachian Regional Commission.	
	(B) Evidence of the Small Cities Block Grant.	
	(C) Evidence of the grant from the Office of the Governor of the State of West Virginia.	14

II. Certificates and Receipts

2.1	General Certificate signed by the Mayor, the City Manager and the City Attorney.	15
2.2	Certificate of the City Manager as to Truth and Accuracy of Documents Delivered.	16
2.3	Certificate of Consulting Engineer.	17
2.4	Certificate of Accountant as to Coverage.	18
2.5	Registrar's Agreement.	19

2.6	Acceptance of Duties of Depository Bank.	20
2.7	Request and Authorization as to Authentication and Delivery of the Bonds.	21
2.8	Certificate of Registration of Bonds.	22
2.9	Receipt for Bonds.	23
2.10	Receipt for Bond Proceeds.	24
2.11	NPDES Permit (cover page).	25
2.12	Municipal Bond Commission New Issue Forms.	26
2.13	Infrastructure Council approval letter.	27
2.14	Copies of the Recommended Decision of the West Virginia Public Service Commission (the "Commission") dated June 12, 1998, which became a Final Order of the Commission on July 2, 1998, granting the City a Certificate of Convenience and Necessity and approval of financing, and the Commission Order dated December 1, 1998 modifying the Final Order.	28

III. Opinions

3.1	(A)	Opinion of Jackson & Kelly, Bond Counsel, regarding the Series 1998 A Bonds dated December 17, 1998.	
	(B)	Opinion of Jackson & Kelly, Bond Counsel, regarding the Series 1998 B Bonds dated December 17, 1998.	29
3.2		Opinion of Counsel to the City, dated December 17, 1998.	30
3.3		Final Title Opinion.	31

The closing of the sale of The City of Mullens Sewerage System Revenue Bonds, Series 1998 A and Series 1998 B, will take place at the office of the West Virginia Water Development Authority at 9:30 a.m. prevailing time on December 17, 1998. No transaction shall be deemed to have been completed and no documents shall be deemed to have been delivered unless or until all transactions are complete and all documents delivered.

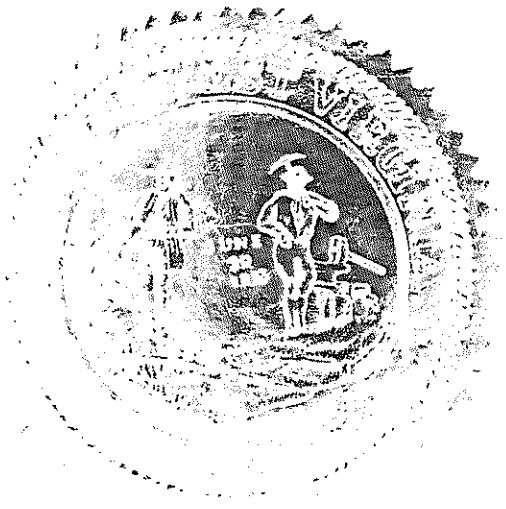
CHASFS3:134199

State of West Virginia

Certificate

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

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



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

Sixteenth *day of*

December *19* 98

Ken Hechler

Secretary of State

sanitary district, said county court shall enter an appropriate order as hereinbefore provided, and such additional territory shall thenceforth be deemed an integral part of such sanitary district. (1933, Ex. Sess., c. 24, § 13.)

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

§ 16-12-14. Disconnection of territory from sanitary district.

Any contiguous territory located within the boundaries of any sanitary district organized under this article, and upon the border of such sanitary district, may become disconnected from such sanitary district in the manner following, to wit: Ten percent or more of the legal voters resident in the territory sought to be disconnected from such sanitary district may petition the county court [county commission] of the county in which the original petition for the organization of said sanitary district was filed, to cause the question of such disconnection to be submitted to the legal voters of such territory whether such territory shall be disconnected. Said petition shall be addressed to the county court of the county in which the original petition for the formation of such sanitary district was filed and shall contain a definite description of the boundaries of such territory to be disconnected and recite as a fact, that there is no bonded indebtedness of such sanitary district incurred while such territory to be disconnected was a part of such sanitary district and that such territory to be disconnected is not, at the time of the filing of such petition, and will not be, either benefited or served by any work or improvement either then existing or then authorized by said sanitary district. Upon filing such petition in the office of the county clerk of the county in which the original petition for the formation of such sanitary district has been filed it shall be the duty of the county court of the county in which the original petition for the formation of such sanitary district was filed, to consider the boundaries of such territory and the facts upon which the petition is founded, and shall consider the limits and boundaries of such proposed territory, in the same manner as provided for locating, fixing and deciding of the limits and boundaries of the original sanitary district, as provided in section one [§ 16-12-1] of this article. If any part of the territory proposed to be disconnected is situated in another county or counties other than that county in which the original petition was filed, then it shall be the duty of the said county court of the county in which the original petition was filed to call to its assistance the county courts of counties in which portions of such territory proposed to be disconnected is situated; such county courts shall constitute themselves a board of commissioners, and after electing a presiding officer from among themselves, shall consider the boundaries of such territory and the facts upon which the petition is founded, and shall consider the limits and boundaries of such proposed territory to be disconnected, in the same manner as provided for locating, fixing and deciding of the limits and boundaries of the original sanitary district, as provided in section one of this article: Provided, however, That it shall be the duty of the county

court or the board of commissioners to deny the prayer of the petition for the disconnecting of any territory from the original sanitary district, if the material allegations therein contained are not founded in fact.

Notice shall be given by the county court of the time and place, when and where all persons interested will be heard substantially as provided in section one [§ 16-12-1] of this article. The conduct of the hearing and the manner of conducting the subsequent election on the question whether such territory shall become disconnected and the issuance, reception, return and canvassing of the ballots shall be, as nearly as possible, in accordance with the provisions of section one of this article. The ballots for the election provided for in this section shall be substantially as follows, to wit:

☐ For disconnection from sanitary district.

☐ Against disconnection from sanitary district.

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

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

ARTICLE 13.

SEWAGE WORKS OF MUNICIPAL CORPORATIONS AND SANITARY DISTRICTS.

Sec.
16-13-1. Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.
16-13-2. Sanitary board to supervise and control construction, etc., of works; appointment of board; definitions.
16-13-3. Powers of sanitary board; contracts; employees; compensation thereof; extensions and improvements; replacement of damaged public works.
16-13-4. Payment of preliminary expenses of surveys, etc.
16-13-5. Ordinance necessary before acquisition or construction of works.
16-13-6. Publication and hearing upon ordinance.
16-13-7. Acquisition by condemnation or purchase.
16-13-8. Cost of works.
16-13-9. Contracts and obligations incurred to be paid for solely by revenue bonds.

Sec.
16-13-10. Interest on and redemption of bonds; form; statement on face of bond; negotiability; exemption from taxation; registration; execution; sale; disposition of surplus proceeds; additional and temporary bonds.
16-13-11. Additional bonds to extend or improve works.
16-13-12. Additional bonds for extension, etc., of works to have equal priority with original bonds.
16-13-13. Application of revenue from bonds; lien.
16-13-14. Securing bonds by trust indenture.
16-13-15. Sinking fund; transfer of balance of net revenues.
16-13-16. Rates for service; change or readjustment; hearing; lien and recovery; discontinuance of services.
16-13-17. Municipality subject to established rates.
16-13-18. Supervision of works by sanitary

Sec.
board; organization of board; qualifications, terms and compensation of members.
16-13-18a. Publication of financial statement.
16-13-19. Contract with other municipalities for service of works; powers of lessee as to rates; intercepting sewers.
16-13-20. Discharge of lien on property acquired.
16-13-21. Action on certificates or attached coupons; receivers.
16-13-22. Powers conferred in addition to existing powers; jurisdiction outside corporate limits.
16-13-22a. Grants, loans and advances.
16-13-22b. Contracts for abatement of pollution.
16-13-22c. Refunding bonds.
16-13-22d. Subordination of bonds.
16-13-22e. Operating contract.
16-13-22f. Exemption of bonds from taxation.
16-13-22g. Covenants with bondholders.
16-13-23. Article deemed full authority for construction, etc., of works and issue of bonds; alternative method; powers of state department of health unaffected.
16-13-23a. Additional powers of municipality upon receipt of order to cease pollution.
16-13-24. Article to be construed liberally.

Editor's notes. Acts 1989, 1st Ex. Sess., c. 3, redesignated the board of health and the department of health as the division of health, within the department of health and human resources. See also, Acts 1997, c. 225.

Constitutionality. See Brewer v. City of Point Pleasant, 111 W. Va. 572, 172 S.E. 717 (1934); Stevenson v. City of Bluefield, 39 F. Supp. 462 (S.D.W. Va. 1941); West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

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

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

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

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

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

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

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

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

Any municipal corporation and/or sanitary district in the state of West Virginia is hereby authorized and empowered to own, acquire, construct, equip, operate and maintain within and/or without the corporate limits of such municipal corporation, a sewage collection system and/or a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and convenient for the collection and/or treatment, purification and disposal, in a sanitary manner, of the liquid and solid waste, sewage, night soil and industrial waste of such municipal corporation and/or sanitary district, including acquisition of the municipal sewerage system resulting from the severance of a combined waterworks and sewerage system pursuant to section one-b [§ 8-20-1b], article twenty, chapter eight of this code, and shall have authority to acquire by gift, grant, purchase, condemnation, or otherwise, all necessary lands, rights-of-way and property therefor, within and/or without the corporate limits of such municipal corporation and/or sanitary district, and to issue revenue bonds to pay the cost of such works and property; and any such municipality may serve and supply the facilities of such sewerage system within the corporate limits of such municipality and within the area extending twenty miles beyond the corporate limits of such municipality: Provided, That such municipality shall not serve or supply the facilities of such sewerage system within the corporate limits of any other municipality without the consent of the governing body thereof. No obligations shall be incurred by any such municipality and/or sanitary district in such construction or acquisition except such as is payable solely from the funds provided under the authority of this article. (1933, Ex. Sess., c. 25, § 1; 1955, c. 132; 1986, c. 118.)

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

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

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

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

The construction, acquisition, improvement, equipment, custody, operation and maintenance of any such works for the collection, treatment or disposal of sewage and the collection of revenues therefrom for the service rendered thereby, shall be under the supervision and control of a sanitary board appointed by the governing body as set forth in section eighteen [§ 16-13-18] of this article. The term "works" as used in this article shall be construed to mean and include a works for the collection and/or treatment, purification and

disposal of sewage, in its entirety or any integral part thereof. The term "municipality" as used in this article shall be construed to mean any municipal corporation, incorporated city, town, village or sanitary district in the State of West Virginia. The term "governing body" as used in this article shall be construed to mean the mayor and council or other legally constituted governing body of any municipality. The term "board" when hereinafter used in this article shall be construed to mean the sanitary board as set up in section eighteen of this article. (1933, Ex. Sess., c. 25, § 2.)

Quoted in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960). **Cited** in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957); Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

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

The board shall have power to take all steps and proceedings and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this article: Provided, That any contract relating to the financing of the acquisition or construction of any such works, or any trust indenture as hereinafter provided for, shall be approved by the governing body of such municipality before the same shall be effective. The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and such other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do such work as the board shall direct. All such compensation and all expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and the board shall not exercise or carry out any authority or power herein given it so as to bind said board of said municipality beyond the extent to which money shall have been or may be provided under the authority of this article. No contract or agreement with any contractor or contractors for labor and/or material, exceeding in amount the sum of five thousand dollars, shall be made without advertising for bids, which bids shall be publicly opened and award made to the best bidder, with power in the board to reject any or all bids. After the construction, installation, and completion of the works, or the acquisition thereof, the board shall operate, manage and control the same and may order and complete any extensions, betterments and improvements of and to the works that the board may deem expedient, if funds therefor be available or are made available as provided in this article, and shall establish rules and regulations for the use and operation of the works, and of other sewers and drains connected therewith so far as they may affect the operation of such works, and do all things necessary or expedient for the successful operation thereof. The sanitary board may declare an emergency situation in the event of collector line breaks or vital treatment plant equipment failure and shall be exempted from competitive bidding requirements and enter into direct purchase agreements or contracts for such expenses. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested so to do by proper authority, out of the funds provided by this article. (1933, Ex. Sess., c. 25, § 3; 1989, c. 133.)

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

Third party. — Where a contract between a municipal sanitary board and a contractor, providing for the construction of a sanitary sewage system, provides inter alia that "existing surface, overhead or subsurface structures damaged or destroyed by reason of the contractor's operations shall be promptly repaired or replaced in a satisfactory manner at the cost and expense of the contractor," and the contractor by job order requests enters into a contract with an existing water company to remove certain of the latter's water pipes which interfere with the construction of the sewage system, the contractor, in a notice of motion for judgment proceeding instituted by the water company, is liable for the expense so incurred. West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

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

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

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

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

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

Repayment. — A municipality is authorized to incur obligations for the purpose of defraying preliminary expenses of sewer projects, provided repayment of such obligations is to be made solely from the proceeds of revenue bonds, and not in any way from tax levies. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

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

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

Quoted in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957).

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

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

After such ordinance shall have been adopted, an abstract of the ordinance, determined by the governing body to contain sufficient information as to give notice of the contents of such ordinance, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The notice shall state that said ordinance has been adopted, and that the municipality contemplates the issuance of the bonds described in the ordinance, and that any person interested may appear before the governing body upon a certain date, which shall not be less than ten days subsequent to the first date of publication of such abstract and notice which shall not be prior to the last

date of publication of such abstract and notice, and present protests. At such hearing all objections and suggestions shall be heard and the governing body shall take such action as it shall deem proper in the premises: Provided, however, That if at such a hearing written protest is filed by thirty percent or more of the owners of real estate situate in said municipality, then the governing body of said municipality shall not take further action unless four fifths of the qualified members of the said governing body assent thereto. (1933, Ex. Sess., c. 25, § 6; 1967, c. 105; 1981, 1st Ex. Sess., c. 2.)

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

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

§ 16-13-8. Cost of works.

The cost of the works shall be deemed to include the cost of acquisition or construction thereof, the cost of all property, rights, easements, and franchises

deemed necessary or convenient therefor and for the improvements determined upon as provided in this article; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvement last mentioned; engineering and legal expenses; expense for estimates of cost and of revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized and the construction or acquisition of the works and the placing of the works in operation and the performance of the things herein required or permitted in connection with any thereof. (1933, Ex. Sess., c. 25, § 8.)

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

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

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

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

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

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

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

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

Such revenue bonds shall bear interest at not more than twelve percent per annum, payable at such times, and shall mature at such time or times as may be determined by ordinance. Such bonds may be made redeemable before maturity at the option of the municipality, to be exercised by said board, at not more than the par value thereof and a premium of five percent, under such terms and conditions as may be fixed by the ordinance authorizing the issuance of the bonds. The principal and interest of the bonds may be made payable in any lawful medium. Said ordinance shall determine the form of the bonds, either coupon or registered, shall set forth any registration and conversion privileges, and shall fix the denomination or denominations of such bonds and the place or places of payment of the principal and interest thereof, which may be at any bank or trust company within or without the State. The bonds shall contain a statement on their face that the municipality shall not be obligated to pay the same or the interest thereon except from the special fund provided from the net revenues of the works. All such bonds shall be, and shall have and are hereby declared to have all the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State. Said bonds shall be exempt from all taxation, state, county and municipal. Such bonds shall be executed by the proper legally constituted authorities of the municipality, and be sealed with the corporate seal of the municipality, and in case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers, before delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. Such bonds shall be sold at a price not lower than a price, which when computed upon standard tables of bond values, will show a net return of not more than thirteen per centum per annum to the purchaser upon the amount paid therefor, and the proceeds derived therefrom shall be used exclusively for the purposes for which said bonds are issued and same may be sold at one time or in parcels as funds are needed. Any surplus

of bond proceeds over and above the cost of the works shall be paid into the sinking fund hereinafter provided. If the proceeds of the bonds, by error of calculation or otherwise, shall be less than the cost of the works, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in said ordinance authorizing the issuance of the bonds first issued or in the trust indenture hereinafter authorized, shall be deemed to be of the same issue and shall be entitled to payment without preference or priority of the bonds first issued. Prior to the preparation of the definitive bonds, temporary bonds may under like restrictions be issued with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. (1933, Ex. Sess., c. 25, § 10; 1970, c. 11; 1980, c. 33; 1981, 1st Ex. Sess., c. 2.)

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

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

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

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

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

All moneys received from any bonds issued pursuant to this article, after reimbursements and repayment to said municipality of all amounts advanced for preliminary expenses as provided in section four [§ 16-13-4] of this article, shall be applied solely to the payment of the cost of the work, extensions, improvements or betterments, or to the appurtenant sinking fund and there shall be and hereby is created and granted a lien upon such moneys, until so

applied, in favor of the holders of the bonds or the trustees hereinafter provided for. (1933, Ex. Sess., c. 25, § 13.)

Quoted in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957).

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

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

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

At or before the issuance of any such bonds the governing body shall by said ordinance create a sinking fund, to be remitted to and administered by the West Virginia municipal bond commission, for the payment of the bonds and the interest thereon and the payment of the charges of banks or trust companies for making payment of such bonds or interest, and shall set aside and pledge a sufficient amount of the net revenues of the works, hereby defined to mean the revenues of the works remaining after the payment of the reasonable expense of operation, repair and maintenance, such amount to be paid by the board into said sinking fund at intervals to be determined by

ordinance prior to issuance of the bonds, for: (a) The interest upon such bonds as such interest shall fall due; (b) the necessary fiscal agency charges for paying bonds and interest; (c) the payment of the bonds as they fall due, or, if all bonds mature at one time, the proper maintenance of a sinking fund in such amounts as are necessary and sufficient for the payment thereof at such time; (d) a margin for safety and for the payment of premiums upon bonds retired by call or purchase as herein provided, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal ten percent of all other amounts so required to be paid into the sinking fund. Such required payments shall constitute a first charge upon all the net revenue of the works. Prior to the issuance of the bonds the board may by ordinance be given the right to use or direct the West Virginia municipal bond commission to use such sinking fund or any part thereof in the purchase of any of the outstanding bonds payable therefrom at the market price thereof, but not exceeding the price, if any, at which the same shall in the same year be payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued. After the payments into such fund as herein required, the board may at any time in its discretion transfer all or any part of the balance of the net revenues, after reserving an amount deemed by the board sufficient for operation, repair and maintenance for an ensuing period of not less than twelve months and for depreciation, into the sinking fund or into a fund for extensions, betterments and additions to the works. The amounts of the balance of the net revenue as and when so set apart shall be remitted to the West Virginia municipal bond commission to be retained and paid out by said commission consistent with the provisions of this article and with the ordinance pursuant to which such bonds have been issued. The West Virginia municipal bond commission is hereby authorized to act as fiscal agent for the administration of such sinking fund, under any ordinance passed pursuant to the provisions of this article, and shall invest all such sinking funds as provided by general law. Notwithstanding the foregoing, payments of principal and interest on any bonds owned by the United States of America or any agency or department thereof may be made by the governing body directly thereto. (1933, Ex. Sess., c. 25, § 15; 1933, 2nd Ex. Sess., c. 48; 1986, c. 118.)

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

The governing body shall have power, and it shall be its duty, by ordinance, to establish and maintain just and equitable rates or charges for the use of and the service rendered by such works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage system of the municipality, or that in any way uses or is served by such works, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replacements and maintenance of the works and for the payment of the

sums herein required to be paid into the sinking fund. Revenues collected pursuant to this section shall be deemed the revenues of the works. No such rates or charges shall be established until after a public hearing, at which all the users of the works and owners of property served or to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates or charges. After introduction of the ordinance fixing such rates or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates or charges, shall be given by publication as a Class II-0 legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed in such notice for the hearing. After such hearing, which may be adjourned from time to time, the ordinance establishing rates or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of such rates and charges so established shall be kept on file in the office of the board having charge of the operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinbefore provided: Provided, however, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. The aggregate of the rates or charges shall always be sufficient for such expense of operation, repair and maintenance and for such sinking fund payments. All such rates or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service rate or charge so established shall not be paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto: Provided, however, That where both water and sewer services are furnished by any municipality to any premises the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof. Whenever any rates, rentals or charges for services or facilities furnished shall remain unpaid for a period of thirty days after same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. The board collecting such charges shall be obligated under reasonable rules and regulations, to shut off and discontinue both water and sewer services to all delinquent users of either water facilities, or sewer facilities, or both, and shall not restore either water facilities or sewer facilities to any delinquent user of either until all delinquent charges for both water facilities and sewer facilities, including reasonable

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

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

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

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

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

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

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

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

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

§ 16-13-17. Municipality subject to established rates.

The municipality shall be subject to the same charges and rates established as hereinbefore provided, or to charges and rates established in harmony therewith, for service rendered the municipality, and shall pay such rates or charges when due from corporate funds and the same shall be deemed to be a part of the revenues of the works as herein defined, and be applied as herein provided for the application of such revenues. (1933, Ex. Sess., c. 25, § 17.)

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

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

The governing body shall provide by ordinance the organization of the board, and that the custody, administration, operation and maintenance of such works shall be under the supervision and control of a sanitary board, created as herein provided. Such sanitary board shall be composed of either the mayor of the municipality, or the city manager thereof, if said municipality shall have a city manager form of government, and two persons appointed by the governing body: Provided, That, in the event of an acquisition or merger of an existing sewage works, the governing body may increase the membership to a maximum of four members in addition to the mayor or city manager of the

municipality served by the board. During the construction period one of the members must be a registered professional engineer. The engineer member of the board need not be a resident of said municipality. After the construction of the plant has been completed, the engineer member may be succeeded by a person not an engineer. No officer or employee of the municipality, whether holding a paid or unpaid office, shall be eligible to appointment on said sanitary board until at least one year after the expiration of the term of his public office. Said appointees shall originally be appointed for terms of two and three years respectively, and upon the expiration of each such term and each succeeding term, an appointment of a successor shall be made in like manner for a term of three years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment. Each member shall give such bond, if any, as may be required by ordinance. Such mayor or city manager shall act as chairman of the sanitary board, which shall elect a vice chairman from its members and shall designate a secretary and treasurer (but the secretary and the treasurer may be one and the same), who need not be a member or members of the sanitary board. The vice chairman, secretary and treasurer shall hold office as such at the will of the sanitary board. The members of the sanitary board shall receive such compensation for their services, either as a salary or as payments for meetings attended, as the governing body may determine, and shall be entitled to payment for their reasonable expenses incurred in the performance of their duties. The governing body shall fix the reasonable compensation of the secretary and treasurer in its discretion, and shall fix the amounts of bond to be given by the treasurer. All compensation, together with the expenses in this section referred to, shall be paid solely from funds provided under the authority of this article. The sanitary board shall have power to establish bylaws, rules and regulations for its own government. (1933, Ex. Sess., c. 25, § 18; 1939, c. 96; 1953, c. 146; 1957, c. 137; 1992, c. 95.)

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

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

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

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

City treasurer. — As to scope of duties and responsibilities of city treasurer as they relate to possession of funds of a sanitary board, see 52 Op. Att'y Gen. 197 (1967).

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

Extension of service. — A public utility is under a duty to make reasonable extensions of its services in accordance with its franchise and

charter obligations and the needs of the inhabitants within the territory covered by its franchise; and a public service commission may, where its action is not unlawful, arbitrary, or capricious, order an extension of service for the inhabitants of such territory. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

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

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

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

Cited in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957).

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

Every sanitary board shall prepare a financial statement and cause the same to be published as a Class I legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the sanitary district. Such statement shall contain an itemized account of the receipts and expenditures of the board during the previous fiscal year, showing the source from which all money was derived, and the name of the person to whom an order was issued, together with the amount of such order, and why such order was issued, arranging the same under distinct heads, and including all money received and expended from the sale of bonds, and also a specific statement of the debts of such board, showing the purpose for which any debt was contracted, the amount of money in all funds at the end of the preceding year, and the amount of uncollected service charges. Such statement shall be prepared and published by the board as soon as practicable after the close of the fiscal year: Provided, That such statement for the fiscal year ending June thirtieth, one thousand nine hundred fifty-six, may be published any time during the year one thousand nine hundred fifty-seven. The statement shall be sworn to by the chairman and secretary and treasurer of the board. If a board fails or refuses to perform the duties hereinbefore named, every member of the board concurring in such failure or refusal shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than five hundred dollars and the circuit court or criminal court and justices of the peace, of the county where the offense was committed, shall have concurrent jurisdiction to try such offense. (1957, c. 138; 1967, c. 105.)

Editor's notes. — The phrase "justice of the peace" and the word "justice," when used in a context meaning "justice of the peace," are construed to mean "magistrate." See § 50-1-17 and W. Va. Const., art. VIII, § 15.

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

Any municipality operating a sewage collecting system and/or a sewage disposal plant or plants as defined in this article, or which as herein provided has ordered the construction or acquisition of such works (in this section called the owner), is hereby authorized to contract with one or more other municipal corporations or political subdivisions within the State (in this section called the lessee), and such lessees are hereby authorized to enter into such contracts with such owners, for the service of such works to such lessees and their inhabitants, but only to the extent of the capacity of the works without impairing the usefulness thereof to the owners, upon such terms and conditions as may be fixed by the boards and approved by ordinances of the respective contracting parties: Provided, however, That no such contract shall be made for a period of more than forty years or in violation of the provisions of said ordinance authorizing bonds hereunder or in violation of the provisions of said trust indenture. The lessee shall by ordinance have power to establish, change and adjust rates and charges for the service rendered therein by the works against the owners of the premises served, in the manner hereinbefore provided for establishing, changing and adjusting rates and charges for the service rendered in the municipality where the works are owned and operated, and such rates or charges shall be collectible and shall be a lien as herein provided for rates and charges made by the owner. The necessary intercepting sewers and appurtenant works for connecting the works of the owner with the sewerage system of the lessee shall be constructed by the owner and/or the lessee upon such terms and conditions as may be set forth in said contract, and the cost or that part of the cost thereof which is to be borne by the owner may be paid as a part of the cost of the works from the proceeds of bonds issued under this article unless otherwise provided by said ordinance or trust indenture prior to the issuance of the bonds. The income received by the owner under any such contract shall, if so provided in said ordinance or trust indenture, be deemed to be a part of the revenues of the works as in this article defined and be applied as herein provided for the application of such revenues. (1933, Ex. Sess., c. 25, § 19; 1981, 1st Ex. Sess., c. 2.)

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

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

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

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

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

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

As to receivers, see Rule 66.

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

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

The authority herein given shall be in addition to and not in derogation of any power existing in any municipality under any statutory or charter provisions which it may now have or hereafter adopt. For all purposes of this article, all municipal corporations shall have jurisdiction for ten miles outside the corporate limits thereof. (1933, Ex. Sess., c. 25, § 22.)

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

Any municipality is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of acquisition or construction of said sewage works and the construction of betterments and improvements thereto, and for the other purposes herein authorized, from any authorized agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of bonds authorized to be issued under the provisions of this article, the revenues

of the said sewage works or grants to the municipality from any agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any agency of the state, the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument.

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

Stated in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957).

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

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

§ 16-13-22c. Refunding bonds.

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

§ 16-13-22d. Subordination of bonds.

Notwithstanding any other provisions to the contrary in this article, any municipality authorizing the issuance of bonds under this article in an effort to aid in the abatement or reduction of the pollution of any waters or streams may provide in the ordinance authorizing the issuance of the bonds and in any trust

indenture pertaining thereto that such bonds, or any additional bonds that may thereafter be issued to extend or improve the works, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to the payment of principal and interest and the security thereof, to such other bonds as are designated in the ordinance. (1949, c. 93.)

§ 16-13-22e. Operating contract.

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

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

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

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

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

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

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

(c) The fixing, establishing and collecting of such fees, rentals or other charges for the use of the services and facilities of such sewerage system, including the parts thereof heretofore or hereafter constructed or acquired and the revision of same from time to time, as will always provide revenues at least

sufficient to provide for all expenses of operation, maintenance and repair of such sewerage system, the payment of the principal of and interest on all bonds or other obligations payable from the revenues of such sewerage system, and all reserve and other funds required by the terms of the ordinance authorizing the issuance of such bonds;

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

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

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

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

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

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

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

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

This article, shall, without reference to any other statute, be deemed full authority for the construction, acquisition, improvement, equipment, maintenance, operation and repair of the works herein provided for and for the issuance and sale of the bonds by this article authorized, and shall be construed as an additional and alternative method therefor and for the financing thereof, and no petition or election or other or further proceeding in respect to the construction or acquisition of the works or to the issuance or sale of bonds under this article and no publication of any resolution, ordinance, notice or proceeding relating to such construction or acquisition or to the issuance or sale of such bonds shall be required except such as are prescribed by this article, any provisions of other statutes of the State to the contrary notwithstanding: Provided, however, That all functions, powers and duties of the state department of health shall remain unaffected by this article. (1933, Ex. Sess., c. 25, § 23.)

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

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

Notwithstanding any other provision contained in this article, and in addition thereto, the governing body of any municipal corporation which has received or which hereafter receives an order issued by the director of the division of environmental protection or the environmental quality board requiring such municipal corporation to cease the pollution of any stream or waters, is hereby authorized and empowered to fix, establish and maintain, by ordinance, just and equitable rates or charges for the use of the services and facilities of the existing sewer system of such municipal corporation, and/or for the use of the services and facilities to be rendered upon completion of any works and system necessary by virtue of said order, to be paid by the owner, tenant or occupant of each and every lot or parcel of real estate or building that is connected with and uses any part of such sewer system, or that in any way uses or is served thereby, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient for the payment of all the proper and reasonable costs and expenses of the acquisition and construction of plants, machinery and works for the collection and/or treatment, purification and disposal of sewage, and the repair, alteration and extension of existing sewer facilities, as may be necessary to comply with such order of the director of the division of environmental protection or the environmental quality board, and for the operation, maintenance and repair of the entire works and system; and the governing body shall create, by ordinance, a sinking fund to accumulate and hold any part or all of the

proceeds derived from rates or charges until completion of said construction, to be remitted to and administered by the municipal bond commission by expending and paying said costs and expenses of construction and operation in the manner as provided by said ordinance; and after the completion of the construction such rates or charges shall be sufficient in each year for the payment of the proper and reasonable costs and expenses of operation, maintenance, repair, replacement and extension from time to time, of the entire sewer and works. No such rates or charges shall be established until after a public hearing, at which all the potential users of the works and owners of property served or to be served thereby and others shall have had an opportunity to be heard concerning the proposed rates or charges. After introduction of the ordinance fixing such rates or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates or charges, shall be given by publication of such notice as a Class II-0 legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication is the municipality. The first publication shall be made at least ten days before the date fixed therein for the hearing. After such hearing, which may be adjourned from time to time, the ordinance establishing the rates or charges, either as originally introduced or as modified and amended, may be passed and put into effect. A copy of the schedule of such rates and charges so established shall be kept on file in the office of the sanitary board having charge of the construction and operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinbefore provided: Provided, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice is required. If any rate or charge so established is not paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the sanitary board of such municipal corporation in a civil action in the name of the municipality. Any municipal corporation exercising the powers given herein has authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery, or works necessary to comply with such order of the director of the division of environmental protection or the environmental quality board, and the authority provided herein to establish, maintain and collect rates or charges is an additional and alternative method of financing such works and matters, and is independent of any other provision of this article insofar as such article provides for or requires the issuance of revenue bonds or the imposition of rates and charges in connection with such bonds: Provided, however, That except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in

compliance with an order of the director of the division of environmental protection or the environmental quality board, and the rights, powers, and duties of such municipal corporation and the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article. (1955, c. 135; 1967, c. 105; 1994, c. 61.)

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

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

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

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

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

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

Editor's notes. — Acts 1989, 1st Ex. Sess., c. 3, redesignated the board of health and the department of health as the division of health, within the department of health and human resources. See also, Acts 1997, c. 225.

Textbooks. Instructions for Virginia and West Virginia, Publisher's Editorial Staff (Michie).

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

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

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

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

Cited in Berkeley County Pub. Serv. Dist. v. Vitro Corp. of Am., 152 W. Va. 252, 162 S.E.2d 189 (1968); State v. Neary, 179 W. Va. 115, 365 S.E.2d 395 (1987); McClung Invs., Inc. v. Green Valley Community Pub. Serv. Dist., 485 S.E.2d 434 (W. Va. 1997).

§ 16-13A-1. Legislative findings.

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

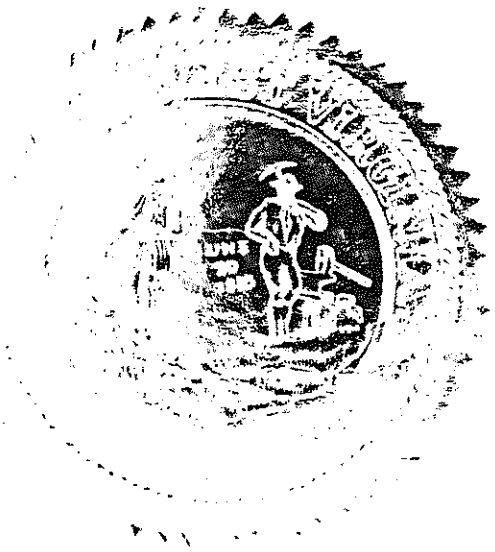
In addition to the expanded powers which shall be given to the public service commission, the Legislature also concludes that it is in the best interest of the public for each county commission to review current technology available and consider consolidating existing public service districts where it is feasible and will not result in the interference with existing bond instruments. Further, if such consolidation is not feasible, the Legislature finds that it is in the best

State of West Virginia

Certificate

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

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



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

Sixteenth *day of*

December *19* 98

Secretary of State

the necessary appurtenances in the new location in, on, over or under the property of the authority for as long a period and upon the same terms as it had the right to maintain and operate such facilities in their former location. (1994, c. 61.)

§ 22C-1-24. Financial interest in contracts prohibited; penalty.

No officer, member or employee of the authority shall be financially interested, directly or indirectly, in any contract of any person with the authority, or in the sale of any property, real or personal, to or from the authority. This section does not apply to contracts or purchases of property, real or personal, between the authority and any governmental agency. If any officer, member or employee of the authority has such financial interest in a contract or sale of property prohibited hereby, he or she is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars, or imprisoned in the county jail not more than one year, or both fined and imprisoned. (1994, c. 61.)

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

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

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

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

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

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

ARTICLE 2.

WATER POLLUTION CONTROL REVOLVING FUND ACT.

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

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

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§ 22C-2-1. Definitions.

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

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

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

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

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

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

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

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

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

(c) "Fund" means the state water pollution control revolving fund provided for in this article as it may be expanded or modified from time to time pursuant

to the clean water act, as amended, the federal safe drinking water act, as amended or by the executive order of the governor issued to comply with federal laws relating to the acts.

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

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

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

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

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

(3) Drainage facilities and projects;

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

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

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

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

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

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

(a) Under the direction of the division of environmental protection, the water development authority shall establish, administer and manage a permanent and perpetual fund, to be known as the "West Virginia Water Pollution Control Revolving Fund." The fund shall be comprised of moneys appropriated to the fund by the Legislature, moneys allocated to the state by the federal government expressly for the purposes of establishing and maintaining a state water pollution control revolving fund, all receipts from loans made from the fund to local entities, all income from the investment of moneys held in the

fund, and all other sums designated for deposits to the fund from any source, public or private. Moneys in the fund shall be used solely to make loans to local entities to finance or refinance the costs of a project: Provided, That moneys in the fund shall be utilized to defray the costs incurred by the authority and the division of environmental protection in administering the provisions of this article: Provided, however, That moneys in the fund shall be used to make grants for projects to the extent allowed or authorized by federal law.

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

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

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

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

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

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

§ 22C-2-4. Annual audit.

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

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

In order to ensure the timely payment of all sums due and owing to the fund under a revolving fund loan agreement between the state and a local entity,

and notwithstanding any provisions of this code to the contrary, the authority has and may, at its option, exercise the following rights and remedies in the event of any default by a local entity under a loan agreement:

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

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

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

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

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

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

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

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

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

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

defray the costs incurred by the division of environmental protection in administering the provisions of this section. (1994, c. 61.)

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

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

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

§ 22C-2-8. Conflicting provisions.

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

ARTICLE 3.

SOLID WASTE MANAGEMENT BOARD.

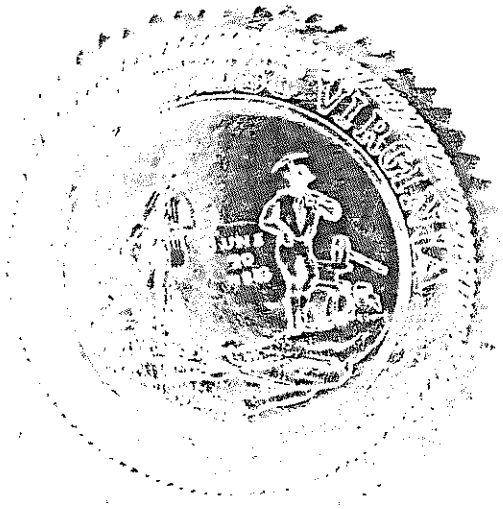
Sec.
22C-3-1. Short title.
22C-3-2. Legislative findings; declaration of policy and responsibility; purpose and intent of article.
22C-3-3. Definitions.
22C-3-4. Solid waste management board; organization of board; appointment and qualification of board members; their term of office, compensation and expenses; director of board.
22C-3-5. Board to designate and establish disposal sheds; construction, maintenance, etc., of disposal projects; loan agreements; compliance with federal and state law.
22C-3-6. Powers, duties and responsibilities of board generally.
Sec.
22C-3-7. Development of state solid waste management plan.
22C-3-8. Power of board to collect service charges and exercise other powers of governmental agencies in event of default; power to require governmental agencies to enforce their rights.
22C-3-9. Development and designation of solid waste disposal sheds by board.
22C-3-10. Board empowered to issue solid waste disposal revenue bonds, renewal notes and refunding bonds; requirements and manner of such issuance.
22C-3-11. Establishment of reserve funds, replacement and improvement funds and sinking funds; fiscal

State of West Virginia

Certificate

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

THIS IS A TRUE COPY OF CHAPTER 31, ARTICLE 15A OF THE WEST VIRGINIA CODE AND CHAPTER 31, ARTICLE 15A OF THE 1998 CUMULATIVE SUPPLEMENT TO THE WEST VIRGINIA CODE AS INDICATED BY THE RECORDS OF THIS OFFICE.



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

Sixteenth *day of*

December *19* 98

Ken Hechler

Secretary of State

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

§ 31-15-29. Audits.

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

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

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

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

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

§ 31-15-32. Severability.

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

§ 31-15-33. Construction.

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

ARTICLE 15A.

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL.

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

§ 31-15A-1. Short title.

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

§ 31-15A-2. Definitions.

For purposes of this article:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 15B.

INFRASTRUCTURE BONDS.

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

§ 31-15B-1. Definitions.

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

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

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

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

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

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

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

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

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

MICHIE'S WEST VIRGINIA CODE ANNOTATED

VOLUME 10

1996 Replacement Volume

1998 SUPPLEMENT

Including Acts passed during the 1998 Regular and First Extraordinary Sessions

Prepared by the Editorial Staff of the Publisher
under the direction of
Ruth P. Knight, Legal Analyst
Peggy Campos, Coordinating Editor
Nancy Anderson, Editor
Jack Haley, Indexing Legal Analyst
Jean Kindrick, Indexing Coordinating Editor

Place in pocket of corresponding bound volume

LEXIS LAW PUBLISHING
CHARLOTTESVILLE, VIRGINIA
1998

ARTICLE 15A.

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL.

Sec.

31-15A-2. Definitions.
31-15A-8. Exemption of certain emergency projects from certificate of public convenience and necessity requirements; review of certain emergency projects by public service commission; and exemption for North Fork Hughes River watershed project.
31-15A-10. Recommendations by council for expenditures of funds by loan, grant or for engineering assistance.
31-15A-11. Reservation of funds for projects and infrastructure projects.
31-15A-13. Prohibition on funds inuring to the benefit of or being distributable to water development board; transactions between the water development board and officers having certain interests in such transactions.
31-15A-16. Dedication of severance tax proceeds.
31-15A-17. Water development authority empowered to issue infrastructure revenue bonds and refunding bonds; creation of infrastructure revenue debt service fund; funding of infrastructure revenue debt service fund; requirements and manner of such issuance.
31-15A-18. Trustee for holders of infrastructure revenue bonds; contents of trust agreement.
31-15A-19. Legal remedies of infrastructure revenue bondholders or noteholders and trustees.
31-15A-20. Infrastructure revenue bonds lawful investments.
31-15A-21. Purchase and cancellation of infrastructure revenue bonds.
31-15A-22. Refunding revenue bonds.
31-15A-23. Infrastructure revenue bonds not debt of state, county, municipality or any political subdivision.
31-15A-24. Infrastructure revenue bonds exempt from taxation.

§ 31-15A-1. Short title.

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

§ 31-15A-2. Definitions.

For purposes of this article:

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

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

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

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

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

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

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

(h) "Emergency project" means a project which the council has determined: (1) Is essential to the immediate economic development of an area of the state; and (2) will not likely be developed in that area if construction of the project is not commenced immediately;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(x) "Water facility" means all facilities, land and equipment used for or in connection with the collection and/or storage of water, both surface and underground, transportation of water, storage of water, treatment of water and distribution of water all for the purpose of providing potable, sanitary water suitable for human consumption and use. (1994, 1st Ex. Sess., c. 26; 1998, c. 180.)

Effect of amendment of 1998. — The amendment, effective June 12, 1998, inserted the present (a), and redesignated the former (a) through (*l*) as (b) through (m); inserted (n), and redesignated the former (m) through (v) as (o) through (x); in (w), substituted "article one, chapter twenty-two-c of this code" for "article five-c, chapter twenty of this code"; and made stylistic changes.

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

(a) If the council determines a project to be an emergency and the emergency project will be funded solely with grant money for the extension of an existing certificated water facility or wastewater facility, and if the council finds in its recommendation that the construction and acquisition of the

emergency project will have no effect on the public utility's customer rates and will have no significant effect on its operational costs as a result of the project cost, then the emergency project is exempt from the requirement to obtain a certificate of public convenience and necessity under section eleven, article two, chapter twenty-four of this code. If the public utility is a public service district, it is exempt from the approval of the public service commission required under section twenty-five [§ 16-13A-25], article thirteen-a, chapter sixteen of this code.

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

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

(d) The North Fork Hughes River watershed project, proposed to enhance economic growth and development through tourism as provided in subsection (*l*), section two [§ 31-15A-2(*l*)] of this article and to include a water facility project as defined in subsection (n), section two [§ 31-15A-2(n)] of this article, is hereby specifically exempted from any requirement imposed by this article, except that the provisions of subsection (a) of this section are specifically made applicable to the project. The project is hereby specifically authorized and the public land corporation shall have and may exercise the power of eminent domain and all authority otherwise prescribed by law to acquire necessary land and rights-of-way, to include approximately four hundred seventy-eight acres, in connection with the project. Funding for the project shall be provided by the federal government from the Appalachian regional commission through the United States soil conservation service. Upon completion of the project, the property acquired shall be transferred to the state park system. The commissioner of the division of tourism and parks or the successor to the commissioner's powers and duties is directed to expand the boundaries of North Bend state park to include the project area and to operate the expanded park property, including improved recreational facilities, from funds appropriated for that purpose. (1994, 1st Ex. Sess., c. 26; 1998, c. 180.)

Effect of amendment of 1998. — The amendment, effective June 12, 1998, in (d), in the first sentence, substituted "subsection (*l*)" for "subsection (k)," "subsection (n)" for "subsection (m),"and "subsection (a)" for "subdivision (a)"; and made a stylistic change.

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

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

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

(c) Notwithstanding any other provision of this article to the contrary, the council shall apply a mandatory minimum end user utility rate that must be met by the project sponsor before funding assistance may be awarded. The mandatory minimum end utility rate shall be be based upon a uniform statewide percentage of the median household income in a particular geographic area and said rate shall not exceed six tenths of one percent: Provided, That funding assistance shall be provided by the council on a pro rata basis divided equally among the regions of the state as delineated in accordance with article twenty-five [§ 8-25-1 et seq.], chapter eight of this code. When determining median household income of a geographic area of the project to be served, the council shall consider any surveys of the income of the households that will be served by the project.

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

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

(f) The council shall report to the governor, the speaker of the House of Delegates and the president of the Senate during each regular and interim session of the Legislature, on its activities and decisions relating to distribution or planned distribution of grants and loans under the criteria to be developed pursuant to this article. (1994, 1st Ex. Sess., c. 26; 1995, c. 130; 1998, c. 180.)

Effect of amendment of 1998. — The amendment, effective June 12, 1998, added (f); rewrote (c); and made a stylistic change.

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

Eighty percent of the funds deposited in the West Virginia infrastructure fund shall be dedicated for the purpose of providing funding for the cost of projects as defined in subsection (n), section two [§ 31-15A-2(n)] of this article. Twenty percent of the funds deposited in the West Virginia infrastructure fund shall be dedicated for the purpose of providing funding for costs of infrastructure projects as defined in subsection (*l*), section two [§ 31-15A-2(*l*)] of this article. Project sponsors of infrastructure projects shall follow the application process as established by this article: Provided, That notwithstanding any provision of this article to the contrary, all applications for any infrastructure project shall be submitted to the council for community and economic development, or its successor, for review, recommendation and approval regarding infrastructure project funding. (1994, 1st Ex. Sess., c. 26; 1998, c. 180.)

Effect of amendment of 1998. — The amendment, effective June 12, 1998, in the first sentence, substituted "subsection (n)" for "subsection (m)," and in the second sentence, substituted "subsection (*l*)" for "subsection (k)."

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

No part of the infrastructure fund or the West Virginia infrastructure revenue debt service fund shall inure to the benefit of or be distributable to the water development board directors or officers of the water development authority except that the water development authority is authorized and empowered to pay reasonable compensation, other than to members of the water development board, including the chairman, vice chairman, secretary-treasurer for services rendered and to make loans and exercise its other powers as previously specified in furtherance of its corporate purpose: Provided, That no loans shall be made, and no property shall be purchased or leased from, or sold, leased or otherwise disposed of, to any water development board member or officer of the water development authority. (1994, 1st Ex. Sess., c. 26; 1998, c. 180.)

Effect of amendment of 1998. — The amendment, effective June 12, 1998, inserted "or the West Virginia infrastructure revenue debt service fund."

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

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

THE CHARTER

OF THE

CITY OF MULLENS, WEST VIRGINIA

TABLE OF CONTENTS

EDITOR'S NOTE: This Part contains the Charter of the City of Mullens deriving from Chapter 8 of the 1929 Special Sessions Acts of the West Virginia Legislature. Dates appearing in parentheses following section headings indicate those sections were subsequently amended, added or repealed on the date given.

Sec. 1. City as Body Corporate.
Sec. 2. Corporate Limits. (6-9-53; 6-6-61; 6-15-81)
Sec. 3. City Exempt from Cost of Construction of Roads outside City; Exception.
Sec. 4. Composition of Board of Commissioners; Board of Commissioners to Exercise Corporate Powers. (6-14-60)
Sec. 5. Powers of Board of Commissioners.
Sec. 6. Qualification of Voters.
Sec. 7. Registration of Voters.
Sec. 8. Election of Mayor and Commissioners. (6-14-60)
Sec. 9. Eligibility of Mayor and Commissioners.
Sec. 10. Appointment of Election Officials; How Elections Conducted and Declared.
Sec. 11. Board of Commissioners Vested with Legislative Authority of City.
Sec. 12. Board of Commissioners' Meetings and Minute Book.
Sec. 13. Voting. (6-14-60)
Sec. 14. Additional Powers of Board of Commissioners.
Sec. 15. Interest in City Contracts Prohibited.
Sec. 16. Surety on Bonds.
Sec. 17. Appointive Officers.
Sec. 18. Powers and Duties of Mayor; Appeals.
Sec. 19. Salaries of Mayor and Commissioners. (9-14-81)
Sec. 20. County Jail to be City Jail.
Sec. 21. Mayor's Docket.
Sec. 22. Duties of City Clerk as to Board of Commissioners and Municipal Court.
Sec. 23. Clerk to Make Out and Collect Tax Tickets.
Sec. 24. Duties of Clerk; Hours; Settlements; Salary.
Sec. 25. Bond of Clerk; Power of Distraint; Delinquent Lists.

Sec. 26. Clerk as City Assessor.
Sec. 27. Qualifications, Duties and Compensation of City Solicitor.
Sec. 28. Duties, Bond and Compensation of City Treasurer.
Sec. 29. Duties and Removal of Appointive Officers.
Sec. 30. Oaths of Officers; Proceedings of Bonds Payable to City.
Sec. 31. Qualifications, Salary and Duties on Members of Board of Health.
Sec. 32. Lien for Taxes and Fines.
Sec. 33. City Licenses.
Sec. 34. Acquisition of Land for Cemetery Purposes; Maintenance.
Sec. 35. Condemnation of Property.
Sec. 36. Procedure for Passing Ordinances.
Sec. 37. Franchises.
Sec. 38. Estimates and Levies by Board of Commissioners.
Sec. 39. Assessment of Cost for Removing Snow, Rubbish.
Sec. 40. Execution of Summons or Other Process.
Sec. 41. Penalty for Failure to Perform Duties.
Sec. 42. Powers and Duties of City Manager.
Sec. 43. Ordinances not Inconsistent with Charter to Remain in Force.
Sec. 44. Present Officers to Continue.
Sec. 45. Rights and Liabilities of City to Continue in Force.
Sec. 46. Manner of Making or Financing Public Improvements.
Sec. 47. Ornamental Street Lighting; Right to Acquire Land for Garbage Dump or Incineration Plant.
Sec. 48. Provisions of Acts Separable.
Sec. 49. Inconsistent Acts Repealed; Exception as to Previous Acts.

THE CHARTER

OF THE

CITY OF MULLENS, WEST VIRGINIA

SEC. 1. CITY AS BODY CORPORATE.

(a) The inhabitants of so much of the county of Wyoming as is within the bounds prescribed by Section Two of this Act, and their successors, shall be and remain, and they are hereby made a body politic and corporate by the name of "The City of Mullens," and as such shall have perpetual succession and a common seal; and by that name may sue and be sued, plead and be impleaded, purchase, lease and hold real estate and personal property necessary to the purpose of said corporation.

(b) The City of Mullens is hereby empowered to accept any gift or devise of any property or thing which lawfully may be given, whether said gift or devise be given direct to the said City of Mullens, or to its executive officers for and on its behalf. And the said City of Mullens is hereby invested with the title to the property which is or may be the subject of such gift or devise.

SEC. 2. CORPORATE LIMITS.

(a) The corporation territorial limits of said City of Mullens shall hereafter be as follows:

Beginning at the south end of the first railroad bridge up the Slab Fork of Guyandotte River; thence south twenty degrees fifty minutes west for one thousand four hundred sixty-nine and eighty-seven one-hundredths feet to a chestnut oak and hornbeam; thence south sixty-seven degrees seven minutes west for eight hundred and one and sixty-three one-hundredths feet to two chestnut oaks; thence south seventy-three degrees twenty-one minutes west for two thousand six hundred and twenty-three feet to a stake on the lease line of the Mead Pocahontas Coal Company; thence with the lease line of said company, north seventy degrees twenty minutes west for one thousand three hundred and thirty-two feet to a stone; thence south nineteen degrees forty minutes west for two thousand three hundred and two and seventy one-hundredths feet to a stone; thence south thirty-eight degrees forty minutes west for three thousand six hundred and twenty-eight and thirty one-hundredths feet to a stone; thence south twenty-four degrees twenty-nine minutes east for two hundred feet to a stone; thence south thirty-seven degrees eight minutes east for approximately four hundred feet to a point in Guyandotte River, leaving the lease line of the Mead Pocahontas Coal Company at two hundred and eighty feet from the above mentioned stone; thence up the River of Guyandotte and with the meanders of same for approximately two thousand six hundred feet to a point in Guyandotte River and on the old original corporation of Mullens line, thence with said line south four degrees twelve and one-half minutes east for two hundred feet to a birch and small hickory; thence continuing on the old line of the corporation of Mullens, south sixty-three degrees twelve minutes east for one thousand five hundred and thirty-one and seventy-seven one-hundredths feet to a white oak; thence north sixty-nine degrees thirty minutes east for one thousand six hundred and ninety-five and thirty-nine one-hundredths feet to two black oaks; thence south eighty-three degrees nine minutes east for two thousand one hundred and thirty-six feet to a stake near the Virginian Railroad; thence north fifty-three degrees fifty-six minutes east for five hundred and ninety-five and ninety-eight one-hundredths feet to

three white oaks; thence north thirteen degrees fifty-one minutes west for eight hundred and one and seventy-eight one-hundredths feet to a stake; thence north twenty degrees sixteen and one-half minutes east for four thousand six hundred and sixty-four and four one-hundredths feet to a gum; thence north one degree sixteen and one-half minutes east for eighty-five feet to a stake; thence north three degrees twenty-five minutes east for one thousand three hundred and thirteen and twenty-five one-hundredths feet to two lynns, maple and small oak; thence north forty-nine degrees nine minutes west for two thousand two hundred and forty-two and thirty one-hundredths feet to a chestnut oak; thence south eighty-eight degrees eighteen and one-half minutes west for one-hundred and forty-eight and sixty-seven one-hundredths feet to a place of beginning.

(b) The following described territory is also included in the territorial limits of said City of Mullens:

Beginning at a present corner on the corporation line of the City of Mullens (said corner being situated N. 67°07'E. for 801.63 feet from another corner on said corporate lines), thence leaving present corporation line and running in a northerly direction for 1750.0 feet, more or less to a point on westerly right of way line of Virginian Railway, said point being at southern end of Virginian Railway tunnel, thence with said westerly right of way line of the Virginian Railway in a general northerly direction for 3700.0 feet to station 945+20 of Virginian Railway, thence in a southwest direction at right angles to right of way lines for 100.0 feet to a point on easterly right of way line of Virginian Railway, said point being northwest corner of property of Board of Education at site of Conley High School building, thence with westerly boundary line of said Board of Education property S. 40°38'W. for 200.0 feet, thence S. 52°22'W. for 172.36 feet to a point in center of Slab Fork Creek, thence up the Creek S. 46°53'E. for 158.0 feet, thence leaving Creek and running S. 43°07'W. for 84.0 feet to a point on northerly right of way line of State Road No. 5, thence leaving Board of Education property and running in a southerly direction for 50.0 feet, more or less, to a point on southerly right of way line of State Road No. 5, said point being the northeast corner of Tract No. 5, of 9.70 acre tract S. 15°18'W. for 1230.0 feet, more or less, thence leaving easterly boundary line of said 9.70 acre tract and running S. 60°00'E. for 105.0 feet, more or less, to northwest corner of Board of Education property at site of Mullens High School Athletic Field, thence with northerly boundary line of said property of Board of Education N. 54°42'E. for 380.36 feet, S. 86°25'E. for 420.07 feet, thence leaving Board of Education and running with boundary lines of Tracts Nos. 2 and 3 of 12.80 acres, acquired by Mullens Land and Insurance Agency from Wyoming Land Company S. 74°46'E. for 201.9 feet, S. 76°51'E. for 198.0 feet, S. 82°34'E. for 122.7 feet, N. 89°34'E. for 234.4 feet, S. 31°22'W. for 826.9 feet, S. 37°10'W. for 519.4 feet to a point on easterly right of way line of State Road No. 5, thence with easterly right of way line of State Road No. 4 in a southerly direction for 100.0 feet, more or less, to intersection with easterly right of way line of Virginian Railway thence with easterly right of way line of Virginian Railway in a northerly direction to intersection with extension of present corporation line of City of Mullens, thence with said extension S. 20°50'W. for 50.0 feet, more or less, to a present corner on corporation line of City of Mullens, thence with said corporation line S. 20°50' W. for 1469.87 feet to the place of beginning. (Amended 6-9-53; 6-6-61.)

(c) That certain area of land situate generally between the right of way of State Route No. 54, and Slab Fork Creek; and more particularly described as follows:

Beginning at a point in the easterly right of way line of State Route No. 54 (now designated as Route 54), which is a common point of the corporate boundary of the City of Mullens and a northwest corner of Tract No. 4 of the Mullens Land and Insurance Agency Addition; thence following the said easterly line of said right of way to the southwest corner of a tract of land conveyed to Wyoming General Hospital Inc. by the Board of Education of Wyoming County, West Virginia (said corner being in said highway right of way line), then following the said highway right of line N. 86°49'36"E., 202.24', N. 85°28', 42"E., 81.97', N. 97.55', N. 60°47'36"E., 109.37', N. 52°42'E., 67.90',N. 44°13'E., 113.77', N. 35°40'E., 56.70, N. 60°22'E., 69.93' to a point in said right of way line which is the northwest corner of the land acquired by said Wyoming General Hospital; thence S. 43°56'48"E., 163.49', S. 24°31'E., 120.50 thence S. 30°56'33"W., 099.21 S. 42°25'W., 85.90', S. 62°29'W., 54.20' N. 81°21'W., 101.40' N. 88°30'30"W., -25.61', N. 82°56'30"W., 152.41', N. 66°2-'W., 115.81', N.58°46'12"W., 140' which is a point 10 feet from the easterly right of way line of said State Highway Rt. No. 54; thence paralleling the easterly line of said right of way line, uniformly 10 feet therefrom, in a westerly direction to the corporation line of the City of Mullens, thence following said corporation line in a northerly direction to the point of beginning, being largely the area of the land acquired by the Wyoming General Hospital Inc. (Amended 6-15-81.)

SEC. 3. CITY EXEMPT FROM COST OF CONSTRUCTION OF ROADS OUTSIDE CITY; EXCEPTION.

The City of Mullens shall construct, maintain and control its streets and roadways, and be exempt from the payment of taxes for the construction and maintenance of roads outside of the City limits, except that where the people of the City have heretofore by special election joined in the issuance of bonds for permanent road improvements within and without the City limits and have assumed their share of such obligations. This Act shall not exempt the taxable property of the City from the payment of any special taxes provided in said election for the liquidation of said indebtedness; nor shall this Act prevent the future participation of the City in permanent road improvement by special vote of the people under the laws of the State of West Virginia; (but the said County of Wyoming shall be chargeable with the construction and maintenance of all bridges within the City.)

SEC. 4. COMPOSITION OF BOARD OF COMMISSIONERS.

The Municipal authorities of the City of Mullens shall be a Mayor and four Commissioners, who shall constitute and be known as "The Board of Commissioners of the City of Mullens." All the corporate powers of said City shall be vested in and exercised by the Board of Commissioners or under its authority and direction, except as otherwise provided in this Act. (Amended 6-14-60.)

SEC. 5. POWERS OF BOARD OF COMMISSIONERS.

(a) The Board of Commissioners of said City shall have and is hereby granted power to open, vacate, broaden, change grade of, and pave streets, alleys, sidewalks and gutters for public use, and to alter, improve, embellish and ornament and light same, and to construct and maintain public sewers and laterals; and shall, in all cases, have power and authority to assess upon and collect from the property benefitted hereby, such part of the expense thereof as shall be fixed by ordinance, except as hereinafter provided; to have control of all streets, avenues, roads, alleys and grounds for public use in said City, and to regulate the use thereof and driving thereon, and to have the same kept in good order, and free from obstruction, pollution or litter on or over them; to have the right to control all bridges in said City, and traffic passing thereover; provided, however, that nothing in this Act shall be construed as to require the City of Mullens to build or keep in repair any bridge, or bridges, within the said corporation owned by the State or County, and the officers of said City, in preservation of law and order shall have jurisdiction over said bridge or bridges within said corporation; to change the name of any street, avenue or road within said City, and to cause the numbering of houses on any street, avenue or road therein; to regulate and determine the width of streets, sidewalks, roads and alleys therein; to order and direct the curbing and paving of sidewalks, roads and footways for public use in said City; to prohibit and punish for the abuse of animals; to restrain and punish vagrants, mendicants, beggars, tramps, prostitutes, drunken or disorderly persons within the City, and to provide for their arrest and manner of punishment, to prohibit and punish by fine the bringing into the City, by railroads or other carriers of paupers or persons afflicted with contagious diseases; to control and suppress disorderly houses, houses of prostitution or ill fame, houses of assignation, and gaming houses and to punish gaming and to suppress gaming and gambling in any form, or the operation of gaming and gambling devices within said City, to prohibit within said City, or within one mile thereof, slaughterhouses, soap or glue factories and houses of like kind; to control the construction and repair of all houses, basements, walls, bridges, culverts and sewers, and to prescribe and enforce all reasonable regulations affecting the construction of the same, and to require permits to be obtained for such buildings and structures, the plans and specifications thereof to be first submitted to a City Architect or Buildings Inspector; to control the opening and construction of ditches, drains, sewers, cesspools and gutters, and to deepen, widen and clean the same of stagnant water or filth, and to prevent obstruction therein, and to provide, contract for and construct an adequate sewerage system for said City, and to provide for additions to and extensions of the present system and to determine at whose expense the same shall be done; except as herein provided; and to build and maintain fire stations, houses, police stations and jails and to regulate the management thereof; to acquire, lay off, operate and control public grounds, squares and parks either within or without the City limits as herein defined. And when the Board of Commissioners determine that any real estate is necessary to be acquired by said City for any such purpose, or for any public purpose, the power of eminent domain is hereby conferred upon said City, and it shall have the right to institute condemnation proceedings against the owner thereof in the same manner, to the same extent, and upon the same conditions as such

power is conferred upon public corporations by Chapter Forty-Two, Code of West Virginia, of one thousand nine hundred and twenty-three, and as now amended; to purchase, sell, lease or contract for and take care of all public buildings and structures and real estate, including libraries and hospitals deemed proper for use of such City; and for the protection of the public; to cause the removal of unsafe walls or buildings, and the filling of excavations; to prevent injury or annoyances to the business of individuals from anything dangerous, offensive or unwholesome; to abate and prohibit, or cause to be abated and prohibited, all nuisances, and to that end and thereabout to summon witnesses and hear testimony; to regulate the keeping of gunpowder, gasoline, dynamite and other combustible or dangerous articles; to regulate, restrain or prohibit the use of firecrackers or other explosives or fireworks, and all noises or performances which may be dangerous, or annoying to persons or tend to frighten horses or other animals; to provide for shade and ornamental trees and the protection of the same; to provide for the making of division fences; to make proper regulations for guarding against danger or damage from fires; to prohibit within the City the carrying on of the business of clairvoyant or fortunetelling in any form; to provide for the poor of the City, and to that end may contract with the proper authorities of Wyoming County to keep and maintain the poor or any number thereof, upon terms to be agreed upon; to build, own and maintain a home for the poor; to make reasonable regulations in regard to the use of the streets and alleys for automobiles, auto trucks, cars and other vehicles and to regulate the running and operation of the same so as to prevent injury to the public and to the public highways; to prohibit prize fighting, cock and dog fighting; to license, tax, regulate or prohibit theatres, motion picture shows, circuses, the exhibition of showmen and shows of any kind, and the exhibition of natural or artificial curiosities, caravans, menageries, and musical exhibitions and performances, and other thing or business on which the State does or may exact a license tax; to organize and maintain fire companies, and to provide necessary apparatus, engines, and implements for the same; to regulate and control the kind and manner of plumbing and electric wiring for the protection of the health and safety of said City; to provide for the annual assessment of taxable persons and property within said City, and to levy taxes and licenses on persons and property to license and tax dogs and other animals, and regulate, restrain and prohibit them and all other animals, and fowls from running at large; to provide revenue for the City and appropriate the same to its expenses, to adopt rules for the transaction of business and for its own regulation and government to promote the general welfare of the City, and to protect the persons and property of the citizens therein; to regulate and provide for the weighing of produce and other articles sold in said City, and to regulate the transportation thereof, and other things through the streets; to have the sole and exclusive right to grant, refuse, or revoke any and all licenses for the carrying on of any business within said City on which the State exacts a license; to regulate and prohibit the placing of signs, billboards, posters and advertisements in, on or over the streets, alleys, sidewalks and public grounds of said City; to regulate or prohibit the placing of signs, billboards, posters and advertisements on private property within said City; to preserve and protect the peace, order and safety and health of the City, and its inhabitants, including the right to regulate the sale and use of cocaine, morphine, opium and poisonous drugs; to appoint and fix the place of holding City elections; to provide for the purity of water, milk, meats and provisions offered for sale in said City, and to that end provide for a system

of inspecting the same, and making and enforcing rules for the regulation of their sale, and to prohibit the sale of any unwholesome or tainted milk, meats, fish and fruits, vegetables or the sale of milk containing water or other things not constituting a part of pure milk; to provide for inspecting dairies and slaughterhouses, whether in or outside of the City, where the milk and meat therefrom are offered for sale within said City; to prescribe and enforce ordinances and rules for the purpose of protecting the health, property, lives, decency, morality and good order of the City and its inhabitants, and to protect places of divine worship in and about the premises where held, and to punish violations of such ordinances, if the offense under and of the State of West Virginia, or the common law; to provide for the employment and safe keeping of persons who may be committed in default of the payment of fines; penalties or costs under this Act, who are otherwise unable to give bond to secure the payment of such fines and cost, or fail to discharge the same by putting them to work for the benefit of the City upon the streets or other places provided by said City, and to use such means to prevent their escape while at work, as the Board of Commissioners may deem expedient; to compel the attendance at public meetings of the members of the Board of Commissioners; to have and exercise such additional rights, privileges and powers as are granted to municipalities by Chapter Forty-Seven, of Barnes' one thousand nine hundred and twenty-three West Virginia Code, or as amended. And for all such purposes, except that of taxation, the Board of Commissioners shall have jurisdiction, when necessary, for one mile beyond the corporate limits of said City.

(b) And the Board of Commissioners shall have and is hereby granted power to take, acquire and hold by condemnation, purchase, donation or otherwise, any and all real estate necessary for public purposes within said City, or adjacent thereto; provided, that said City shall at no time hold more than fifty acres without the corporate limits of said City, nor more than twenty acres within the limits of said City; nor shall said City authorities have the right to acquire by purchase, a condemnation or gift any land more than four miles distant from the corporate limits of said City.

(c) And the Board of Commissioners shall have power to prohibit the manufacture, sale, keeping or storing for sale in the City, or offering, or exposing for sale all liquors or absinthe, or any drink compounded with absinthe in said City, subject to the provisions of law; and liquors as used in this Act shall be construed to embrace all malt, vinous or spirituous liquors, wine, port, ale, beer, or any other intoxicating drink, mixture or preparation of like nature; and all malt or brewed drinks, whether intoxicating or not, shall be deemed malt liquors within the meaning of this Act; and all liquors, mixtures or preparations, whether patented or not, which shall produce intoxication, and all beverages containing so much as one-half of one-per centum of alcohol by volume shall be deemed spirituous liquors and shall be embraced in the word liquors as used in this Act.

(d) The Board of Commissioners shall have authority to pass all ordinances (not repugnant to the Constitution of the United States and the Constitution of this State) which shall be necessary or proper to carry into full effect and power, any authority, capacity and jurisdiction which is or shall be granted or vested in the said City, or in the Board of Commissioners, or in any officer or body of officers of said City, and to enforce any or all ordinances by reasonable fines and penalties and by imprisoning the offender or offenders, and upon failure to pay any fine or penalty imposed, by compelling them to labor without compensation on any of the public works or improvements undertaken, or to be undertaken by said City, or to labor at any work which the City may lawfully employ labor upon, at such rate per diem as the Board of Commissioners may fix, but not at a less rate than is fixed by said Board of Commissioners for like labor from other employees of said City, until any fine or fines imposed upon any such offender, or offenders, by said City shall have been fully paid and discharged, after deducting charges of support while in the custody of the officers of said City.

SEC. 6. QUALIFICATION OF VOTERS.

Every person who may have resided within the territory of said City for six months next preceding an election held therein, and who is a qualified voter under the laws and Constitution of this State, and none other, shall be entitled to vote at any City election held in said City. But no person shall be deemed a resident of said City by reason of being a student or teacher in any school or college therein for any temporary purpose.

SEC. 7. REGISTRATION OF VOTERS.

The Board of Commissioners shall by ordinance provide such regulations for the registration of voters as the State law may require.

SEC. 8. ELECTION OF MAYOR AND COMMISSIONERS.

On the second Tuesday in June, one thousand nine hundred and sixty-two, and on the same day every four years thereafter, there shall be elected by the qualified voters of the City a Mayor and four Commissioners, who shall hold their offices from the first day of July in the year in which they are elected and qualified. (Amended 6-14-60.)

SEC. 9. ELIGIBILITY OF MAYOR AND COMMISSIONERS.

No person shall be eligible to the office of Mayor or Commissioner except he be assessed with and own at least five hundred dollars worth of real or personal property, and is a citizen entitled to vote at the election at which he is elected.

SEC. 10. APPOINTMENT OF ELECTION OFFICIALS; HOW ELECTIONS CONDUCTED AND DECLARED.

(a) At least four weeks before an election, the Board of Commissioners (for the first election, the Council) shall appoint from among the qualified voters of their respective precincts, such election officers as are provided for by the laws of the State of West Virginia for holding of elections. The officers of election shall be selected from the two political parties which at the last preceding State election cast the highest number of votes in the precinct in which they reside, and not more than two of said Commissioners of

election, nor more than one Clerk, shall belong to the same political party. At least four weeks before the day of a Municipal election the City Clerk, on the recommendation of the chairman of the political parties, shall appoint two Ballot Commissioners from among the voters of the two aforesaid political parties within the City who with himself as chairman, shall constitute a Board of Ballot Commissioners.

(b) Elections under this act shall be conducted, returned and the results thereof ascertained and declared in the manner prescribed by the Constitution and laws of the State insofar as said laws are not inconsistent with this Act, and all penalties prescribed by said laws of the State insofar as consistent, shall be applicable in this Act.

(c) The Board of Commissioners shall by ordinance provide such additional regulations in conformity with the provisions of this Act as are necessary for the proper conduct of elections.

(d) The duties required of the Clerk of the Circuit Courts and County Courts, under the election laws of West Virginia, shall be performed by the City Clerk of said City. The duties required of the Commissioners of the County Court under the provisions of the State laws shall be performed by the Board of Commissioenrs of said City. The duties required of the Sheriff, under the provisions of said laws, shall be performed by the Chief of Police of said City, except as herein otherwise specifically provided.

SEC. 11. BOARD OF COMMISSIONERS VESTED WITH LEGISLATIVE AUTHORITY OF CITY.

The Board of Commissioners shall be vested with the legislative authority of the City, and shall exercise the same by ordinance; other action by them may be by order upon motion. They shall, by ordinance, prescribe the manner in which the powers conferred upon the City shall be exercised in conformity with the provisions of this Act.

SEC. 12. BOARD OF COMMISSIONERS' MEETINGS AND MINUTE BOOK.

(a) The Board of Commissioners shall fix by ordinance the place, manner and time of holding the meetings and shall hold at least one regular meeting each month.

(b) They shall cause to be kept in a well-bound book, called "City Journal," an accurate record of all their proceedings, bylaws, ordinances, orders and resolutions, and the same shall be open for public inspection during usual office hours.

SEC. 13. VOTING.

The affirmative vote of not less than three members of the Board of Commissioners shall be necessary to carry any question coming before said Board of Commissioners. (Amended 6-14-60.)

SEC. 14. ADDITIONAL POWERS OF BOARD OF COMMISSIONERS.

The Board of Commissioners shall fix the compensation of all appointive officials and employees of the City, order payment of approved accounts, hear and determine charges against officials of the City, other than members of their own body, require that the laws and ordinances be obeyed and enforced, cause the affairs of the City to be efficiently and economically administered, and perform such other duties as properly devolved upon the chief executive body of the City.

SEC. 15. INTEREST IN CITY CONTRACTS PROHIBITED.

No Commissioner or official of the City shall vote upon or in any way participate in the consideration of any proposition in which he is or may become interested directly or indirectly in any contract, sale or transaction, to which the City is a party, nor shall he vote on the same or participate in any manner in said contract, sale or transaction, under penalty, upon conviction, of forfeiture of his office, and a fine of not less than fifty dollars nor more than five hundred dollars.

SEC. 16. SURETY ON BONDS.

No Commissioner or official of said City shall be surety on any bond given to, or for the benefit of the City.

SEC. 17. APPOINTIVE OFFICERS.

(a) The Board of Commissioners may elect or appoint the following officers and employees:

(1) A City Clerk.
(2) A Chief of Police and members of the police force.
(3) A City Solicitor.
(4) A City Engineer.
(5) A City Treasurer.
(6) A Street Commissioner.
(7) Such other employees as may be necessary and provided for by ordinance.

(b) Each of said officers shall hold office for one year, and be subject to removal at any time for cause by the appointed body, and shall be eligible for reappointment.

(c) The duties shall be prescribed by the Board of Commissioners, and as herein provided. One person may be elected or appointed to, and discharge the duties of more than one of said offices.

SEC. 18. POWERS AND DUTIES OF MAYOR; APPEALS.

The Mayor shall preside at meetings of the Board of Commissioners; shall exercise authority and perform such duties as are conferred upon him or imposed upon him by this Act, or ordinances of the City, and the laws and Constitution of the State. He shall be the official head of the City for all ceremonial purposes, and upon whom service may be had in civil process and by the Governor for military purposes. He shall see that orders, bylaws, ordinances and resolutions of the Board of Commissioners are faithfully executed; he shall have power, during recess of the regular meeting of the Board of Commissioners to appoint special police officers, when he shall deem it necessary, and it shall be his duty to see that the peace and good order of the City are preserved, and that persons and property therein are protected; and to this end he may arrest, detain, or cause the arrest and detention of any riotous or disorderly persons in the City before issuing his warrant therefor. He shall have power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment he may commit the party in default to the City jail, or other place of imprisonment in such corporation, if there be one, until the fine and penalty and costs shall be paid; but the term of imprisonment in such cases shall not exceed ninety days. And in all cases where a person is sentenced to imprisonment or to the payment of a fine of ten dollars or more (and in no case shall a judgment for a fine of less

than ten dollars be given by the Mayor if the defendant, his agent or attorney objects thereto) such person shall be allowed an appeal from such decision to the Circuit Court of Wyoming County, upon the execution of an appeal bond, with surety deemed sufficient by the Mayor, in a penalty double the amount of the fine and costs imposed by the Mayor, with the condition that the person proposing to appeal will perform and satisfy any judgment which may be rendered against him by the said Court on such appeal. If such appeal be taken, the warrant of arrest, (if there be any) the transcript of judgment, the appeal bond and other papers of the case, shall be forthwith delivered by the Mayor to the Clerk of said Court, and the Court shall proceed to try the case as upon indictment or presentment, and render such judgment including that of the costs as the law and evidence may require.

SEC. 19. SALARIES OF MAYOR AND COMMISSIONERS.

1. That, pursuant to authority of Chapter 8, Article 5, Section 12, Code of West Virginia, as amended, beginning as of the 1st day of July, 1982, the salary of the Mayor of the City of Mullens, a municipal corporation, shall be and hereby is affixed at $6,600.00 dollars, per annum, payable in equal monthly installments of $550.00 each, subject to lawful withholdings, on the first day of each calendar month. (Amended 9-14-81)

2. The Commissioners shall each receive a salary of not less than two hundred dollars per annum, to be fixed by the Council for the first election, and thereafter by the Commissioners, at least sixty days before an election is to be held for the election of the officials. The salary of said Commissioners shall not be increased or diminished during their term of office.

SEC. 20. COUNTY JAIL TO BE CITY JAIL.

The City shall be allowed to use the County Jail of Wyoming County for the confinement of all persons who shall be sentenced to imprisonment under the ordinances of said City; and all persons confined in said County Jail by virtue hereof shall be under the charge and custody of the Sheriff of said County, who shall receive, keep and discharge the same in such manner as shall be prescribed by the ordinances of said City, or otherwise according to law.

SEC. 21. MAYOR'S DOCKET.

A book well bound and indexed, to be denominated "The Docket" shall be kept in the office of the Mayor, in which shall be noted each case brought or tried by him, together with the proceedings therein, including a statement of complaint, the summons, the return, the fact of appearance, the defense, the hearing, the judgment, the costs and, in case the judgment be one of conviction, the action taken to enforce the same; the record of such case shall be signed by the Mayor or other persons acting in his stead, and the original papers thereof if no appeal be taken, shall be kept together and preserved in his office.

SEC. 22. DUTIES OF CITY CLERK AS TO BOARD OF COMMISSIONERS AND MUNICIPAL COURT.

In addition to such duties as the Board of Commissioners shall prescribe, it shall be the duty of the City Clerk to keep the journal of the proceedings of the Board of Commissioners, and have charge of and preserve the records, papers, contracts and other documents belonging to the City; it shall be his duty to attend the sessions of the Municipal Court and keep an accurate record of its proceedings, and all judgments shall be entered by him within twenty-four hours after the same are rendered; he shall, in cases of sickness

or disability of the Mayor to act, or in case of his temporary absence, perform the duties of Mayor, and shall be vested with all the powers necessary for the performance of such duties. He shall also perform such other duties pertaining to the fiscal affairs of the City, or otherwise, as may be required by him by this Act, or by the Board of Commissioners.

SEC. 23. CLERK TO MAKE OUT AND COLLECT TAX TICKETS.

(a) The Clerk shall immediately, after the annual levy for the City taxes is laid, extend the same on the property books, including thereon any uncollected capitation taxes, and make out the tax tickets for the taxes therein extended; and it shall be the duty of the Clerk to make out all tax tickets in the same manner that they are made out for State and County taxes, and when the same shall have been examined, compared and approved by the Board of Commissioners, or an accountant or finance committee appointed for that purpose, and found to be correct, they shall be forthwith turned over to the Clerk, whose receipt shall be returned to the Commissioners and entered upon its record, and the Clerk shall be charged therewith.

(b) The Clerk shall give notice that said tax tickets are in his hands for collection, stating the penalty for nonpayment thereof, and the time and place where the same may be paid, which notice may be posted in conspicuous places in the City, or published in some newspaper published in the City.

(c) The Clerk shall immediately proceed to collect from the persons by distraint or otherwise, the entire amount of the taxes with which they are severally charged therein, and remaining unpaid on the first day of January next succeeding said levy with interest at the rate of one per centum per month from the first day of January until they are fully paid.

(d) All license taxes shall be payable on the first day of July of each year, or at such time as such license may be issued.

SEC. 24. DUTIES OF CLERK; OFFICE HOURS; SETTLEMENTS; SALARY.

The said Clerk shall receive all taxes, assessments, fines and costs or other money due the City authorities, or by an ordinance of the said City to be paid to the City and shall receipt for the same; he shall keep an accurate account of all money paid to him for the use of said City, showing under separate accounts amounts received for account of taxes, sewer purposes, street improvements or pavements, licenses, fines and costs and for all other matters and things pertaining to his office, which book or books shall be at all times open to the inspection of the Commissioners, or to any committee appointed by the Board of Commissioners for such purposes; he shall pay over promptly all money which he may receive, within five days after receipt thereof, into the hands of the Treasurer of the said City, showing an itemized statement of the several funds included in said payment, taking the Treasurer's receipt therefor; he shall keep his office at the office of the Mayor, unless otherwise ordered by the Board of Commissioners, and shall maintain office hours, or be at his office for the transaction of business at such times as the Board of Commissioners may prescribe; he shall, on or before the first day of January and July of each year, and oftener if directed by the Board of Commissioners, present to the said Board a full and complete statement of all money with which he is chargeable, or that has been received by him from all sources up to that time, together with the statement of all money paid to the Treasurer and proper

receipts therefor, and he shall at such times, return a list of all taxes, levies, assessments, and other claims in his hands for collection, which he shall not have been able to collect by reason of insolvency, removal, or other cause, to which list he shall append an affidavit that he has used due diligence to collect the several items therein mentioned, but has been unable to do so, and if the Board of Commissioners should be satisfied as to the correctness of said list, they may allow credit for said claims, but thereafter may direct the said City Clerk, or someone else, or may themselves take such lawful measures to collect the same as shall be by the Board of Commissioners prescribed. The said Clerk shall receive all taxes and licenses, and receipt to the party paying the same by endorsement upon the permit granted by order of the Board of Commissioners, and shall charge himself with the amount received from the same, and report to the Board of Commissioners at the next regular meeting thereafter, the amount so received, and pay the same over to the Treasurer, taking his receipt for the same; he shall upon the expiration of his term of office, or upon the order of the Board of Commissioners, turn over to his successor all money, books of accounts and other property of said City in his possession, and he, and his bondsman, shall not be released until such full and complete transfer to his successor has been made; he shall receive such salary as may be fixed by the Board of Commissioners.

SEC. 25. BOND OF CLERK; POWER OF DISTRAINT; DELINQUENT LISTS.

The Clerk of said City, before entering upon the discharge of his duties, shall execute a bond conditioned for the faithful performance of the duties of his office, and for the accounting for and paying over, as required by law and by this act, all money which may come into his hands by virtue of his office, with sureties satisfactory to the Board of Commissioners, payable to the City of Mullens, in a penalty not less than two thousand dollars nor more than ten thousand dollars, as the Board of Commissioners may prescribe; he shall be the custodian of all bonds, notes, certificates and other evidence of indebtedness to the City, together with all valuable papers which may be placed in his possession by the Board of Commissioners, except that the bond of the Clerk shall be deposited with the Mayor; he shall be chargeable with, and it shall be his duty to collect the City taxes, levies and assessments and other money due the City, under such regulations as may be prescribed by law and the ordinances of the City, and in case of nonpayment as defined by the laws of West Virginia, shall distrain and sell therefor in like manner and have the same power and authority possessed by the officer charged with the collection of State and County taxes, but if permitted to do so by the Board of Commissioners, the Clerk may and is hereby granted authority to deputize the Chief of Police or any police officer, to make any distraints, levies, assessments or sales that may be necessary in the collection of any taxes, licenses, assessments or any other money he is authorized to collect. And at the time and in the same manner provided by the laws of West Virginia for the return and publication of delinquent tax lists he shall make up a list of taxpayers who are delinquent for the nonpayment of taxes on personal property, and cause the same to be published in accordance with the laws of West Virginia for the publication of taxpayers delinquent for the nonpayment of State and County taxes on personal property; and at the time and in the manner prescribed by the laws of West Virginia, the said City Clerk shall return to the Auditor of West Virginia a list of the real estate in said City delinquent for the nonpayment of taxes, and the same shall be sold in the manner prescribed by law for such sales. If the Clerk shall fail to collect, account for and pay over to the Treasurer of said City any or all of the money with which he may be chargeable, belonging

to said City, according to the conditions of his bond and orders of the Board of Commissioners, it shall be lawful for the Board of Commissioners to recover the same in the manner herein provided.

SEC. 26. CLERK AS CITY ASSESSOR.

It shall be the duty of the Clerk to make an assessment of the property within the City subject to taxation, substantially in the manner and form in which assessments are made by the Assessor of the County, including the collection of the capitation tax for the City, and return the same to the Board of Commissioners on or before the first day of June of each year, and for this purpose he shall have all the powers conferred by law upon the County Assessors. He shall list the number of dogs and other animals subject to license tax in the City, and the names of persons owning the same, which list shall be returned and entered upon the record of the City. In order to aid the Clerk in ascertaining the property subject to taxation by said City, he shall have access to all books and public records of Wyoming County, without expense to him or said City, and he shall have the same power and be subject to the same penalties in ascertaining and assessing the property and subjects of taxation of said City as are granted and imposed on the County Assessors throughout the State by general law; and the Commissioners shall have authority to prescribe by general ordinance such other rules and regulations as may be necessary to enable and require such Clerk to ascertain and properly assess all property liable to be taxed by said City, so that such assessment and taxation shall be uniform and equal and the Commissioners may enforce such regulations by reasonable fines to be imposed on anyone failing to comply therewith. When he shall complete his assessment he shall deliver the same, when sworn to, to the Board of Commissioners, and shall make out, or cause to be made out, the real and personal property books.

SEC. 27. QUALIFICATIONS, DUTIES AND COMPENSATION OF CITY SOLICITOR.

The City Solicitor shall be an attorney at law admitted to practice in the State of West Virginia. He shall be the legal advisor of, and the attorney for the Municipality and for all officers thereof, in matters relating to their official duties; it shall be his duty to prepare when directed by the Board of Commissioners, all ordinances for said City, to represent the City in all matters and proceedings in any court in which the City is interested, and counsel the said Board of Commissioners when requested; he shall receive a compensation for his services to be fixed by the Board of Commissioners, not to exceed three hundred dollars per annum.

SEC. 28. DUTIES, BOND AND COMPENSATION OF CITY TREASURER.

(a) The Treasurer shall be appointed by the Board of Commissioners and hold office during the pleasure of the Board of Commissioners. All money due the City shall be paid to the Clerk, and be by the Clerk deposited with the Treasurer. The money deposited with the Treasurer shall be disbursed only upon order drawn against the same, signed by the Mayor and countersigned by the Clerk. The Treasurer shall receipt to the Clerk for all money paid by him, and shall keep the regular books of accounts, showing the amount of the several funds paid to, or deposited, with the Treasurer by said Clerk, and shall make report to the Board of Commissioners once a month, or at such other times as the Board of Commissioners may direct, showing the receipts and disbursements of the funds of the City, and the Treasurer shall produce his books and accounts to the Board of Commissioners, or any committee of the same for inspection upon the order of the Board of Commissioners.

(b) The Treasurer shall give bond with surety to be approved by the Board of Commissioners, in the sum of not less than five thousand dollars with condition that the said Treasurer account for and pay over all money received for the account of said City, as may be directed by the Board of Commissioners. The said Treasurer shall receive such compensation as the Board of Commissioners may fix, which shall not be more than two hundred dollars per annum. Any bank or trust company of said City is hereby authorized to act as Treasurer of said City, and the same shall be liable for all money deposited therein.

SEC. 29. DUTIES AND REMOVAL OF APPOINTIVE OFFICERS.

The Chief of Police, Street Commissioner, and other employees and officials deemed necessary by and appointed or employed by the Board of Commissioners, shall perform such duties as the Board of Commissioners shall by ordinance, resolution or order require. They shall be subject to removal at any time for cause by the Board of Commissioners without recourse to the City and the Board of Commissioners may direct the dismissal of an employee for cause.

SEC. 30. OATHS OF OFFICERS; PROCEEDINGS ON BONDS PAYABLE TO CITY.

(a) All officers, elective and appointive, shall make oath before someone authorized to administer oaths, that they will support the Constitution of this State and will faithfully and impartially discharge the duties of their respective offices, to the best of their skill and judgment; that they will not during their term of office, become pecuniarily interested, directly or indirectly, in any contract with the City, or the purchase of any supplies therefor. When the officer shall have made such oath in writing, and filed the same with the City Clerk, and shall have given bond, if any is required, he shall be considered as having qualified for the office to which he was elected or appointed.

(b) The bonds, obligations and other writings taken in pursuance of any provisions of this Act shall be made payable to the City of Mullens and the respective persons and their heirs, executors, administrators and assigns bound thereby, shall be subject to the same proceedings on the said bond, obligation or other writings, for enforcing the conditions of the terms thereof by motion or otherwise, before any court of record held in and for the County of Wyoming that collectors of County levies, and other sureties are, or shall be subject to liability on their bonds for enforcing payment of the County levies.

SEC. 31. QUALIFICATIONS, SALARY AND DUTIES OF MEMBERS OF BOARD OF HEALTH.

The Board of Commissioners shall, at its first meeting after election, and thereafter at the first meeting in July of each year, appoint and constitute a City Board of Health to be composed of a Chief Health Officer, who shall be a practicing physician of good standing in the City, who will serve faithfully for the compensation of not less than fifty dollars nor more than three hundred dollars per annum, and if no practicing physician of good standing will serve as such Chief Health Officer for said compensation, then the Board of Commissioners may appoint any reputable citizen as such Chief Health Officer, who, with the City Solicitor and two other citizens of good repute and interested in the welfare of the City, shall constitute the City Board of Health to exercise all power conferred upon County health officers

and boards by the laws of the State of West Virginia, and the said City Board of Health shall be independent of the County Board of Health, but shall bear the same relation to the State Health Department as County boards of health. The City Health Board shall protect the health of the City, and take such measures as may be advisable to prevent the spread of contagious diseases; establish and maintain quarantines when necessary and required by said laws; may establish rules of sanitation and enforce the same.

SEC. 32. LIEN FOR TAXES AND FINES.

There shall be a lien on the real estate within said City for the City taxes assessed thereon, and for all fines and penalties assessed to, or imposed upon the owners thereof by the authorities of said City from the time the same are so assessed or imposed, which shall have priority over all other liens, except the lien for taxes due the State, County and District, and which may be enforced by the Board of Commissioners or proper officer of the City in the same manner provided by law for the enforcement of the lien for county taxes.

SEC. 33. CITY LICENSES.

Concerning anything for which a State license is now, or may hereafter be required, said Board of Commissioners may require a City license therefor, and may impose a tax thereon for the use of the City; and the Board of Commissioners shall have, and is hereby granted, the sole and exclusive power to grant, refuse or revoke any such license or the license of the owners or keepers of hotels, hacks, carts, wagons, drays and every other description of wheeled vehicles kept or used for hire within the City, and to levy and collect a tax thereon and to subject the same to such regulations as the interest and convenience of the inhabitants of said City, in the opinion of the Board of Commissioners, may require; to license and tax owners and keepers of dogs within the City and provide for the killing of dogs, the keeping of which is not so licensed; to license and tax hawkers, peddlers, book agents and canvassers of all kinds within said City, and persons who temporarily station themselves on the streets to sell or exhibit articles and to license and impose a tax on any other business, occupation or profession, and the owners thereof, or the person, persons or corporation conducting the same, whether specifically mentioned herein or not, not contrary to the Constitution of the State of West Virginia. When any such license as hereinbefore mentioned is granted by said Board of Commissioners, said Board may, by ordinance, impose a tax thereon for the use of the City, the amount of which shall be left to the discretion of the Board. The Board of Commissioners shall prescribe by ordinance the manner in which licenses of all kinds shall be applied for and granted, and shall require the payment of the tax thereon to be made to the properly designated official of the City before delivering to the person applying therefor.

SEC. 34. ACQUISITION OF LAND FOR CEMETERY PURPOSES; MAINTENANCE.

The Board of Commissioners shall have, and is hereby given authority to acquire by condemnation, purchase or otherwise, any and all real estate within said City, or adjacent hereto, or not more than four miles removed, not to exceed twenty acres, necessary for cemetery purposes; to maintain and keep the

same in good condition and repair, and to provide, by taxation or otherwise, sufficient funds necessary to maintain and keep the same in good condition and repair; to regulate the burial of the dead within said cemetery, and to preserve the peace within all cemeteries acquired by it, whether situate within or without the corporate limits of said City, and all other cemeteries as will promote the public good.

SEC. 35. CONDEMNATION OF PROPERTY.

The Board of Commissioners shall have the right to institute proceedings in the name of the City for the condemnation of real estate for streets, alleys, sewers, drains, City prison, cemetery or cemeteries, for purposes of the public good, such proceedings shall conform to the provisions of Chapter Forty-Two of the Code of West Virginia and amendments thereto, and the costs thereof shall be borne by the City, except that in contests involving a hearing in a circuit court, costs shall be recovered by the prevailing party.

SEC. 36. PROCEDURE FOR PASSING ORDINANCES.

No ordinance or bylaw and no resolution or measure for the expenditure of money other than to defray the current expenses and incidental expenses of the City shall be deemed adopted or passed unless it shall have been fully read to two consecutive meetings of the Board of Commissioners, and shall have received a majority of the votes of all members of the Board of Commissioners, when it shall stand and be declared adopted, and not otherwise, except an ordinance for the immediate preservation of the public health, peace or safety, which shall contain a statement of its urgency.

SEC. 37. FRANCHISES.

(a) Franchises may be granted by the Board of Commissioners to persons or corporations, allowing such occupancy of portions of the streets and alleys as may be necessary for the works of public utility and service, but no such franchise shall be passed, granting any franchise for the use of any of the streets or alleys of the City for any of the purposes above named except under the following conditions:

(b) All applications for franchises must be filed with the said Clerk at least thirty days prior to the time when it is proposed that the Board of Commissioners shall act thereupon, and no action shall be taken until notice of such application, stating the object of such franchise, and when the same shall be considered by the Board of Commissioners, shall have been given for four successive weeks in some newspaper of general circulation published in the City; nor shall any franchise be granted within thirty days after the application has been filed, nor until an opportunity has been given any citizen or corporation interested in the granting or refusing of said franchise to be heard; nor shall any franchise be granted for a longer period than fifty years. No franchise shall be granted without provision that the grantee, its successors or assigns shall indemify the City against all damages caused by the construction of said utility.

SEC. 38. ESTIMATES AND LEVIES BY BOARD OF COMMISSIONERS.

(a) The Board of Commissioners shall, on the second Tuesday in August in each year, ascertain the condition of the financial affairs of said City and make up an itemized statement of the same which shall set forth in detail:

(1) First. The amount due said City and the amount that will become due thereto and collectible during the current fiscal year from every source, except the amount that will be produced by the levy of taxes to be made for the year.

(2) Second. The debts and demands owed by said City and the debts and demands that will become due and payable during the current fiscal year, including interest on any indebtedness, funded, bonded or otherwise.

(3) Third. All other expenditures under the several heads of expenditures to be made and payable out of the funds of said City for the current fiscal year, including the cost of collection of taxes and other claims with proper allowances for delinquent taxes and contingencies.

(b) The said statement shall, also, set forth the total amount necessary to be raised by the levy of taxes for the current fiscal year, the rate of such levy in cents on each one hundred dollars assessed valuation of the taxable property in said City and the separate and aggregate amounts of the assessed valuation of real estate, personal property and public utility property assessed by the Board of Public Works. A copy of which statement, duly certified by the Clerk of said City, shall immediately be forwarded to the State Tax Commissioner and said statement shall, also, be published twice, at least one week intervening between publications, in two newspapers of opposite politics, if such there be, published within the City, and if there be only one newspaper within the City, then in that newspaper. The session shall then stand adjourned until the fourth Tuesday in August, at which time it shall reconvene and it shall then be the duty of said Commissioners to hear and consider any objections made orally or in writing to said estimate and proposed levy, or any item thereof. It shall be the duty of the Commissioners to enter an order of record showing the objections so made, setting forth the reasons and grounds for such objections. After said objections have been made and heard, the Commissioners shall thereupon reconsider the proposed original estimate and proposed rate of levy, and if the objection thereto or any part thereof appear to be well taken, the Commissioners shall correct the same accordingly, and it shall, thereupon, be approved, and when approved shall, with the order approving it, be entered by the Clerk in its books of record of proceedings; the Commissioners shall, thereupon, by an ordinance lay a levy for the ensuing tax year of a sum not to exceed seventy-five cents on each one hundred dollars assessed valuation of all taxable property, real and personal, subject to taxation in said City, according to the last assessment thereof, as will produce the amount shown by the said statement approved to be necessary for Municipal purposes; a copy of the order laying levies, duly certified by the Clerk of said City shall be immediately forwarded to the State Tax Commissioner. The said Board of Commissioners is authorized to levy such maximum of seventy-five cents for Municipal purposes on each one hundred dollars of valuation, notwithstanding any general laws now in force or which may hereafter be enacted restricting the powers of Municipal corporations to levy taxes; and said maximum levy of seventy-five cents shall be exclusive of any amount required to be levied to care for any bonded indebtedness, or the interest accrued thereon.

(c) An annual capitation tax of one dollar may be levied upon each male inhabitant of said City who has attained the age of twenty-one years, and the said capitation taxes may be collected at the same time the assessment is made.

SEC. 39. ASSESSMENT OF COST FOR REMOVING SNOW, RUBBISH.

The Board of Commissioners shall have power to provide by ordinance for the assessing against the abutting property the cost of removing from the sidewalks all accumulations of snow and ice, and for assessing against the property the cost of cutting and removing noxious weeds, and the removing of papers, boxes, cartons, tin cans and other rubbish that renders said premises unsightly or unsanitary.

SEC. 40. EXECUTION OF SUMMONS OR OTHER PROCESS.

Whenever any notice is required to be given, or any summons, warrant or other process is required to be served or otherwise executed, under the provisions of this Act, it shall be sufficient if such notice, summons, warrant or other process be executed by an officer of the Police Department of said City in the same way or manner in which the laws of the State prescribe for executing summonses and subpoenas by State officers, unless otherwise provided by this Act.

SEC. 41. PENALTY FOR FAILURE TO PERFORM DUTIES.

If the Board of Commissioners fails or refuses to perform the duties hereinbefore or hereinafter named, every member of such Board of Commissioners and the Clerk thereof concurring in such failure or refusal, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than ten dollars nor more than one hundred dollars for each offense.

SEC. 42. POWERS AND DUTIES OF CITY MANAGER.

(a) If, at the end of any fiscal year, the Board of Commissioners may deem it in the interest of economy and efficiency in the administration of the City's affairs, it may appoint, employ or elect a City Manager, at compensation to be fixed by said Board of Commissioners, and such City Manager shall be the administrative head of the Municipal government under the direction and supervision of the Board of Commissioners; he may be given such powers and duties as are by this Act conferred upon any or all other officials appointed by the Board of Commissioners and such other powers and duties as the Board of Commissioners may prescribe, which are not in conflict with the Constitution and laws of this State; he shall be required to give such bond as is by this Act required of the City Clerk, and in the performance of any of the duties of the Clerk as prescribed herein, the said City Manager shall be held to all of the requirements and provisions pertaining to such duties hereunder.

(b) To carry into effect this section the Board of Commissioners may discontinue the office of City Clerk, or any other office, and redistribute the duties hereunder conferred upon the City Clerk and other officials and provide such assistance to the City Manager as may by the Board of Commissioners be deemed necessary. This section shall be without force and effect until such time as the Board of Commissioners, as provided herein shall declare by ordinance and proclamation that it shall go into effect.

SEC. 43. ORDINANCES NOT INCONSISTENT WITH CHARTER TO REMAIN IN FORCE.

All ordinances and resolutions in force at the time of the taking of this Act, not inconsistent with its provisions, shall continue in full force and effect until amended or repealed.

SEC. 44. PRESENT OFFICERS TO CONTINUE.

Persons holding office under the Municipal government of the City of Mullens, as at present constituted, shall continue in office and in the performance of their respective duties the first election under this Act is held, and thereafter so long as their services shall be required, pending a reorganization of the Municipal government to conform to the requirements of this Act.

SEC. 45. RIGHTS AND LIABILITIES OF CITY TO CONTINUE IN FORCE.

All vested rights of the City shall continue to be vested and shall not in any manner be affected by the passage of this Act, nor shall any right or liability or pending suit or prosecution, either in behalf of or against the City, be in any manner affected by this Act. All contracts entered into by the City or for its benefit prior to the taking effect of this Act, shall continue in full force and effect. All public work begun prior to the taking effect of this Act shall be continued and perfected hereunder.

SEC. 46. MANNER OF MAKING OR FINANCING PUBLIC IMPROVEMENTS.

The building of sidewalks, building, installing and extending sewerage system, the paving of streets and alleys shall be done in the way and manner as is now provided for the making of public improvements and for the payment of same, in accordance with the provisions of Chapter Forty-Seven of Barnes' West Virginia Code, one thousand nine hundred and twenty-three, relating to cities, towns and villages. It is not the purpose of this Act to interfere or make any change in the manner of making public improvements and the financing of the same. On the contrary, it is the purpose of this Act to leave the making of public improvements, such as the building of sidewalks, building and extending sewerage systems and the paving of the streets the same as is now provided by general law under Chapter Forty-Seven of the Code of West Virginia.

SEC. 47. ORNAMENTAL STREET LIGHTING; RIGHT TO ACQUIRE LAND FOR GARBAGE DUMP OR INCINERATION PLANT.

(a) The Board of Commissioners may, by ordinance, establish a district or zone, which shall include the business section of the City, or any part thereof, for the purpose of ornamental street lighting, the limits of said zone or district to be defined in said ordinance.

(b) The Board of Commissioners may order ornamental street lights placed upon any street within the ornamental district or zone, the same to be fully described in such ordinance, which shall also state the distance such lights shall be placed apart, and assessed and collect the cost of installation of same from the owners of property abutting on said street, in proportion to the frontage owned by each, and such assessment shall be made in the same manner and shall become a lien upon the property abutting upon the said street to the same extent as herein provided for liens against property for sidewalks constructed upon streets by the City, and the remedies herein provided for the collection of sidewalk assessments against property owners, or the property

abutting upon any street upon which a sidewalk is laid by the City shall apply to the collection of any assessment made for the construction of ornamental street lighting upon any street upon which such lights are installed.

(c) Provided, however, the persons, firms or corporations owning a majority of the front footage of the property, exclusive of intersections and bridges, shall first petition the Board of Commissioners, requesting them to have said ornamental street lighting system installed. On the petition of said persons, firms and corporations, owning a majority of the front footage as aforesaid, requesting that said ornamental street lighting system be intalled, the same shall become binding upon the persons, firms and corporations owning the other portion the same as if they had joined in said petition.

(d) The Board of Commissioners shall have the right to acquire by purchase or condemnation within or without the City limits, in accordance with the provisions of this Act, all the land necessary for a garbage dump, incineration or disposal plant.

SEC. 48. PROVISIONS OF ACT SEPARABLE.

If any section or part of a section of this Act shall be found to be invalid, the same shall not be held to invalidate or impair the validity, force or effect of any other section or part of a section unless such other section or part is clearly dependent for its operation upon the section or part so held invalid.

SEC. 49. INCONSISTENT ACTS REPEALED; EXCEPTION AS TO PREVIOUS ACTS.

All acts or parts of acts inconsistent with this Act are hereby repealed; but this Act shall not be construed to repeal, change or modify any previous act not inconsistent with this Act authorizing the City of Mullens to contract debts, or to borrow money, or to take away any of the powers conferred upon said City of Mullens, or upon the Mayor or Council, or any of the officers, conferred by general law, except so far as the same may be inconsistent with the powers hereby conferred.

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

Be it Resolved and Ordered by the Board of Commissioners of the City of Mullens, Wyoming County, West Virginia:

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

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

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

(B) The Board of Commissioners of the City of Mullens, Wyoming County, West Virginia (herein called the "Board"), is a governing body within the meaning of the Act.

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

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

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

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

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

WYOMING COUNTY NEWS MEDIA

News Media	Address
The Independent Herald	Route 10 Pineville, WV 24874
The Mullens Advocate	217 Moran Avenue Mullens, WV 25882
WPMW-FM	14 Moran Avenue Mullens, WV 25882
The Wyoming County Reporter in the Register Herald	P.O. Box P or R Beckley, WV 25801

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

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

such regularly scheduled meeting. A copy of such notice shall be attached to and made a part of the minutes of the meeting for which such notice was given.

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

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

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

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

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

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

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

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

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

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

Introduced at Board Meeting: 11/13/97

Adopted by Board: 11/13/97

CITY OF MULLENS

By: Morgan K Davis
Mayor

[SEAL]

Attested by:

Mary Frances McBride
City Clerk

SIGNED COPY RETURNED TO JACKSON & KELLY 11/13/97

CHASFS3:109011

City of Mullens

316 Moran Avenue
Mullens, WV 25882
(304) 294-7132

OATH OF OFFICE

I, S. R. Brewer, do solemnly swear to uphold the laws of the United States, the State of West Virginia, and the City of Mullens; to faithfully and to the best of my abilities discharge the duties of Mayor of the City of Mullens, so help me God.

S. R. Brewer

July 1, 1998

Attest:

[illegible]

Mary Frances McBride

City of Mullens

316 Moran Avenue
Mullens, WV 25882
(304) 294-7132

OATH OF OFFICE

I, Earl Mongeni, II , do solemnly swear to uphold the laws of the United States, the State of West Virginia, and the City of Mullens; to faithfully and to the best of my abilities discharge the duties of City Manager of the City of Mullens, so help me God.

Earl Mongeni II

Earl Mongeni, II

8-31-98

Date

Attest:

Mary Frances McBride

Virginia L. Bowling

City of Mullens

316 Moran Avenue
Mullens, WV 25882
(304) 294-7132

OATH OF OFFICE

I, Butch McNeely, do solemnly swear to uphold the laws of the United States, the State of West Virginia, and the City of Mullens; to faithfully and to the best of my abilities discharge the duties of Commissioner of the City of Mullens, so help me God.

July 1, 1998

Attest:

Mary Lou McBride

James E Roop

City of Mullens

316 Moran Avenue
Mullens, WV 25882
(304) 294-7132

OATH OF OFFICE

I, Lewis Arnold, do solemnly swear to uphold the laws of the United States, the State of West Virginia, and the City of Mullens; to faithfully and to the best of my abilities discharge the duties of Commissioner of the City of Mullens, so help me God.

Lewis E Arnold

July 1, 1998

Attest:

Mary Frances McBride

Terrinia L. Bowling

City of Mullens

316 Moran Avenue
Mullens, WV 25882
(304) 294-7132

OATH OF OFFICE

I, Bob Toler, do solemnly swear to uphold the laws of the United States, the State of West Virginia, and the City of Mullens; to faithfully and to the best of my abilities discharge the duties of Commissioner of the City of Mullens, so help me God.

July 1, 1998

Attest:

Mary Lou McEach

J. R. Brewer

City of Mullens

316 Moran Avenue
Mullens, WV 25882
(304) 294-7132

OATH OF OFFICE

I, Butch Carte, do solemnly swear to uphold the laws of the United States, the State of West Virginia, and the City of Mullens; to faithfully and to the best of my abilities discharge the duties of Commissioner of the City of Mullens, so help me God.

Butch Carte

July 1, 1998

Attest:

Mary Frances McBride

S.R. Brewer

AN ORDINANCE
ESTABLISHING SEWER RATES UPON COMPLETION OF NEW TREATMENT FACILITY

AN ORDINANCE to amend and reenact Article 925 of the Municipal Code of the City of Mullens, relating to the rates to be charged to customers upon the completion of the wastewater treatment facility.

Be it ordained by the City of Mullens:

That Article 925 of the Municipal Code of the City of Mullens is hereby amended and reenacted to read as follows:

925.01 SERVICE RATES SCHEDULE

~~(1)~~ (a) There is hereby established a schedule of just and equitable rates or charges for the use of and service rendered by the sewage system of the City, which shall be paid by the owner of each and every lot, parcel of real estate or building connected with, served by or using such sewage system. ~~(1969 Code Sec. 24-18.)~~

(b) The rates and charges shall be based insofar as possible upon the quantity of water supplied each month to the respective premises as the same is measured by the Mullens Water Works, Inc. water meter therein used. There shall be charged monthly to the owners of each lot, parcel of real estate or building for the services of such sewage system the following rates based upon the water meter readings:

~~Article 925.01 (b) (1) and 925.01 (b) (2) are hereby amended to read as follows:~~

~~925.01 (b) (1)~~

The following rates shall remain in effect until the first full billing cycle after the completion of the proposed wastewater treament facility:

(1) Class One. Those owners or users of the service whose primary product or tool is water, i.e. a coin-operated laundries.

	Gallons	Cost per 1,000 gallons
First	3,000	$ .88
Next	3,000	.80
Next	14,000	.73
Next	30,000	.67
Next	50,000	.61
All over	100,000	.59
Minimum	3,000	5.28 per month

~~925.01(b) (2)~~

(2) Class Two. All other owners and users of the service who are not members of Class One.

	Gallons	Cost per 1,000 gallons
First	3,000	$ 1.76
Next	3,000	1.60
Next	14,000	1.46
Next	30,000	1.32
Next	50,000	1.22
All over	100,000	1.18
Minimum	3,000	5.28 per month

(Passed 4-9-81)

(c) In the event a building or premises discharging sewage, water or other liquid wastes into the City sanitary sewage system uses water supplied on other than a metered basis from the Mullens Water

Works, Inc. Or from any other source or water supply, the owner or occupant may be required to case a water meter or other measuring device to be installed, but pending such installation, the sewer service rates and charges to such building or premises shall be at least equivalent to the average water bill based on the rates and charges listed herein in the previous year of similar buildings or premises with similar occupancy which are served by the Mullens Water Works, Inc.

(d) In the event the sewage, water or other liquid wastes being discharged into the sanitary sewers from any building or premises is determined by the City to contain unduly high concentrations or any substances which add to the operating costs of the sewage system of the premises,. Or the ~~CITY~~ City require the owner or other interested party to specially treat such sewage, water or other liquid wastes before it is discharged into the ~~CITY~~ City sanitary sewage system. ~~(1969 Code Sec. 24-18.)~~

(e) Schedule of Rates to Become Effective upon Completion of Wastewater Treatment Facility.

(1) The Board of Commissioners finds that it is currently developing and constructing a new wastewater treatment facility, so that the facility will comply with existing state and federal regulations. In order to meet the requirements of state and federal regulations, a new schedule of rates is necessary to help amortize the bonds, loans or other obligations for the construction of the facility, and to meet the operational expenses of the facility.

(2) After the first full month of operation of the new wastewater treatment facility, the following schedule of rates shall apply, and shall supersede the rates, classifications and surcharges in effect at the time of the adoption of this provision:

	Gallons	Cost per 1,000 gallons
First	3,000	$ 5.96
Next	3,000	5.39
Next	14,000	4.94
Next	30,000	4.54
Next	50,000	4.13

All over	100,000	6.10
Minimum Bill	3,000	17.88 per month

(3) Upon the effective date of the foregoing section, the current Ten Dollar per month surcharge shall be eliminated, and only those rates and charges set forth in the preceding section shall be charged: Provided that the fees and surcharges set forth in this article for installation of taps, past due bills, and late charges or delinquent fees are still permitted to be charged.

925.02 SEWER TAP CHARGES

Sewer tap fees shall be one hundred seventy-five dollars ($175.00) for a single tap and three hundred fifty dollars ($350.00) for a double tap, plus the actual cost of any pipe or other materials furnished by the Sanitary Board.

925.03 BILLING PROCEDURE; DELINQUENT PAYMENTS.

All bills for sewer service shall insofar as possible be based upon the water meter records of the Mullens Water Works, Inc., and shall be rendered monthly and shall be due when mailed to the last known address of the party owing the same. A penalty or delayed payment charge of ten percent (10%) of the amount of all such bills shall be added to those not paid on or before the fifteenth day of the calendar month next after the due date; provided, that if the penalty or delayed payment shall not be applied until ten (10) days after such due date. All moneys as collected shall be deposited in the sewer revenue fund, No free service of the City sewage system shall be allowed or permitted. ~~(1969 Code Sec. 24-20.)~~

925.04 UNPAID CHARGES AS LIEN UPON PREMISES.

The rates or charges for the use of and service rendered by the City sewage system shall be paid by or on behalf of the owner of each and every lot, parcel of real estate or building connected with, served by or using such sewage system. The amount of all such rates or charges, if not paid when due, shall be a lien upon the premises served by such system. If the bill for such rates or charges is not paid

within thirty days after it is due, it shall be deemed delinquent and the amount thereof shall be recovered by the Sanitary Board in a civil action in the name of the City, together with the penalty imposed by this article. The lien procedure in connection with any such building charged with the amount due; provided, that if any of the water meter records of the Mullens Water Works, Inc. Are in the name of a party other than the owner of the lot, parcel of real estate or building connected with, served by or using the City sewage system, and consequently, the bill for sewer service rates or charges are directed to such party, then in the event any such bill is not paid within the allotted time and it is delinquent, the Sanitary Board shall mail such delinquent bill to the owner of such lot, parcel of real estate or building at the last known address of such owner, together with a notice that such owner is the party charged by law with the liability for the payment of the same. If such bill is not paid within thirty days after mailing, the amount thereof shall be recovered by the Sanitary Board, together with the penalty aforesaid, as in the case of other delinquent bills. The lien procured in connection with any such action shall be foreclosed in due course against the lot, parcel of land or building charged with the amount due. ~~(1969 Code Sec. 24-21.)~~

925.05 BILLING, COLLECTING AND ACCOUNTING.

The City shall establish an office for the billing, collecting and accounting of the sewer rental charges. The billing, collecting and accounting shall be carried out under the supervision of the Sanitary Board.

~~(1969 Code Sec. 24-22.)~~

NOTE: The purpose of this ordinance is to establish rates for wastewater treatment upon the completion of the new wastewater treatment facility, now scheduled for completion in 1999.

Strike throughs indicate currently language to be stricken from the existing Code. Underlining indicates language to be added.

First Reading: 1/8/98

Second Reading: 1/30/98

Adopted: 1/30/98

Signed: Mary Frances McBride
City Clerk

Date: 1/30/98

C:\OFFICE\WPWIN\STATON\SEWER.ORD

COMMISSIONERS MEETING

September 6, 1960

At A Regular Session of the Board of Commissioners of the City of Mullens, held in the City Hall, September 6th, there were present, Woodrow W. Cook, Mayor, O. W. Andrews Jr. and Leland Harless, Commissioners, W. A. Davis, Treasurer, D. Grove Moler, City Attorney and Clyde Newsome, Clerk.

The minutes of the previous meeting having been read and approved, the following business was transacted:

Mr. K. W. Kirk and Mr. Clarence Jessee again appeared before the Board in regards to the paving of Sixth Street. After due consideration is was decided that before said street could be paved a decision would have to be made on the type of street and the proper approachs to property that would be best suitable for said street. Also that elevations and levels must be established for said street. The Clerk was directed, by the Board, to have the City Engineer establish elevations and levels for said street, after which the city could begain preparation for paving said street.

Mayor Cook informed the Board that at a meeting before the Public Service Commission, August 31st, the Public Service Commission had issued a bench order approving a certificate of public convenience and necessity to construct, operate and maintain a sewage collection, treatment and disposal syatem at Mullens and immediate vicinity in Wyoming County, and the approval of the schedule of rates for monthly sewer service charges as submitted to the Commission.

AN ORDINANCE providing for a sanitary board of the City of Mullens, West Virginia.

WHEREAS preliminary investigations and proceedings have heretofore been taken for the construction of improvements and extensions to the municipal sewage system in and for The City of Mullens, West Virginia, under the provisions of Article 13 of Chapter 16 of the West Virginia Code and it is provided by said enabling law that a sanitary board shall be created for the custody, supervision, control, administration, operation and maintenance of said system;

NOW, THEREFORE, Be It Ordained by the Board of Commissioners of The City of Mullens, West Virginia, as follows:

Section 1. That there shall be and there is hereby created in and for The City of Mullens, West Virginia, a sanitary board for the custody, supervision control, administration, operation and maintenance of the municipal sewage system, all as permitted and provided by Article 13 of Chapter 16 of the West Virginia Code and said sanitary board shall be composed of the Mayor of said city and two additional persons, one of whom is a registered professional engineer, for a term of two years and the other, for a term of three years. The said two additional members shall be appointed by the Board of Commissioners, which such appointments shall be recorded in the Board's minutes as a prerequisite to qualification.

Section 2. That the Mayor of said city shall act as Chairman of said sanitary board, and that upon organization said 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 Board of Commissioners of said city hereby reserves the right and privilege from time to time by ordinance to fix the compensation of the members of said board and the secretary and treasurer thereof, and also to require and fix the amount of bonds which any or all of said officials may be required to furnish.

Section 3. That this ordinance be in full force and effect immediately upon its adoption.

Introduced September 6th, 1960

Adopted September 29, 1960

Woodrow W. Cook
Mayor

Attest:

Clyde Newsome
City Clerk

Mullens, West Virginia

September 6th, 1960

The Board of Commissioners of The City of Mullens, West Virginia, met in regular session pursuant to law and to the rules of said Board at the City Hall in said city at 7:30 o'clock P.M. The meeting was called to order by the Mayor and the roll being called there were present Woodrow W. Cook, Mayor, presiding, and the following named Commissioners: Leland Harless and O.W. Andrews, Jr.; also present Clyde R. Newsome, City Clerk.

Absent: None.

* * *

Commissioner Andrews introduced and caused to be read in full a proposed ordinance entitled:

"AN ORDINANCE providing for a sanitary board of the City of Mullens, West Virginia."

Commissioner Harless moved that the ordinance as introduced and read be placed on file with the City Clerk pending its second reading, seconded by Commissioner Andrews, and after due consideration the Mayor put the question on the motion and the roll being called the following voted:

Aye: Cook, Harless and Andrews.

Nay: None.

Whereupon the Mayor declared the motion duly carried.

* * *

Gordon V. Cook
Mayor.

ATTEST:

Clyde Newsome
City Clerk

Mayor Cook presented the following letter, to-wit:

Mullens, W. Va.
August 19, 1960

To; City of Mullens

SUBJECT: Billing, Accounting, and Receiving Payments of sewage accounts.

Proposed estimate of the cost of billing, accounting and receiving of payments of sewage accounts for the City of Mullens is $425.00 per month.

MULLENS WATER WORKS

By_____
John P. Tice, Manager

After due consideration, the matter was tabled for further consideration.

Mayor Cook presented the following letter in regards to Street Lighting Proposal from the Union Power Company, to-wit:

Mullens, W. Va.
August 17, 1960

TO: City of Mullens

SUBJECT: Street Lighting Proposal.

Cost of complete fixture installed on present poles.....	$ 235.00
Cost of new pole installed.....	65.00
Monthly rate-- 21,000 Lumen.....	2.90

NOTE: Fixtures are the property of the City of Mullens. Lamp replacement and repair expense to be paid by the City of Mullens.

Union Power Company
By_____
John P. Tice, Manager

After due consideration, this matter was also tabled until later.

In regards to the imposing of a city auto license tax to raise additional revenue for street paving purposes, as proposed by Commissioner Andrews at the City's last regular meeting, Mayor Cook informed the Board that a check had been made and that their were 1108 automoblies reguister in the City of Mullens, and that the maximum that could be charged was $2.00 per license. After due consideration the matter was tabled for further condideration.

Mayor Cook informed the Board that in regards to a question of raising money for a new city hall building, the city could not raise money from a bond levy. That money for a new city hall building must come from another source.

Commissioner Andrews informed the Board of receiving complaints of the danager from a tree at this end of the swinging bridge, Maple and Orchard Street. After due consideration the Board decided to check into the condition of said tree to determine what should be done.

Commissioner Andrews also informed the Board of complaints from Bill McGinnis of vehicles blocking driveways fronting the Athletic Field. After due consideration the Board ordered that the matter be looked into.

Commissioner Harless informed the Board that some cars were parking on city streets all day, with no time on the meter, and receiving only one parking ticket. Commissioner Harless was informed that the police had instructions to tag cars when they were found parked with no time on the meters, and the Chief of Police was directed to remind the meter policeman to issue parking tickets, on each round, whenever a car was found over parked.

The question of installing name plates for city streets throughout the city was discussed. The matter was tabled for further consideration and the clerk was directed to furnish the Mayor with information as to the cost of name plates for city street signs.

The following bills and invoices were hereby approved for payment:
(Starting check number 7464)

Union Power Co.	$ 95.48	Mullens Water Works	$ 15.99
State Sinking Fund Comm.	512.50	Curtis Crotty, Postmaster	54.40
Wright-Thomas Equipment Co.	290.00	Norfolk & Western Railway	1.00
Sargent-Sowell, Inc.	8.51	State Sinking Fund Comm.	111.25
Paul J. Clowers	65.10	Clyde Newsome	168.37
Wendell W. Cook	148.45	Loomer G. Sisk	128.50
Silas V. Cline	128.50	Issac Lloyd Reynolds	138.50
Basil L. Bailey	48.45	Oscar England	187.10
Posy Worley	92.95	Thomas H. Reynolds	96.70
Walker Crews	109.40	E. D. Burger	72.18
George Roach	106.82	Franlkin E. Patrick	58.20
Orlando Lewis	91.70	Delano Tilley	9.70
Harvey Hinchee	9.70	Bernard England	182.90
William Clay	195.65	Otis G. Whitt	201.12
Donald Ray Atha	100.61	Gene Crotty	82.07
Internal Revenue Service	27.22	William G. Robertson	29.71

There being no further business, the Board adjourned.

Clyde Newsome, Clerk

Woodrow W. Cook, Mayor

CITY OF MULLENS
BOARD OF COMMISSIONERS
REGULAR MEETING
JANUARY 9, 1997

At a regular meeting of the City of Mullens Board of Commissioners held in council chambers of city hall at 7:00 p.m., those present were Mayor Mike Davis, Commissioners Bob Toler, Randy Brewer, Butch Carte and Lewis Arnold, City Attorney Todd Houck and City Manager Mary Frances McBride.

APPROVAL OF MINUTES

On a motion and a second by Commissioner Toler and Commissioner Carte it was unanimously voted to dispense with the reading of the minutes from the previous meeting and approve them as written.

INVOICES/BLDG. PERMITS/CONTRACTOR'S LICENSES

On a motion and a second by Commissioner Toler and Commissioner Brewer it was unanimously voted to approve all building permits and contractor's licenses and pay all current invoices.

PURCHASE OF SECOND NEW FIRE TRUCK

Fire Chief Rick Rice was present to discuss the possibility of purchasing a second new fire truck. He explained the specifications on a 1000 GPM tanker truck which would cost approximately $138,000. His idea of financing involved $50,000 received from the Governor's Contingency Fund, $26,000 from the fire department's checking acct. and financing the balance which would result in an annual payment of approximately $14,000. Rice added, that with the bunker gear purchased and the one new truck that has been ordered, if this second truck is purchased that the fire department would not need anything substantial over the next five or six years. As far as covering the annual payment, Rice said that the fire department receives around $20,000 a year from the state and $8,500 from the county so he did not see any problem in covering the annual payment.

Commissioner Toler commented that he liked the plan and it looked like the city had the money but he would like to have a copy of the regulations followed by the state that outlined what constituted a non-paid fire department so we can be assured that the funding we are currently receiving is secure. Rick Rice said he would get that from the State Fire Marshall's office.

Commissioner Brewer added, after checking with different banks concerning interest rates, that any lending institution is going to require documentation from the City Attorney stating that the fire

department is tax exempt and is a separate entity that is not tied to the restrictions of a municipality where you cannot encumber funds beyond the term of the current administration. Brewer said the by-laws and the corporate borrowing resolution would also be needed.

Mayor Davis made a motion that the council give Commissioner Toler and Commissioner Brewer permission to approve the order of the 1000 GPM tanker truck after they have approved the financing and reviewed the state regulations to their satisfaction. Commissioner Carte seconded. The motion passed unanimously.

REAPPOINTMENT OF SANITARY BOARD MEMBER

On a motion and a second by Commissioner Toler and Commissioner Brewer, it was unanimously voted that Jackie Harris be reappointed to serve on the Sanitary Board effective February 1, 1997 for a three year term to expire January 31, 2000.

JOHN CAMPBELL - BATTING CAGES IN VETERAN'S MEMORIAL BUILDING

John Campbell approached council asking permission to use the Veteran's Memorial Building to offer a baseball batting cage facility to the public. He said this would be available to the public for a fee. His investment was going to be around $6,000 for the equipment and $1,000 per year for insurance coverage and he asked for use of the building for 3 nights a week 8 months out of the year. Campbell explained that the equipment was netting that could be pulled back "like a shower curtain" out of the way for other functions that might be scheduled to be held in the building. He said low overhead is going to be necessary for him to be able to make this affordable for everyone.

Mayor Davis said that a lot of work had not been done on this building as of yet but ideally they planned for it to be used for very similar purposes to what John described. He explained that Commissioner Brewer felt very strongly about starting bingo and the city had been approached by people needing a place to have line dancing, aerobics, square dancing, etc. He felt the best utilization of that building would be to get four or five things going on and share time on the building. Davis emphasized that, other than with bingo, he did not intend it to be a "money making" endeavor for the city.

Commissioner Toler said one of his concerns was protecting the building and asked John how the nets would be anchored. John explained that the nets would be anchored with "I" bolts on the cinder block walls with a cable extending across the room from which the nets hang. There would be no anchoring from the ceiling.

Commissioner Arnold asked if there was a concern about how much space would be taken up when the equipment was dissassembled and security for the rest of his equipment. Campbell said he had looked at the building and there were rooms where he could lock up his equipment and when the cages were dissassembled it would just be net hanging

against the wall.

Commissioner Carte said that he thought it was a good idea but in all fairness to the community he felt the council should inform people of our plans for that building and give everyone an equal opportunity.

Commissioner Toler commented that we needed to use the building as much as possible, especially for the youth, but the council needed to concentrate on developing a fee structure that would be fair and equitable. The Mayor told Campbell that council would try to have a more definite answer for him at the February meeting.

BINGO

Tim Smith, an employee for a bingo supply distributor in West Virginia, was present to explain to the council bingo procedures and what to expect. He said that it was like starting a small business. the state requires a bingo license and a raffle license to be purchased at a cost of $500 each. Bingo is strictly regulated by the state and can only be operated by non-profit organizations and proceeds are limited to 25% profit off the money coming in the door. A one night session would require six or seven hours work for seven or eight employees. Smith emphasized that the biggest reason a bingo operation does not work is lack of workers/volunteers. Proceeds from bingo can only be used for capitol improvement, not operati expenses, and expenditures have to be approved by the state. Attorney Todd Houck asked if you hire employees or if you use volunteers. Mr. Smith advised us to get the regulations from the state that govern opera tors because they change alot more often than the regulations governing distributors which is what he is familiar with. Smith said that three checking accounts would be required to keep monies collected separate. There would need to be a bingo account, a raffle account and a concession account, if the city chose to take that on. Mr. Smith explained several different scenarios of how the games work and the profits that could be expected and he said that the city could basically expect to see 20% profit. He advised that the council try to attend bingo games in the area to get an idea of how it is run. There was a discussion about the moral issue to be dealt with from the community. Commissioner Arnold said that he would not want the operation to have a "hustle" atmosphere.

Commissioner Toler suggested that the city employees conduct a phone survey to poll the people in the community on whether they would be for or against bingo. The council committed to doing that and planned to have the results for the next council meeting. John Conley was also going to put in the Mullens Advocate that anyone wanting to express an opinion on this issue is welcome to attend the February council meeting.

There being no further business, the meeting was adjourned.

Morgan K. Davis
Mayor

Mary Frances McBride
City Manager

CITY OF MULLENS
BOARD OF COMMISSIONERS
REGULAR MEETING
AUGUST 14, 1997

At a regular meeting of the City of Mullens Board of Commissioners held in council chambers of city hall at 7:00 p.m., those present were Mayor Mike Davis, Commissioners Bob Toler, Randy Brewer, Butch Carte and Lewis Arnold, Police Chief James Miller, City Attorney Rick Staton and City Manager Mary Frances McBride.

APPROVAL OF MINUTES

On a motion and a second by Commissioner Toler and Commissioner Brewer it was unanimously voted to dispense with the reading of the minutes from the previous regular meeting and the special meeting on 7/29/97 and approve them as written.

APPROVAL OF INVOICES/BLDG. PERMITS/CONTRACTOR'S LICENSES

On a motion and a second by Commissioner Toler and Commissioner Brewer it was unanimously voted to approve all building permits and contractor's licenses and pay all current invoices presented.

CITIZENS VS. MULLENS WATER WORKS

Due to the requests of several citizens present at the May council meeting, City Manager Mary Frances McBride arranged for representatives from Mullens Water Works and the Public Service Commission to be present to listen to our citizens concerns about our water. Those present were David Musser, President of Mullens Water Works, Cleo McGraw and Jim Spurlock from the Public Service Commission and employees of Mullens Water Works. Those that wanted to address these officials signed in and the floor was opened to hear their various complaints. Most remarks dealt with frequent episodes of dirty, smelly water and a rate increase that is proposed for later this year. Jars of unclean water, water filters and dirty clothes were displayed. One citizen pointed out that when there was a rate increase in 1993 none of the improvements that they had promised to make were fulfilled. Mr. Musser said that improvements had been made in recent years but he recognized the fact that there was still problems. The improvements included the purchase of a turbidometer, chorine treatment at three locations instead of one, and the Health Dept. wants additional certified operators on staff. He said some lines had been replaced but no major lines.

Mayor Davis asked Cleo McGraw if the proposed rate increase could be tied to specific improvements. Musser answered that capitol improvements are not figured into the rates until after they are made. McGraw stated that because Mullens Water Works is privately owned they did not qualify for grant funds. Mayor Davis asked Mr. McGraw to find out what had been done with the revenue from the rate increase in 1993. Mr. McGraw agreed to try to do that.

system. Musser said he was obligated to maintain equipment not to add new lines. He said he could not afford to invest in a company that is losing money. At that point, Mayor Davis said if he couldn't do the job, he didn't need to be there.

Cleo McGraw was asked if he would take the water samples that were brought in and have them tested. When he seemed uninterested, Attorney Staton berated McGraw for not being prepared for this meeting and showing no interest in helping the "citizen". Staton told Musser that the city's water situation had not changed in eleven years and he had not reinvested in the plant the way he should have.

It was decided that the city would install a separate phone line into city hall for water complaints. Mayor Davis said he wanted citizens to call every single day that they had bad water.

POLICE OFFICER PROCEDURE ORDINANCE

City Attorney Rick Staton briefed council on the following ordinance and asked for their guidance in several areas. After discussion and a few changes the following ordinance was compiled:

AN ORDINANCE
PROVIDING FOR HIRING OF POLICE OFFICERS,
POLICE BOARDS AND PROCEDURES

AN ORDINANCE to repeal, amend and reenact Article 141 of the Municipal Code of the City of Mullens, relating to appointment of persons as police officers, police hearing boards and procedures, and requiring blood testing of applicants and police officers.

Be it ordained by the City of Mullens:

That Article 141 of the Municipal Code of the City of Mullens is hereby repealed, amended and reenacted to read as follows:

141.01 DEFINITIONS

Unless the context clearly indicates otherwise, as used in this article:

(1) "Accused officer" means any police officer who is the subject of an investigation or interrogation which results in a recommendation of punitive action against him or her.

(2) "Hearing" means any meeting in the course of an investigatory proceeding, other than an interrogation at which no testimony is taken under oath, conducted by a hearing board for the purpose of taking or inducing testimony or receiving evidence.

(3) "Hearing board" means a board appointed to hold a hearing on a complaint against an accused officer. The hearing board shall consist of three members to be appointed pursuant to this article. Hearing board members appointed under this article may be removed

(4) "Police officer" or "officer" means any police officer of a police department employed by the city or municipality, but shall not include (a) the highest ranking officer of the police or (b) any non-civil service officer who has not completed the probationary period established by the department by which he or she is employed.

(5) "Punitive action" means any action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand or transfer for purposes of punishment.

(6) "Under investigation" or "under interrogation" means any situation in which any police officer becomes the focus of inquiry regarding any matter which may result in punitive action.

141.02 REQUIREMENTS FOR EMPLOYMENT

A regular or temporary police officer shall meet the following qualifications:

(a) Be at least eighteen years of age

(b) Be of good character and repute

(c) Be licensed to drive a motor vehicle in the State of West Virginia.

(d) Be of good health, and able to physically and mentally perform the duties of a police officer.

(e) Has not been convicted of a felony under the jurisdiction of the courts of the State, any other State, or under jurisdiction of federal or military courts.

(f) Be able to perform the customary duties and functions of a police officer, having due regard for the particular duties to which such employee is to be assigned.

(g) Be willing to submit to pre-application and post-hiring drug and alcohol screening, as allowed by law, and as permitted by this article.

141.03 APPLICATION FOR EMPLOYMENT

An applicant for employment as a police shall first submit an application for employment to the City Manager. The contents of the application shall include such information as the City Manager deems pertinent to evaluation of the applicant, and shall further authorize the City Manager to investigate matters of former employment, references, background police checks, and physical abilities or limitations. The applications shall be on file by the City Manager for such period of time as the City Manager deems appropriate.

141.04 TEMPORARY EMPLOYMENT

In the event of a sudden and due emergency, the Mayor may

forth in this article. In such event, the Board of Commissioners may review and rescind the appointment at the next regular meeting of the Commissioners, or at a special meeting called for such purpose.

141.05 SPECIAL DUTIES

Reasonable special duties may be assigned to any police officer by the Mayor, with the advice of the Board of Commissioners, acting directly, or through the Chief of Police.

141.06 SPECIAL ASSIGNMENTS FOR RETIRED OFFICERS

Any police officer who retires from employment is no longer eligible for employment as a regular police officer. A retired officer may be used for special assignments.

141.07 ASSIGNMENTS FOR REGULAR DUTIES

The Chief of Police shall schedule regular daily assignments of police officers. Police officers shall be subject to the direct supervision and direction of the Chief of Police.

141.08 EMPLOYMENT

A police officer who is hired as a probationary employee, or who has not completed approved training as an officer as required by law may be terminated from such employment for any reason. Every police officer shall give bond with good security, in an amount specified by the City Manager. All police officers shall be issued such equipment, uniforms and other paraphernalia incidental to the performance of their duties.

141.09 SUSPENSION OR DISCHARGE OF OFFICERS

Any police officer who negligently or willfully fails to execute the duties of the office, or any special duty assignment, or refuses to obey the proper orders of the Chief of Police, or who is convicted of violation of law or breach of good conduct, or violation of any department rule, may be suspended or discharged by the Mayor and Board of Commissioners. The length of any suspension of an officer shall be in the discretion of the Mayor and Board of Commissioners. The Mayor may suspend an officer subject to the provision of this section with pay until the next regular or special meeting of the Board of Commissioners. The Board of Commissioners may suspend an officer subject to the provision of this section with pay, or without pay.

141.10 POLICE HEARING BOARD

(a) There is hereby created a Police Department Hearing Board, consisting of three (3) members. The hearing board shall be a standing hearing board. The department chief shall appoint the first member, the local fraternal order of police shall appoint the second member, and the local chamber of commerce or local businessman's association shall appoint the third member. If there is no local fraternal order of police, the state fraternal order of police shall appoint the second member. If there is no chamber of commerce or local businessmen's association, the first

Of the three original appointments in each police department, the first member shall serve for six years from the date of his or her appointment; the second member shall serve four years from the date of his or her appointment; and the third member shall serve for two years from the date of his or her appointment. After the original appointments, all appointments shall be made for periods of four years each by the designated appointing authority. In the event that any member shall cease to be a member due to death, resignation, final removal or other cause a new member shall be appointed within thirty days of the date the ex-member ceased to be a member. This appointment shall be made by the officer or body who in the first instance appointed the member who is no longer a member. When the hearing board is appointed, the three members shall elect one of their number to act as president of the board, who shall serve as president for one year. In the event that a member has had a part in the investigation or interrogation of an accused officer or is related by consanguinity or affinity to an accused officer, that member shall be recused from participation in the accused officer's hearing. In such an instance, the officer or body who in the first instance appointed the recused member shall appoint another person for the sole purpose of the accused's officer hearing. No member shall hold any other office (other than the office of notary public) under the United States, this state, or any municipality, county or other political subdivision thereof; nor shall any member serve on any political committee or take any active part in the management of any political campaign.

(b) Any member of the hearing board appointed pursuant to this article may be removed as provided in this paragraph. The mayor of the municipality may, at any time, remove any hearing board member for good cause, which shall be stated in writing and made a part of the records of the hearing board. However, within ten days of removing any member, the mayor shall file in the circuit clerk's office of the county in which the municipality is located a petition setting forth in full the reason for the removal and seeking the circuit court's confirmation of the mayor's removal of the member. The mayor shall file a copy of the petition with the removed member at the same time it is filed with the circuit clerk. The petition shall have precedence on the circuit court's docket and shall be heard as soon as practicable on the request of the removed member. All rights vested in a circuit court by this subsection may be exercised by the judge thereof in vacation. In the event that no term of the circuit court is being held at the time the petition is filed, and the judge thereof cannot be reached in the county in which the petition was filed, the petition shall be heard at the next succeeding circuit court term, whether regular or special, and the removed member shall remain removed until a hearing is held on the petition. The court or the judge thereof in vacation shall hear and decide the issues presented by the petition. The party affected adversely by the court's or judge's decision shall have the right to petition the supreme court of appeals for a review of the decision as in other civil cases. If the mayor fails to file the petition with the circuit clerk's office within ten days as provided above, the removed member shall immediately resume his or her position as a hearing board member.

Any resident of the municipality shall have the right at

so, the resident shall file a petition in the circuit clerk's office of the county where the municipality is located. The resident shall also serve a copy of the petition on the member sought to be removed. The petition shall be matured for hearing and heard by the circuit court or the judge thereof in vacation in the same manner as civil proceedings in the circuit courts of this state are heard. Any party adversely affected by the circuit court's or judge's decision shall have the right to petition the supreme court of appeals for a review of the decision as in other civil cases.

141.11 HEARING

(a) Before taking any punitive action against an accused officer, the police department shall give notice to the accused officer that he or she is entitled to a hearing on the issues by the hearing board. The notice shall state the time and place of hearing and the issues involved and shall be delivered to the accused officer no later than ten days prior to the hearing.

(b) The following requirements shall govern the operation conduct of the hearing board:

1. The hearing board shall keep an official record of each hearing it conducts. The officials record shall include the testimony offered and exhibits introduced at the hearing.

2. The police department and the accused officer shall be given ample opportunity to present evidence and argument with respect to any issue raised at the hearing.

3. The hearing board may subpoena witnesses and administer oaths or affirmations and examine any individual under oath, and may require and compel the production of records, books, papers, contracts and other documents, in connection with any issue raised at the hearing.

4. The hearing board shall prepare a written order detailing any decision or action it takes as a result of the hearing. The written order shall include written findings of fact setting forth a concise statement of the hearing board's factual findings and conclusions on each issue raised at the hearing. The hearing board shall hand-deliver or promptly mail a copy of the written order to the accused officers or his attorney of record.

(c) A hearing board's order is binding on all parties involved unless it is overturned in the appeal process described in this article.

141.12 APPEAL

The hearing board's decision rendered under section 141.11 may be appealed by the police officer adversely affected by the order, or by the department chief and Board of Commissioners if the department is adversely affected by the hearing board's order. An appeal under this section shall be made to the circuit court of the county in which the police officer resides.

141.13 RETURN OF UNIFORMS, GUNS AND EQUIPMENT UPON DEPARTURE

A police officer who is suspended or discharged, or who voluntarily leaves employment with the city shall return to the City Manager all uniforms, guns, badges, radios, equipment, and other paraphernalia purchased by the City promptly upon the officer's suspension, discharge or last day of employment.

141.14 RANDOM DRUG AND ALCOHOL SCREENING OF APPLICANTS FOR EMPLOYMENT AND OF POLICE OFFICERS

(a) An applicant for the position of police officer shall consent to an appropriate drug and alcohol test as a condition of the application. The test shall be conducted only upon an applicant who is deemed otherwise qualified for employment, and whom the city intends to employ. The test shall be conducted by a health official approved by the City Manager, and shall be paid for by the city.

(b) A police officer of the city shall be subject to random urine, breath or blood alcohol and drug testing, to the extent allowed by law. Any screening shall be conducted by a health official, and paid for by the city. An officer subject to such screening shall report to the health official at the time designated by the Chief of Police or City Manager.

(c) The results of any drug or alcohol screens performed pursuant to this section shall be confidential, and shall not be subject to public disclosure or other prospective employers. The results of any drug or alcohol screens are admissible evidence in any hearing or proceeding in which an applicant's or officer's failure to hire, suspension, demotion, reduction in rank or pay, termination, or failure to promote are an issue.

On a motion and a second by Mayor Davis and Commissioner Carte the first reading was unanimously accepted.

There was further discussion on what paraphenelia the city provided to the police officers and what they should provide. Staton advised that anything that requires verification of employment with the city should be paid for by the city.

LEASE AGREEMENT WITH ITMANN FOOD BANK

Attorney Staton presented a lease agreement he had drawn up at the request of council for the occupancy of the Veteran's Memorial Building by the Itmann Food Bank.

Commissioner Arnold asked, in regard to Item #5 in the agreement, what type alterations, etc. would justify written consent. It was agreed that any type of alteration, etc. that was permanent to the structure needed to be approved by the city council.

On a motion and a second by Commissioner Arnold and Commissioner Carte the council unanimously voted to authorize the Mayor to enter into this lease agreement as amended.

ACCEPTANCE OF BID ON AIRPORT PROPERTY

Mayor Davis reported to council that the auction of the airport property had been held on Tuesday, July 29, 1997. The sole bid of $35,000 was offered by Mike Ferrell. A deposit of $100 was made with a signed agreement to pay the balance within 30 days pending council's acceptance of this bid. On a motion by Commissioner Brewer and a second by Commissioner Toler the council unanimously agreed to accept the bid placed by Mike Ferrell of $35,000 and authorized the Mayor to enter into the deed agreement.

UPDATE ON CONDEMNATION BOARD ACTION

Attorney Staton undated council on business conducted by the Condemnation Board during their 6 p.m. meeting on this same day.

JERRY VICKERS' PROPERTY (CLIFFSIDE APARTMENTS)

After a meeting with owner, the Board recommends that the council issue a condemnation order on the Cliffside Apts. owned by Jerry Vickers.

ANNA MARIE HAYDEN PROPERTY (JOE'S DRIVE-INN)

Mayor Davis informed council that Joe's Drive Inn was scheduled for demolition the next day, Friday, August 15th. He said all legal notices had been sent to the property owners with no corrective action taken.

On a motion and a second by Commissioner Brewer and Commissioner Toler, it was unanimously voted to accept the action taken by the condemnation board.

POLICY ON COMMUNITY ROOM RENTAL RATES REVISED

Council agreed to change the wording in the policy concerning community room rental rates from "Corporate" rate to "Commercial" rate. The rate will remain the same at $50/day.

RE-APPOINTMENT OF SANITARY BOARD MEMBER

On a motion and a second by Commissioner Toler and Commissioner Brewer it was unanimously voted to reappoint Mr. Meryl Hall to a two year term on the Sanitary Board running 8/1/97 to 7/31/99.

There being no further business the meeting was adjourned at 9:30 p.m.

OATH OF OFFICE
****

I, S. R. "Randy" Brewer, do solemly swear to uphold the laws of the United States, the State of West Virginia, and the City of Mullens, and the Mullens Sanitary Board; to faithfully and to the best of my abilities discharge the duties of a member of the City of Mullens - Sanitary Board, so help me God.

S. R. Brewer

July 1, 1998

Attest:

Earl Morgenroth

Lawrence L Bowling

OATH OF OFFICE
****

I, JACKIE D. HARRIS, do solemly swear to uphold the laws of the United States, the State of West Virginia, and the City of Mullens, and the Mullens Sanitary Board; to faithfully and to the best of my abilities discharge the duties of a member of the City of Mullens - Sanitary Board, so help me God.

Jackie Harris

March 11, 1998

Attest:

C. Gayle Fannin

3-11-98

CITY OF MULLENS

Mary Frances McBride City Manager

OATH OF OFFICE
****

I, MERYL M. HALL, do solemly swear to uphold the laws of the United States, the State of West Virginia, and the City of Mullens, and the Mullens Sanitary Board; to faithfully and to the best of my abilities discharge the duties of a member of the City of Mullens - Sanitary Board, so help me God.

Meryl M Hall

March 11, 1998

Attest:

C. Gayle Fannin

3-11-98

CITY OF MULLENS

BY: Mary Frances McBride City Manager

PETITION OF THE SANITARY BOARD
OF
THE CITY OF MULLENS, WEST VIRGINIA

TO THE BOARD OF COMMISSIONERS
OF THE CITY OF MULLENS, WEST VIRGINIA

Pursuant to the provisions of Section 5, Article 13, of Chapter 16 of the Code of West Virginia, 1931, as amended (the "Act"), the Sanitary Board (the "Board") of The City of Mullens, West Virginia (the "City"), which was established pursuant to an ordinance passed by the Board of Commissioners of the City (the "Board of Commissioners"), hereby petitions the Board of Commissioners to enact an ordinance, in substantially the form attached as Exhibit A hereto and incorporated herein by reference, which shall:

(a) Set forth a brief and general description of the proposed additions, extensions, betterments and improvements to the existing wastewater collection and treatment system of the City (the "Project") to be acquired and constructed in accordance with the plans and specifications prepared and filed by Woolpert Consultants, the engineers chosen by the City and the Sanitary Board (the "Consulting Engineers");

(b) Set forth the cost of the Project estimated as of the date hereof by the Consulting Engineers as $7,258,581.

(c) Order the construction and acquisition of the Project;

(d) Direct that the City (i) issue one or more series of Sewerage System Revenue Bonds in the aggregate principal amount of not more than $4,500,000 to finance the costs of the Project; (ii) define and prescribe the terms and provisions of the Bonds; and (iii) provide for the rights and remedies of and security for the Registered Owners of the Bonds; and

(e) Contain such other provisions as may be necessary in the premises.

The Board respectfully represents to the Council that, during the acquisition and construction of the Project, one of the two persons appointed to the Board by the Board of Commissioners will be a registered professional engineer.

This petition was duly authorized at an emergency meeting of the Sanitary Board duly called and held on November 12, 1998.

WITNESS our signatures on the 12th day of November, 1998.

THE SANITARY BOARD OF THE CITY OF MULLENS, WEST VIRGINIA

By _____
Mayor of The City of Mullens, as Chairman

By _____
Member

By _____
Member

CHASFS3:133876

CITY OF MULLENS
BOARD OF COMMISSIONERS
REGULAR MEETING
NOVEMBER 12, 1998

At a regular meeting of the City of Mullens' Board of Commissioners held in council chambers of city hall at 7:00 p.m., those present were Mayor Randy Brewer, Commissioners Bob Toler, Butch Carte and Lewis Arnold, Assistant City Attorney Todd Houck, Chris Callas from Jackson & Kelly, Chief James Miller and City Manager Earl Mongeni II.

APPROVAL OF MINUTES

On a motion and second by Commissioner Toler and Commissioner Carte, it was unanimously voted to approve the minutes as they were prepared and distrubuted.

APPROVAL OF INVOICES/BLDG. PERMITS/CONTRACTOR'S LICENSES

On a motion and second by Commissioner Toler and Commissioner Carte, it was unanimously voted to approve all building permits and contractor's licenses and pay all current invoices.

FIRST READING - CITY OF MULLENS SEWER SYSTEM REVENUE BONDS, SERIES 1998

Chris Callas from Jackson & Kelly Bond Counsel was present for the first reading of the Revenue Bonds, Series 1998. He briefly explained the eleven articles of the bond ordinance. Article I simply lays out the definitions that will be used throughout the document. Article II authorizes the extensions and betterments to the system. Article III talks about the bonds and forms of the bonds. Article IV is a reserved area of the bond ordinance. Article V explains what will be done with the system revenues that is made from the system. Article VI basically talks about the bond proceeds and that these proceeds will go into a bond construction trust fund. The DEP and Infrastructure Council has some authority on how the money is spent. Article VII covers the covenants of the City of Mullens, which respects the operation of the system and the rates that will be charged. Article VIII tells about the investments of funds by the Commission and the Depository Bank. Article IX tells about what will happen if default in payment occurs on the bonds. Article X explains how to get rid of the bonds once the bonds have been paid. Article XI explains the miscellaneous provisions of the bonds.

After briefing the council on the articles of the bond, Mr. Callas recommended that the Bond Ordinance be read by title only.

On a motion and second by Commissioner Arnold and Commissioner Carte, it was unanimously voted to read the Bond Ordinance by title only.

Mr. Callas read as followed:

> An Ordinance authorizing the acquisition and construction of certain additions, extensions, betterments and improvements to the existing sewerage collection and treatment system of The City of Mullens; authorizing the issuance of two series of Sewerage System Revenue Bonds of the City of Mullens in aggregate principal amount not to

exceed $4,500,000 to be used, along with other funds and moneys of, or available to, The City of Mullens which may be lawfully expended for such purposes, to finance the cost of such acquisition and construction and to pay other costs in connection therewith; providing for the rights and remedies of and security for the owners of such bonds; authorizing execution and delivery of all documents relating to the issuance of such bonds; approving, ratifying and confirming a loan agreements relating to such bonds; and adopting other provisions related thereto.

On a motion and second by Commissioner Carte and Commissioner Arnold, it was unanimously voted to accept this as the first reading of the City of Mullens Sewer System Revenue Bonds, Series 1998.

WILLIS McKENDREE

Mr. McKendree approached council to inform them that he would be bringing a module home through the town and place it above the hill playground. Mr. McKendree told them that the people that would be bringing the house would need the streets on the Mullens Hill area from Highland Avenue to Frantz Avenue cleared of cars. This will give the movers enough room to travel with the house. He also requested help from the Mullens Police Department to help with traffic control and the help of the street department in removing road signs that might interfere with the moving of the house. The council told Mr. McKendree they would help him anyway possible to see to it his home is moved onto his lot. Mayor Brewer recommended to Mr. McKendree he run an ad on channel two letting the people of Mullens know exactly what days this project will be done on. He went on to tell him that it would also be a good idea to go to each resident involved in this, request to them that they help him out by moving cars or anything else that may interfere with the moving of the house. Mr. McKendree told council that he would in fact do this. He went on to tell them he would also put letters on each automobile requesting they be moved on the days the work will be going on. Mayor Brewer told him to work with Jimmy Roop of the street department, James Miller of the police department and the employees of city hall to see to it this all goes smoothly.

ADOPT RESOLUTION RECOGNIZING NOVEMBER 15, 1998 AS AMERICA RECYCLE DAY

Mayor Brewer informed council that this resolution would help bring to the attention of the people the importance of recycling. On a motion and second by Commissioner Toler and Commissioner Arnold, it was unanimously voted to adopt the resolution recognizing November 15, 1998 as America Recycle Day.

DONATION OF PROPERTY - K. BRUCE LAZENBY

K. Bruce Lazenby, an attorney in Beckley, wants to donate a portion of property to the city that is located across from the sewer plant in the Mullens Sub Division, parcels 75, 129 and 131. On a motion and second by Commissioner Toler and Commissioner Carte, it was unanimously voted to accept this donation of property from K. Bruce Lazenby. Mayor Brewer informed the City Manager to draft a letter for him to sign thanking Mr. Lazenby for the donation.

APPROVAL OF SMALL CITIES BLOCK GRANT #3

Mayor Brewer informed council that this is a request for $15,443.39 to be drawndown from the Small Cities Block Grant money. This money would be used to reimburse the Sanitary Board Sinking Fund account $10,500.00. This $10,500.00 was taken from the Sinking Fund account to relocate the commercial tenant. An additional $1,956.57 of the $15,443.39 also will go to the commercial tenant. This was the balance that was owed to the tenant for relocation. $2,386.82 will go to Region I for administrative costs since there last billing, and $600.00 will be paid to C.N. Kirby Realty Company for appraisal costs for an easement on Terri Johnson's property that has to be condemned. On a motion and second by Commissioner Toler and Commissioner Carte, it was unanimously voted to approve Small Cities Block Grant #3.

SECOND READING - AN ORDINANCE PROHIBITING PERMANENT STRUCTURE OVER SEWER LINES

City Attorney Todd Houck read the ordinance by title only as followed:
An Ordinance Prohibiting Permanent Structure Over Sewer Lines under article 921.02 of the Municipal Code of the City of Mullens restrictions on permanent structures or other items over or near sewer lines.

On a motion and second by Commissioner Arnold and Commissioner Carte, it was unanimously voted to accept this as the second reading.

AN ORDINANCE PROHIBITING PERMANENT STRUCTURE
OVER SEWER LINES

(A COPY ATTACHED TO MINUTES FOR REFERENCES)

ADDRESS PEOPLE IN AUDIENCE

On a motion and second by Commissioner Carte and Commissioner Arnold, it was unanimously voted to adjourn from the meeting to address the people in the audience.

SARGE McGHEE

Sarge McGhee informed council that Glen Runion has a program through West Virginia University that would help the City of Mullens improve the town. By the city getting involved with this program, it would also help in getting grants to improve the town. Mr. McGhee also went on to say that people have been telling him that if the people of the community does not try to do something to improve the town, Mullens will be like another Matoaka and Rhodell. With this, Mayor Brewer told Mr. McGhee that he disagreed with people saying we were becoming another Matoaka and Rhodell, that he felt Mullens was seeing an upper trend in growth. The Mayor told Mr. McGhee that the council would meet with Mr. Runion so that he can explain the program. Mr. McGhee told council that he would contact Glen Runion about setting up a meeting with the council members.

MILLICENT SMITH

Millicent Smith informed council that the brochures on the City of Matoaka are very out of date. Mayor Brewer told Ms. Smith that there may be a program that Glen Runion may have that will help update these bruchures. Mayor Brewer requested for Ms. Smith check with Glen Runion and see if he has any ideas to help bring the brochures up to date.

CHIEF JAMES MILLER

Chief Miller told council that the Mullens Police Department finished second in the State of West Virginia in a contest that was held on the highest percent of seatbelt use. He went on to tell council that by finishing second in the state the police department received a new radar gun.

Chief Miller also told council that he would like to sell or donate the old police cruiser to the City of Matoaka. Mayor Brewer asked the City Manager to check with City Attorney Rick Staton about what steps need taken to give this car to Matoaka.

AUTHORIZATION BY MAYOR TO SIGN & APPROVE SCHEDULE B BUDGET FOR SEWAGE PLANT

Mayor Brewer informed council that this was for funding purposes of the new sewage plant. The total estimated project cost of the sewage plant, with a 15% contingency, is $7,258,581. The total money consists of $1,250,000 from the Small Cities Block Grant, $1,160,000 from the Appalachian Regional Commission Grant, $1,780,000 from the State Revolving Fund loan, $2,586,300 from LIDC, local portion of $332,281 and $150,000 from the State Digest. Mayor Brewer told council that these are big numbers from a financial standpoint, but he feels good about the project budget and how it has come together. The money that will be borrowed is at 0% and 1% and the payoff of the project will be thirty years. The Mayor went on to tell council that in the beginning everyone said it would take forty years to pay this project off. On a motion and second by Commissioner Arnold and Commissioner Carte, it was unanimously voted to allow the Mayor to sign and approve Schedule B Budget for the new sewage plant.

BID ON NEW SALT TRUCK

Ray Well's Chevrolet was the only bid placed for a new truck to be used by the street department. The bid was for $21,215.00 on a 1999 4 X 4 truck. On a motion and second by Commissioner Carte and Commissioner Arnold, it was unanimously voted to accept this bid.

EXECUTIVE SESSION

Commissioner Toler made a motion to adjourn to executive session.

Commissioner Arnold second. The motion passed unanimously.

Council went into executive session at 9:10 p.m.

Commissioner Arnold made a motion to come out of executive session.

Commissioner Carte second. The motion passed unanimously.

Council came out of executive session at 9:37 p.m.

No action was taken during executive session.

The meeting was adjourned at 9:40 p.m.

S. R. Brewer
Mayor

Earl Mongeon II
City Manager

AN ORDINANCE
PROHIBITING PERMANENT STRUCTURES OVER SEWER LINES

AN ORDINANCE to amend and reenact Article 921 the Municipal Code of the City of Mullens, relating to restricting the placement of certain structures placed over or within a certain radius of, sewer lines.

Be it ordained by the City of Mullens:

That Article 921.02 of the Municipal Code of the City of Mullens is hereby amended and reenacted to read as follows:

921.02 CONNECTION TO DOWNSPOUTS PROHIBITED; RESTRICTIONS ON PERMANENT STRUCTURES OR OTHER ITEMS OVER OR NEAR SEWER LINES

(a) All downspouts, pipes, connections or tubing by which rain or other water is collected upon any building within the city shall be disconnected from the sanitary sewer system or pipelines. No owner or tenant of any building within the City shall construct, maintain or use such downspouts, pipes, connections or tubing to transport or convey any rain or other water collected on or about any building into any sanitary sewer line.

(b) Effective December 1, 1998, no person shall build, construct or erect, place or install, or cause to be built, constructed or erected, placed or installed, any of the following over or within ten (10) feet in width, being five (5) feet on each side of the centerline of a sanitary sewer pipeline or any sanitary sewer line:

1. Construct improvements on or over the sanitary sewer line, or take any other action which would interfere with the sanitary sewer line or the efficient operation of the sanitary sewer system.

2. Plant trees or other vegetation which could damage the sewer line, interfere with the sewer line or the efficient operation of the sanitary sewer system.

3. Alter the ground profile of the land within the area outlined above by more than one (1) foot without the written permission of the Sanitary Board and the Board of Commissioners.

4. Construct any permanent structure over any sanitary sewer line, nor within the area of any sanitary sewer line outlined above.

~~(b)~~ (c) In addition to any other penalty imposed under these Codified Ordinances, or any state law, the Board of Commissioners shall have the authority to enforce this section by ~~permanent~~ injunction or other proceedings.

NOTE: The purpose of this ordinance is to prohibit the construction of permanent structures over

sewer lines.

Strike throughs indicate currently language to be stricken from the existing Code. Underlining indicates language to be added.

First Reading: October 8, 1998

Second Reading: _____

Adopted: _____

Signed: _____ Date: _____
City Clerk

F:\OFFICE\WPWIN\CITY\SEWERPRO.ORD

THE CITY OF MULLENS

BOND ORDINANCE

THE CITY OF MULLENS

BOND ORDINANCE

INDEX

PAGE

ARTICLE I 1
STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS 1
Section 1.01. Authority of this Ordinance 1
Section 1.02. Definitions 1
Section 1.03. Ordinance Constitutes Contract 9
Section 1.04. Findings 9

ARTICLE II 12
AUTHORIZATION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO SYSTEM 12
Section 2.01. Authorization of Extensions, Additions, Betterments and Improvements 12

ARTICLE III 13
AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS 13
Section 3.01. Authorization and Terms of Original Bonds 13
Section 3.02. Execution of Bonds 14
Section 3.03. Authentication and Registration 14
Section 3.04. Negotiability, Transfer and Registration 14
Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost 15
Section 3.06. Bonds not to be Indebtedness of the City 15
Section 3.07. Bonds Secured by Pledge of Net Revenues 15
Section 3.08. Form of Original Bonds 16
Section 3.09. Sale of Original Bonds; Ratification and Execution of Loan Agreements 33
Section 3.10. Certificate of Consulting Engineers 33
Section 3.11. Amended Schedule A Filing 33

ARTICLE IV 34

ARTICLE V 35
SYSTEM REVENUES AND APPLICATION THEREOF 35
Section 5.01. Establishment of Funds and Accounts with Depository Bank 35
Section 5.02. Establishment of Funds and Accounts with Commission 35
Section 5.03. System Revenues; Flow of Funds 38
Section 5.04. Excess Bond Proceeds 38

ARTICLE VI 39
APPLICATION OF ORIGINAL BOND PROCEEDS; FUNDS AND ACCOUNTS 39
Section 6.01. Application of Original Bond Proceeds 39
Section 6.02. Disbursements From the Bond Construction Trust Fund 39

ARTICLE VII 42
ADDITIONAL COVENANTS OF THE CITY 42
Section 7.01. General Covenants of the City 42
Section 7.02. Bonds not to be Indebtedness of the City 42
Section 7.03. Bonds Secured by Pledge of Net Revenues 42
Section 7.04. Rates 42
Section 7.05. Completion, Operation and Maintenance; Schedule of Cost 43
Section 7.06. Sale of the System 43
Section 7.07. Issuance of Other Obligations Payable out of Revenues and General Covenant Against Encumbrances 44
Section 7.08. Parity Bonds 44
Section 7.09. Insurance and Construction Bonds 46
Section 7.10. Consulting Engineers 47
Section 7.11. Compliance With Loan Agreements, Rules and Regulations 47
Section 7.12. No Free Services 48
Section 7.13. Enforcement of Collections 48
Section 7.14. No Competing Franchise 48
Section 7.15. Books, Records and Facilities 48
Section 7.16. Operating Budget 50
Section 7.17. Mandatory Connection 51
Section 7.18. Statutory Mortgage Lien 51
Section 7.19. PSC Order 51
Section 7.20. Covenant to Amend Ordinance 51
Section 7.21. Securities Law Compliance 52
Section 7.22. Maintenance of Sinking Fund Account 52

ARTICLE VIII 53
INVESTMENT OF FUNDS 53
Section 8.01. Investments 53

ARTICLE IX 54
DEFAULT AND REMEDIES 54
Section 9.01. Events of Default 54
Section 9.02. Remedies 54
Section 9.03. Appointment of Receiver 54

ARTICLE X 56
DEFEASANCE 56
Section 10.01. Defeasance of Bonds 56

ARTICLE XI 57
MISCELLANEOUS 57
Section 11.01. Modification or Amendment 57
Section 11.02. Severability of Invalid Provisions 57
Section 11.03. Repeal of Conflicting Ordinances 57
Section 11.04. Covenant of Due Procedure 57
Section 11.05. Abstract of Ordinance and Notice of Public Hearing 57
Section 11.06. Effective Date 58

Exhibit A - Project Description
Exhibit B - Notice of Public Hearing and Abstract of Bond Ordinance

CHASFS3:133268

Introduced before the Board of Commissioners
on the 12th day of November, 1998

Introduced by the
Honorable S. R. Brewer, Mayor

Passed by the Board of Commissioners
on the 19th day of November, 1998

An Ordinance authorizing the acquisition and construction of certain additions, extensions, betterments and improvements to the existing sewerage collection and treatment system of The City of Mullens; authorizing the issuance of two series of Sewerage System Revenue Bonds of the City of Mullens in aggregate principal amount not to exceed $4,500,000 to be used, along with other funds and moneys of, or available to, The City of Mullens which may be lawfully expended for such purposes, to finance the cost of such acquisition and construction and to pay other costs in connection therewith; providing for the rights and remedies of and security for the owners of such bonds; authorizing execution and delivery of all documents relating to the issuance of such bonds; approving, ratifying and confirming a loan agreements relating to such bonds; and adopting other provisions related thereto.

Be It Ordained by the Board of Commissioners of The City of Mullens, West Virginia:

ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

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

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

"ARC Grant" shall mean the grant from the Appalachian Regional Commission in the amount of $1,160,000, or such other amount as shall be designated in the Supplemental Resolution.

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

"Authority" shall mean the West Virginia Water Development Authority, which is expected to be the original purchaser of the Bonds on behalf of the Program and the

Infrastructure Council, or any other agency of the State of West Virginia that succeeds to the function of the Authority.

"Board" shall mean the Sanitary Board of the City, as created and appointed pursuant to the provisions of Section 18 of the hereinafter-defined Bond Act, and any successor thereto.

"Board of Commissioners" shall mean the governning body of the City as set forth in its Charter.

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

"Bond Construction Trust Fund" shall mean the fund created by Section 6.01 hereof.

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

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

"Bonds" shall mean the Original Bonds and any pari passu additional Bonds hereafter issued within the terms, restrictions and conditions contained in this Ordinance.

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

"City" shall mean The City of Mullens, a municipal corporation of the State of West Virginia, and, when appropriate, also means the Board of Commissioners thereof and any department, board, organization or institution thereof in control of the management and operation of the System, as hereinafter defined.

"City Contribution" shall mean the City's contribution to the cost of the acquisition and construction of the Project in the amount of $332,281, or such greater or lesser amount as shall be set forth in the Supplemental Resolution.

"City Manager" shall mean the City Manager of the City.

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

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

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

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

"Consulting Engineers" shall mean Woolpert LLP, Consulting Engineers, or any engineer or firm of engineers which shall at any time hereafter be retained by the City as Consulting Engineers for the System.

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

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

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

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

"Digest Grant" shall mean the contribution in the amount of $150,000 to the acquisition and construction of the Project by the State Legislature, or such greater or lesser amount as may be set forth in the Supplemental Resolution.

"Fiscal Year" shall mean each twelve month period beginning on July 1 and ending on the succeeding June 30.

"Fund" shall mean the "West Virginia Water Pollution Control Revolving Fund" established by the State, administered by the DEP and funded by capitalization grants awarded to the State pursuant to the federal Clean Water Act, as amended, for the purpose

of establishing and maintaining a permanent perpetual fund for the construction, acquisition and improvement of wastewater treatment facilities.

"Grant" shall mean any grant or grants received by the City in aid of the cost of the design, acquisition and construction of the Project, and shall include the ARC Grant, the Digest Grant and the Small Cities Block Grant.

"Grant Agreement" shall mean a written commitment for the payment of any Grant, specifying the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which such Grant is repaid to the City.

"Grant Receipts" shall mean all monies received by the City on account of any Grant.

"Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the united States of America, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

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

"Independent Accountants" shall mean any certified public accountant or firm of certified public accountants which shall be retained by the City as independent accountants for the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

"Infrastructure Council" means the West Virginia Infrastructure and Jobs Development Council or any successor thereto.

"Infrastructure Council Act" means Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended, and in effect on the date of the enactment of this Ordinance.

"Infrastructure Loan Agreement" shall mean the loan agreement entered into by and between the City and the Authority, acting on behalf of the Infrastructure Council, providing for the purchase of the Series B Bonds from the City by the Authority.

"Investment Property" shall mean any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract or investment-type property or residential rental property for family units which is not located within the jurisdiction of the city and which is not acquired to implement a court ordered or approved housing desegregation plan, excluding, however, obligations the interest on which is excluded from gross income under Section 103 of the Code for federal income tax purposes other than specified private activity bonds as defined in Section 57(a)(5)(C) of the Code.

"Loan Agreement" or "Loan Agreements" shall mean the SRF Loan Agreement and/or the Infrastructure Loan Agreement.

"Mayor" shall mean the Mayor of the City.

"Net Proceeds" means the face amount of the Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

"Net Revenues" shall mean the balance of the Gross Revenues remaining after deduction of Operating Expenses, as hereafter defined.

"Operating Expenses" shall mean the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses (other than those capitalized as part of the Costs); fees and expenses of the Authority, DEP, the Infrastructure Council, fiscal agents, the Registrar and the Paying Agent (other than those capitalized as part of the Costs); payments to pension or retirement funds; taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds; charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets; and amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Ordinance" or "this Ordinance" shall mean this Ordinance, in its present form or as hereafter amended or supplemented.

"Original Bonds" or "Bonds originally authorized hereby" or similar phrases shall mean the not more than $4,500,000 Sewerage System Revenue Bonds, Series A and Series B, the full designation of each series to be set forth in the Supplemental Resolution, to be issued for the purpose of paying a portion of the Costs of the acquisition and construction of the Project and for such other purposes permitted hereby and authorized by a resolution supplemental hereto.

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

"Parity Bonds" shall mean additional Bonds issued under the provisions and within the limitations prescribed by Section 7.08 hereof, payable from Net Revenues on a parity with the Original Bonds.

"Paying Agent" shall mean the West Virginia Municipal Bond Commission or such other entity or authority as may be designated as a paying agent by the City.

"Program" shall mean the wastewater treatment facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Clean Water Act and administered by the DEP.

"Project" shall mean the acquisition and construction of the System, a description of which is attached hereto as Exhibit A and incorporated herein by reference, and any extensions, additions, betterments and improvements to the System.

"Qualified Investments" shall mean and include any of the following:

(a) Government Obligations;

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

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit

Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; the Tennessee Valley Authority; or the Washington Metropolitan Area Transit Authority;

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

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the Federal Deposit Insurance Corporation ("FDIC"), shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

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

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

(h) The "consolidated fund" (or any distinct portion thereof) managed by the West Virginia Investment Management Board pursuant to Article 6, Chapter 12 of the Code of West Virginia, 1931, as amended; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is exempt from federal income taxation, and which are rated at least "A" by Moody's Investor Service, Inc., or Standard and Poor's Corporation.

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

"Regulations" shall mean the regulations promulgated under the Code.

"Renewal and Replacement Fund" shall mean the fund created by Section 5.01(2) hereof.

"Reserve Requirement" shall mean as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on each series of the Bonds in the then current or any succeeding Fiscal Year.

"Revenue Fund" shall mean the fund created by Section 5.01(1) hereof.

"SRF Administrative Fee" shall mean any administrative fee required to be paid pursuant to the Loan Agreement.

"SRF Act" shall mean Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended, and in effect on the date of the enactment of this Ordinance.

"SRF Loan Agreement" shall mean the loan agreement entered into by and among the City, the DEP and the Authority providing for the purchase of the Series A Bonds from the City by the Authority.

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

"Series A Bonds" shall mean the not more than $1,900,000 in aggregate principal amount of Sewerage System Revenue Bonds to be purchased by the Authority on behalf of the Fund, the series designation of which will be set forth in the Supplemental Resolution.

"Series B Bonds" shall mean the not more than $2,600,000 in aggregate principal amount of Sewerage System Revenue Bonds to be purchased by the Authority on behalf of the Infrastructure Council, the series designation of which will be set forth in the Supplemental Resolution.

"Small Cities Block Grant" shall mean the Small Cities Block Grant for the Project in the amount of $1,250,000, or such greater or lesser amount as may be set forth in the Supplemental Resolution.

"State" shall mean the State of West Virginia.

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

"Surplus Revenues" shall mean the net revenues not required by this Ordinance to be set aside and held for the payment of or security for the Bonds, including the reserve accounts and the Renewal and Replacement Fund.

"System" shall mean the existing sanitary sewerage collection and treatment system, both within and without said City, to be owned by the City, and shall include any extensions, additions, betterments and improvements thereto.

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

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations. Words importing the masculine gender include all other genders.

Additional terms and phrases are defined in this Ordinance as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with general accepted accounting principles.

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Ordinance; and the term "hereafter" means after the date of the enactment of this Ordinance.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Ordinance so numbered.

Section 1.03. Ordinance Constitutes Contract. In consideration of the acceptance of the Bonds and any other bonds authorized to be issued hereunder by those who shall own the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the City and such Bondholders, and the covenants and agreements herein set forth to be performed by said City shall be for the equal benefit, protection and security of the legal owners of any and all of such Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Findings. It is hereby found, determined and declared as follows:

A. The City is a municipal corporation and political subdivision of the State in Wyoming County of said State. Currently, the City operates a sanitary sewerage collection and treatment system (the "System"). However, the System is overloaded and inadequate, due in part to the age of the existing wastewater treatment plant and to excessive inflow and infiltration into the existing wastewater collection system. To correct the System's inadequacies, the City has entered into a consent decree with DEP under which the

City has agreed to a compliance schedule to construct necessary treatment facilities to enable it to comply with the final effluent limitations in its NPDES permit, the Federal Clean Water Act and the State Water Pollution Control Act. Therefore, the City intends to acquire and construct a new wastewater treatment plant to replace the existing wastewater treatment plant and to construct certain improvements and extensions to its existing wastewater collection facilities. A general description of the work to be performed is set forth in Exhibit A hereto and is referred to herein as the "Project."

B. In accordance with Section 3 of the Bond Act, the System is under the supervision and control of the Sanitary Board of the City (the "Board"). The Board has presented a petition to the Board of Commissioners, requesting that the Board of Commissioners construct the Project and enact this Ordinance.

C. The City will continue to derive Net Revenues from the System, and said Net Revenues are not pledged or encumbered in any manner.

D. The acquisition and construction of the Project is intended to bring the City into compliance with various environmental laws.

E. It is deemed necessary and desirable for the health, welfare and safety of the inhabitants of the City that there be acquired and constructed the Project, at an estimated cost of $7,258,581, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have been approved by DEP and are on file with the City. The Project has an estimated useful life in excess of forty years. The Costs of the Project will be funded with the proceeds of the Series A Bonds in the approximate amount of $1,780,000, the proceeds of the Series B Bonds in the approximate amount of $2,586,300, the proceeds of the ARC Grant in the approximate amount of $1,160,000, the proceeds of the Small Cities Block Grant in the approximate amount of $1,250,000, the proceeds of the Digest Grant in the approximate amount of $150,000, and a contribution by the City in the approximate amount of $332,281. Any changes in the funding sources or the amount of funding from each source described in this paragraph will be set forth in the Supplemental Resolution.

F. The estimated revenues to be derived in each year after the enactment of this Ordinance from the operation of said System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on each series of Bonds and all sinking fund and other payments provided for in this Ordinance.

G. It is deemed necessary for the City to issue its Original Bonds in the aggregate principal amount of not more than $4,500,000 to finance the costs of the acquisition and construction of the Project herein described through the Program and the Infrastructure Council. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest on the Original Bonds prior to and during construction or acquisition and for six months after completion of construction of the Project, if any; engineering, fiscal and legal expenses; expenses for

estimates of cost and revenue; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense, any fees or expenses of the Authority, DEP and the Infrastructure Council, commitment fees, discount, initial fees for the service of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Original Bonds, and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the City for any amounts expended by it for allowable costs prior to the issuance of the Original Bonds or the repayment of the indebtedness incurred by the City for such purposes shall be deemed part of the Cost of the Project.

H. The Infrastructure Council has approved the Project and has authorized the Authority to purchase bonds of the City, to provide moneys which, along with the Grants and the bonds to be issued under the SRF Program, will finance the Project. It is in the best interests of the City that its Series A Bonds be sold to the Authority pursuant to the terms and provisions of the SRF Loan Agreement and that its Series B Bonds be sold to the Authority pursuant to the terms and provisions of the Infrastructure Loan Agreement.

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

ARTICLE II

AUTHORIZATION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO SYSTEM

Section 2.01. Authorization of Extensions, Additions, Betterments and Improvements. There is hereby authorized the acquisition and construction of the Project in accordance with plans and specifications prepared by the Consulting Engineers, approved by DEP, the Infrastructure Council and the City, and on file in the office of the Board.

The City has received bids for the construction of the Project that are compatible with the financing plan submitted to the Program and the Infrastructure Council. The City will enter into contracts for the acquisition and construction of the Project within ninety days of its issuance of the Bonds.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS

Section 3.01. Authorization and Terms of Original Bonds. For the purposes of paying costs of issuance, financing a portion of the costs of the acquisition and construction of the Project not otherwise provided for, funding reserve accounts therefor or any one or more of such items, there shall be issued the Original Bonds of the City. The Original Bonds shall be issued in two series, with series designations to be set forth in the Supplemental Resolution, in an aggregate principal amount of not more than $4,500,000. Each series of Original Bonds shall be dated as of the date of delivery thereof, shall bear such interest, shall mature at such times, not exceeding forty (40) years after the date of issuance, and in such amount or amounts as shall be set out in the respective Loan Agreements. The Series A Bonds and the Series B Bonds shall bear no interest. The Series A Bonds shall be subject to the SRF Administrative Fee. The repayment of principal on the Original Bonds shall be as set forth on Schedule Y to the respective Loan Agreements. The Original Bonds shall contain such other terms, provisions, conditions and limitations, all as provided by this Ordinance and the Loan Agreements and as the Board of Commissioners of the City shall prescribe by resolution (or by supplemental or amendatory ordinance of said Board of Commissioners as said Board of Commissioners shall determine) adopted in connection with the sale of such Original Bonds.

The Bonds shall be payable as to principal, at the principal office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bonds, if any, shall be paid by check or draft mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, provided, that so long as the Authority is the owner thereof, interest on the Original Bonds may be paid by wire transfer or other methods satisfactory to the City, the Paying Agent and the Authority.

Unless otherwise provided by the Supplemental Resolution, the Original Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a record of advances and a payment record attached, representing the aggregate principal amount, and shall mature in principal installments, all as provided in the Loan Agreements and said Supplemental Resolution. Bonds shall be exchangeable at the option and expense of the Bondholder for other fully registered Bonds in aggregate principal amount equal to the amount of said Bonds then Outstanding, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds may be issued in fully registered form, in the denomination of $5,000 or any integral multiple thereof, all as determined by a Supplemental

Resolution. Said Bonds shall be dated as of the date specified in said Supplemental Resolution and shall bear interest from such date.

Section 3.02. Execution of Bonds. Said Bonds shall be executed in the name of the City by the Mayor and attested by the City Manager, and the seal of the City shall be affixed thereto or imprinted thereon. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the City before the Bonds so signed and sealed have been sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the City by such person as, at the actual time of the execution of such Bonds, shall hold the proper office in the City, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.03. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.08, shall have been duly manually executed by the Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Ordinance. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Registrar if manually signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.04. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Bonds shall be, and have all of the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner, in accepting any of said Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value in the manner provided hereinafter in the form of said Bonds.

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

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

In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, Bonds shall be delivered in accordance with the provisions of this Ordinance.

All Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Registrar. For every such exchange or transfer of Bonds, the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Registrar incurred in connection therewith, which sum or sums shall be paid by the City. The Registrar shall not be obliged to make any such exchange or transfer of Bonds during the 15 days preceding an interest payment date on the Bonds, or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed.

Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the City may, in its discretion, issue and deliver a new Bond in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Owner's furnishing the City proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the City may prescribe and paying such expenses as the City may incur and the Registrar shall authenticate the new Bond. All Bonds so surrendered shall be canceled by the Registrar and held for the account of the City. If such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the City may pay the same, upon being indemnified as aforesaid, and, if such Bond be lost, stolen, or destroyed, without surrender therefor.

Any such duplicate Bonds issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the City, whether or not the lost, stolen or destroyed Bonds be at any time found by anyone, and such duplicate Bonds shall be entitled to equal and proportionate benefits and rights as to lien and source of security for payment from the revenues pledged herein with all other Bonds issued hereunder.

Section 3.06. Bonds not to be Indebtedness of the City. The Bonds shall not, in any event, be or constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No Owner or Owners of any of the Bonds shall ever have the right to compel the exercise of the taxing power of the City to pay the Bonds or any interest thereon.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all the Original Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and to make the payments into the sinking funds and the reserve accounts therein and in the Renewal and Replacement Fund hereinafter established are hereby irrevocably pledged to the payment of the principal of and interest, if any, on the Bonds as the same become due.

Section 3.08. Form of Original Bonds. The text of each series of Original Bonds shall be of substantially the following tenor, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Ordinance or any subsequent resolution or ordinance adopted or enacted prior to the issuance thereof.

[Remainder of this page intentionally left blank]

[FORM OF THE ORIGINAL BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF WYOMING
CITY OF MULLENS
SEWERAGE SYSTEM SYSTEM
REVENUE BONDS, SERIES 199_ A
(WEST VIRGINIA SRF PROGRAM)

No. AR-1 $_____

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF MULLENS, a municipal corporation of the State of West Virginia, in Wyoming County of said State (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority (the "Authority "), or registered assigns, the sum of _____ ($___ _____), or such lesser amount as is set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December in each year beginning ____, ___, as set forth on the "Schedule of Debt Service" attached as Exhibit A hereto and incorporated herein by reference. The SRF Administrative Fee (as defined in the hereinafter-described Bond Ordinance) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, ____, as set forth on Exhibit B attached hereto.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and as otherwise provided by the Loan Agreement dated _____, 199__, among the Authority, the West Virginia Division of Environmental Protection and the City.

This Bond is issued (i) to pay costs of acquisition and construction of a certain additions, extensions, betterments and improvements to the existing wastewater treatment and collection facilities of the City (the "Project"), [(ii) to fund a reserve account therefor,] 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"), an Ordinance duly enacted by the City on _____, 1998, and a Supplemental Resolution adopted by the City on the _____, 1998 (collectively

called the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance 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 Ordinance.

THIS BOND RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE CITY'S SEWERAGE SYSTEM REVENUE BONDS, SERIES 199_ B (THE "PARITY BONDS").

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues, on a parity with the lien of the Parity Bonds, to be derived from the operation of the System, moneys in the Reserve Account created under the Ordinance 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 City within the meaning of any constitutional or statutory provisions or limitations, nor shall the City be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Ordinance, the City has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with the Bonds payable from such Net Revenues, including the Parity Bonds, provided however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the Bonds and any bonds on a parity therewith, including the Parity Bonds, in any succeeding fiscal year, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The City has entered into certain further covenants with the registered owners of the Bonds, for the terms of which, reference is made to the Ordinance. Remedies provided the registered owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Ordinance, only upon the books of _____, _____, (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner or its attorney duly authorized in writing, upon the surrender of this Bond together, with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

This Bond, under the provision of the Act is, and has provided all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Ordinance or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the City, 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 City for the prompt payment of the principal of and interest on this Bond.

All provisions of the Ordinance, 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.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, THE CITY OF MULLENS has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its City Manager, and has caused this Bond to be dated the __ day of _____, 199_.

[SEAL]

_____
Mayor

ATTEST:

_____
City Manager

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Original Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above.

_____,
as Registrar

By _____
Its Authorized Officer

Dated: _____

EXHIBIT A

RECORD OF ADVANCES

Amount	Date	Amount	Date
(1) $		(7) $	
(2) $		(8) $	
(3) $		(9) $	
(4) $		(10) $	
(5) $		(11) $	
(6) $		(12) $	

Total $_____

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

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

_____

_____

_____

_____

_____

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

Dated: _____, ___.

_____

In the presence of:

_____

[FORM OF THE ORIGINAL BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF WYOMING
CITY OF MULLENS
SEWERAGE SYSTEM
REVENUE BONDS, SERIES 199_ B
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. BR-1 $_____

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF MULLENS, a municipal corporation of the State of West Virginia, in Wyoming County of said State (the "Town"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority (the "Authority"), acting on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council"), or registered assigns, the sum of ___ _____ ($_____), or such lesser amount as is set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December in each year beginning ____, _____, as set forth on the "Schedule of Debt Service" attached as Exhibit A hereto and incorporated herein by reference, or such earlier or later date as provided for in Section 5.03A(2) of the hereinafter-defined Ordinance, with interest on each installment at the rate per annum set forth on said Exhibit A.

This bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the Infrastructure Council and as otherwise provided by the Loan Agreement dated _____, 199__, between the Authority and the City.

This Bond is issued (i) to pay costs of acquisition and construction of a certain additions, extensions, betterments and improvements to the existing wastewater treatment and collection facilities of the City (the "Project"), [(ii) to fund a reserve account therefor,] 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"), an Ordinance duly enacted by the City on _____, 1998, and a Supplemental Resolution adopted by the City on the _____, 1998 (collectively

called the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance 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 Ordinance.

THIS BOND RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE CITY'S SEWERAGE SYSTEM REVENUE BONDS, SERIES 199_ A (THE "PARITY BONDS").

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues, on a parity with the lien of the Parity Bonds, to be derived from the operation of the System, moneys in the Reserve Account created under the Ordinance 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 City within the meaning of any constitutional or statutory provisions or limitations, nor shall the City be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Ordinance, the City has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with the Bonds payable from such Net Revenues, including the Parity Bonds, provided however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the Bonds and any bonds on a parity therewith, including the Parity Bonds, in any succeeding fiscal year, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The City has entered into certain further covenants with the registered owners of the Bonds, for the terms of which, reference is made to the Ordinance. Remedies provided the registered owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Ordinance, only upon the books of _____, _____, (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner or its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

This Bond, under the provision of the Act is, and has provided all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Ordinance or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the City, 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 City for the prompt payment of the principal of and interest on this Bond.

All provisions of the Ordinance, 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.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, THE CITY OF MULLENS has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its City Manager, and has caused this Bond to be dated the ____ day of _____, 199__.

[SEAL]

_____
Mayor

ATTEST:

_____
City Manager

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Original Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above.

_____,
as Registrar

By _____
Its Authorized Officer

Dated: _____

EXHIBIT A

RECORD OF ADVANCES

Amount	Date	Amount	Date
(1) $		(7) $	
(2) $		(8) $	
(3) $		(9) $	
(4) $		(10) $	
(5) $		(11) $	
(6) $		(12) $	

Total $_____

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

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

_____

_____

_____

_____

_____

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

Dated: _____, ___.

_____

In the presence of:

_____

Section 3.09. Sale of Original Bonds; Ratification and Execution of Loan Agreements. The Original Bonds shall be sold to the Authority, pursuant to the respective terms and conditions of the Loan Agreements. As a ratification of the resolution of Board of Commissioners authorizing execution of the Loan Agreements, the Mayor is specifically authorized and directed to execute the Loan Agreements and the City Manager is directed to affix the seal of the City, attest the same and deliver the Loan Agreements to the Authority. The Loan Agreements are specifically incorporated into this Ordinance.

Section 3.10. Certificate of Consulting Engineers. Prior to the issuance of the Original Bonds, the City must obtain the certificate of the Consulting Engineers, in the form attached to the SRF Loan Agreement, to the effect that the Project has been designed as provided in the Program application and will be constructed in accordance with the approved plans, specifications and design as submitted to the DEP and the Authority, as the case may be, that the Project will be adequate for the purposes for which it was designed, and the funding plan as submitted to the DEP and the Authority is sufficient to pay the costs of the acquisition and construction of the Project. Prior to the issuance of the Original Bonds, the City will provide to the Infrastructure Council such certificates of the Consulting Engineers as the Infrastructure Council shall require.

Section 3.11. Amended Schedule A Filing. Within 60 days following the Completion Date, the City will file with the Authority its schedule, in substantially the form of "Amended Schedule A" to the Loan Agreements, setting forth the actual costs of the Project and sources of funds used therefor.

ARTICLE IV

[Reserved]

ARTICLE V

SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created with and shall be held by the Depository Bank:

(1) Revenue Fund;

(2) Renewal and Replacement Fund; and

(3) Bond Construction Trust Fund (with a separate subaccount to be established for each series of Original Bonds).

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

(1) Sinking Fund;

(a) Within the Sinking Fund, the Reserve Account.

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

(1) The City shall, each month, transfer from the Revenue Fund an amount sufficient to pay current Operating Expenses of the System.

(2) The City shall next, on the first day of each month (i) commencing 4 months prior to the first date of payment of interest, if any, on the respective series of Bonds for which interest has not been capitalized (or, in the case of the Series B Bonds, commencing on the earlier of that date or the first day of the month following the last date of payment of principal of the Series A Bonds, whichever occurs first), apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the respective Sinking Funds, a sum equal to 1/3rd of the amount of interest which will become due on the respective series of Bonds on the next ensuing quarterly interest payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the respective Sinking Funds and the next quarterly interest payment date is less than 4 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next

quarterly interest payment date, the required amount of interest coming due on such date, and (ii) on the first day of each month, commencing 4 months prior to the first date of payment of principal on the respective series of Bonds (or, in the case of the Series B Bonds, commencing on the earlier of that date or the month after the last date of payment of principal of the Series A Bonds, whichever occurs first), apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the respective Sinking Funds, a sum equal to 1/3rd of the amount of principal which will mature and become due on the respective series of Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the respective Sinking Fund and the next quarterly principal payment date is less than 4 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly principal payment date, the required amount of principal coming due on such date. When additional series of Original Bonds are issued, the payment of interest and principal on said bonds shall be made simultaneously with the payments described in this Section 5.03A(2) and to the extent that Revenues are insufficient to make all of the payments, such payments shall be made, pro rata, among each series of Bonds.

(3) The City shall next transfer from the Revenue Fund and pay to the Commission on the first day of each month, commencing 3 months prior to the first date of payment of principal of the Series A Bonds (or, in the case of the Series B Bonds, commencing on the earlier of that date or the month after there shall have been deposited in the Reserve Account for the Series A Bonds an amount equal to the Series A Reserve Requirement), if not fully funded upon issuance of such series of Bonds, for deposit in the respective Reserve Account, an amount equal to 1/120 of the respective Reserve Requirement; provided, that no further payments shall be made into the respective Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the respective Reserve Requirement. When additional series of Original Bonds are issued, the payment of interest and principal on said bonds shall be made simultaneously with the payments described in this Section 5.03A(3) and to the extent that Revenues are insufficient to make all of the payments, such payments shall be made, pro rata, among each series of Bonds.

(4) The City shall next, from the moneys remaining in the Revenue Fund, on the first day of each month, transfer to the Renewal and Replacement Fund a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the City or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the respective Sinking Funds shall be used only for the purposes of paying principal of and interest on the respective series of Bonds as the same shall become due. Moneys in the Reserve Account in the respective Sinking Funds shall be used only for the purpose of paying principal of or interest on the respective series of Bonds, as the same shall come due, when other moneys in the respective Sinking Fund are insufficient therefor, and for no other purpose. Except for the funds required to be deposited in the Rebate Fund, all investment earnings on moneys in the respective Reserve Accounts shall be transferred, not less than once each year, to the Bond Construction Trust Fund prior to completion of the Project and thereafter, pro rata, to the respective Sinking Funds.

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

B. As and when additional Bonds ranking on a parity with the Original Bonds are issued, provision shall be made for additional payments into the Sinking Fund sufficient to pay any interest on such additional Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the Reserve Account in an amount equal to the Reserve Requirement.

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

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

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

C. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinabove provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Sinking Funds, including the Reserve Accounts therein,

and the Renewal and Replacement Fund during the following month or such longer period as shall be required by the Act, such excess shall be considered as surplus revenues (the "Surplus Revenue"). Surplus Revenues may be used for any lawful purpose of the System.

D. The City shall remit from the Revenue Fund to the Commission or the Depository Bank, on such dates as the Commission or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay any Depository Bank's charges then due.

Simultaneously with the deposits made to the Commission pursuant to Section 5.03A(2) and (3) the City shall remit to the Commission the SRF Administrative Fee.

The City shall complete the "monthly payment form," which form is attached to the Loan Agreement as Exhibit F, and submit a copy of said form along with a copy of its payment check to the Authority by the fifth day of each calendar month.

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

F. If, on any monthly payment date, the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments, in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates.

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

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

Section 5.04. Excess Bond Proceeds. Upon completion of construction of the Project, as certified by the Consulting Engineers, and after all costs have been paid, any remaining proceeds of the Series A Bonds shall be used as directed in writing by the Authority and the DEP and any remaining proceeds of the Series B Bonds shall be used as directed in writing by the Authority and the Infrastructure Council.

ARTICLE VI

APPLICATION OF ORIGINAL BOND
PROCEEDS; FUNDS AND ACCOUNTS

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

A. From the proceeds of the Bonds, there shall be deposited with the Commission in the respective reserve account the sum, if any, set forth in the Supplemental Resolution for funding of said Reserve Account.

B. The remaining moneys derived from the sale of the Original Bonds shall be deposited by the City, as received from time to time, in the Bond Construction Trust Fund hereinafter established.

C. There is hereby created and established with the Depository Bank a special fund, designated the "Bond Construction Trust Fund". 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 this Ordinance. Except with respect to any transfers to the Rebate Fund, moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so transferred or expended, are hereby pledged as additional security for the Bonds.

Section 6.02. Disbursements From the Bond Construction Trust Fund.

A. With respect to the proceeds of the Series A Bonds, on or before the Closing Date, the City shall have delivered to the Authority a report listing the specific purposes for which the proceeds of the Series A Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule.

Except as provided in Section 6.01 hereof, disbursements from the Bond Construction Trust Fund on account of the Series A Bonds (except for the cost of issuance of the Original Bonds which shall be made upon request of the City) shall be made only after submission to, and approval from, the Authority and the DEP of the following:

(1) A "Payment Requisition Form," attached to the Loan Agreement for the Series A Bonds, and

(2) a certificate, signed by the Chairman and the Consulting Engineers, stating:

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

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

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

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

B. With respect to the proceeds of the Series B Bonds, on or before the Closing Date, the City shall have delivered to the Infrastructure Council a report listing the specific purposes for which the proceeds of the Series B will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule.

With respect to the proceeds of the Series B Bonds, each month the City shall provide the Infrastructure Council with a requisition for costs incurred for the Project with such documentation as the Infrastructure Council shall from time to time require. Upon receipt of the proceeds from the Authority, the City shall deposit the proceeds in the Bond Construction Trust Fund on account of the Series B Bonds and pay any approved costs. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Bond Construction Trust Fund on account of the Series B Bonds (except for the cost of issuance of the Series B Bonds which shall be made upon request of the City) shall be made only after submission to, and approval from, the Authority and the Infrastructure Council, of a certificate, signed by the Chairman and the Consulting Engineers, stating that:

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

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

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

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

C. In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Bond Construction Trust 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 written direction of the City.

ARTICLE VII

ADDITIONAL COVENANTS OF THE CITY

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

Section 7.02. Bonds not to be Indebtedness of the City. The Bonds shall not be nor constitute an indebtedness of the City 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 Ordinance. No Holder or Holders of any Bonds shall ever have the right to compel the exercise of the taxing power of the City to pay said Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Original Bonds issued hereunder shall be secured forthwith, equally and ratably, by a first lien on the Net Revenues derived from the operation of the System. The revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds herein authorized and to make the payments into the Sinking Funds, including the Reserve Accounts therein, and all other payments provided for in this Ordinance are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds and for the other purposes provided in the Ordinance.

Section 7.04. Rates. Prior to issuance of the Original Bonds, equitable rates or charges for the use of and service rendered by the System will be established in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the City Manager, 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. The City shall take the necessary actions with respect to the imposition of rates, at such times and with such provisions with respect to interest rate and maturity of the Bonds, to finance the issuance of the Bonds as the purchasers thereof shall require. 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 City hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient (i) to provide for all reasonable expenses of

operation, repair and maintenance of the System and (ii) to leave a balance each Fiscal Year equal to at least 115% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Bonds; provided that, in the event that an amount at least equal to or in excess of the Reserve Requirement is on deposit in the Reserve Account and the reserve account for the Bonds is funded at least at the requirement provided for in the Ordinances, such balance each Fiscal Year need only equal at least 110% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Original Bonds.

Section 7.05. Completion, Operation and Maintenance; Schedule of Cost. The City will expeditiously complete the Project and will maintain the System in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures, for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof, from the revenues of said System, in the manner provided in the Ordinance.

Upon completion of the Project, the City shall file with the Authority a schedule, in substantially the form of Amended Schedule A to the Program loan application, setting forth the actual costs of the Project and sources of funds therefor.

Section 7.06. Sale of the System. The System may be sold, mortgaged, leased or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient fully to pay or redeem at or prior to maturity all the Bonds Outstanding. The proceeds from such sale, mortgage, lease or other disposition of the System shall immediately be remitted to the Commission for deposit in the appropriate Sinking Funds, and the City shall direct the Commission to apply such proceeds to the payment of principal and any interest at maturity of Bonds about to mature and to the redemption prior to maturity, at the earliest date permitted hereby and at the redemption price, of all other Outstanding Bonds. Any balance remaining after the redemption or payment of all the Bonds and interest thereon shall be remitted to the City by the Commission, unless necessary for the payment of other obligations of the City payable out of the revenues of the System.

The foregoing provision notwithstanding, the City shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. The Board of Commissioners may then, if it be so advised, as evidenced by certificates of the Consulting Engineers, by resolution duly adopted, approve and concur in such finding and provide for the sale of such property if the amount to be received therefor is not in excess of ten thousand dollars ($10,000), or authorize such sale, lease or other disposition of such property, upon public bidding, if the amount to be received therefor is in excess of ten thousand dollars ($10,000) but not in excess of fifty thousand dollars ($50,000). The proceeds of any such sale, lease or other disposition of such property, not in excess of $10,000, shall be deposited in the Renewal and Replacement Fund. The proceeds derived from any such sale, lease or other

disposition of such property, in excess of $10,000 and not in excess of $50,000, shall be remitted by the City to the Commission for deposit in the appropriate Sinking Funds and shall be applied only to the redemption of Bonds of the last maturities then Outstanding or to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the redemption price of such Bonds. Such payments of such proceeds into the Sinking Fund or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Ordinance.

No sale, lease or other disposition of the properties of the System shall be made by the City if the proceeds to be derived therefrom shall be in excess of fifty thousand dollars ($50,000) and be insufficient to pay or redeem, prior to maturity, all the Bonds then Outstanding, without the prior approval and consent in writing of the owners, or their duly authorized representatives, of sixty-six and two-thirds percent (66-2/3%) in amount of the Bonds then Outstanding. The City shall prepare the form of such approval and consent for execution by the then owners of the Bonds, for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.07. Issuance of Other Obligations Payable out of Revenues and General Covenant Against Encumbrances. The City shall not issue any other obligations whatsoever, except pari passu additional Bonds provided for in Section 7.08 hereof, payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that additional Parity Bonds may be issued as provided in Section 7.08 hereafter. All obligations hereafter issued by the City payable from the revenues of the System, except such additional Parity Bonds, shall contain an express statement that such obligations are junior and subordinate as to lien on and source of and security for payment from such revenues and in all other respects to the Bonds to the extent such are Outstanding; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the respective Reserve Accounts and the Renewal and Replacement Fund, at the time of the issuance of such subordinate obligations, have been made and are current.

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

The City shall give the Authority, the Infrastructure Council and DEP prior written notice of its issuance of any other obligations to be used for the Project, payable from the revenues of the System or from any grants for the Project, or any other obligations related to the Project or the System.

Section 7.08. Parity Bonds. No Parity Bonds payable out of the revenues of the System shall be issued after the issuance of any Bonds pursuant to this Ordinance, except

under the conditions and in the manner herein provided and with the prior written consent of DEP, the Infrastructure Council and the Authority.

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

No Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the City Manager a written statement by Independent Accountants, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the net revenues actually derived, subject to the adjustments hereinafter provided, from the System during any twelve (12) consecutive months within the eighteen (18) months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual net revenues to be received in each of the three (3) succeeding years after the completion of the improvements to be financed by such additional Parity Bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on the following:

(1) Each series of Original Bonds then Outstanding;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this 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 three (3) succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased net revenues estimated to be derived from any increase in rates enacted by the City, the time for appeal of which shall have expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the City Manager prior to the issuance of such additional Parity Bonds.

The Net Revenues actually derived from the System during the twelve (12) consecutive month period hereinabove referred to may be adjusted by adding to such net revenues such additional net revenues which would have been received, in the opinion of the Consulting Engineers and the Independent Accountants as stated in a certificate jointly made and signed by the Consulting Engineers and the Independent Accountants, on account of increased rates, rentals, fees and charges for the System enacted by the City, the time for appeal of which shall have expired prior to issuance of such Parity Bonds.

Not later than simultaneously with the delivery of such Parity Bonds, the City shall have entered into written contracts for the immediate acquisition or construction of such

extensions, additions, betterments or improvements to the System which are to be financed by such Parity Bonds.

All the covenants and other provisions of this Ordinance (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the owners of the Original Bonds and the owners of any Parity Bonds subsequently issued, from time to time, within the limitations of and in compliance with this Section. All the Bonds, regardless of the time or times of their issuance shall rank equally with respect to their respective liens on the revenues of the System, and their respective sources of and security for payment from said revenues, without preference of any Bond over any other. The City shall comply fully with all the increased payments into the various funds created in this Ordinance required for and on account of such additional Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Ordinance.

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

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

Section 7.09. Insurance and Construction Bonds. The City will carry such insurance and in such amounts as is customarily carried with respect to works and properties similar to the System, with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The City will require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority, the Infrastructure Council and the DEP, so long as the Authority is the Owner of the Bonds. The City will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, to protect the interests of the City, the Authority, the prime contractor and all subcontractors as their interests may appear, in accordance with the Loan Agreement, during construction of the Project in the full insurable value thereof. In time of war, the City shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be disposed of as provided in the Ordinance and otherwise shall be placed in the Renewal and Replacement

Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The City shall also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the System. The City shall carry such other insurance as is required by the Authority and DEP and as set forth in the Loan Agreement, including but not limited to flood insurance and business interruption insurance, to the extent available at reasonable cost to the City.

The City shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract, as security for the faithful performance of such contract.

Section 7.10. Consulting Engineers. The City shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority, the Infrastructure Council and the DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers. Such resident engineer shall certify to the Authority, the DEP and the City, at the completion of construction, that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The City shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The City shall notify the DEP in writing of such receipt. The City shall submit a Performance Certificate, the form of which is attached as Exhibit A to the SRF Loan Agreement and is incorporated herein by reference, to the DEP within 60 days of the end of the first year after the Project is completed.

The City shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project is 90% completed. The City 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 City agrees that qualified operating personnel, properly certified by the State, will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of the SRF Loan Agreement. The City shall notify the DEP in writing of the certified operator employed at the 25% completion stage.

The City agrees that qualified operating personnel, properly certified by the State, will be retained to operate the System during the entire term of the Loan Agreements.

Section 7.11. Compliance With Loan Agreements, Rules and Regulations. The City hereby covenants and agrees to perform and satisfy all terms and conditions of the Loan Agreements and to comply with all applicable laws, rules and regulations issued by the Authority, the Infrastructure Council, the DEP or other State, federal or local bodies in

regard to the construction of the Project and operation, maintenance and use of the System. Notwithstanding anything herein to the contrary, the City will provide the DEP and the Infrastructure Council with copies of all documents submitted to the Authority.

Section 7.12. No Free Services. The City will not render or cause to be rendered any free services, of any nature, by its System; and, in the event the City or any department, agency, instrumentality, officer or employee of the City shall avail itself or himself or herself of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the City and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the City shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.13. Enforcement of Collections. The City will diligently enforce and collect all fees, rates, rentals or other charges for the services and facilities of the System and take all steps, actions and proceedings for the enforcement and collection of such fees, rates, rentals or other charges that shall become delinquent to the full extent permitted or authorized by the laws of the State. All such rates and charges, if not paid when due, shall become a lien on the premises served by the System.

Whenever any rates, rentals or charges for the services or facilities of the System, or of the waterworks system, if any, or the sewerage system constituting a part thereof, shall remain unpaid for a period of thirty (30) days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. The City further covenants and agrees that it will, to the full extent permitted by law, and any rules and regulations promulgated by the Public Service Commission of West Virginia applicable thereto, discontinue and shut off both the water, if any, and the sewerage services and facilities of the System to all delinquent users of the services and facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, and will not restore either water or sewerage services of the System until all delinquent charges for the service and facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, plus reasonable interest penalty charges for the restoration of service, have been fully paid.

Section 7.14. No Competing Franchise. To the extent allowable by law, the City will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation or body, or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.15. Books, Records and Facilities. The City shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring,

constructing and installing the Project. The City shall permit the Authority, the Infrastructure Council, and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System, at all reasonable times, for the purpose of audit and examination. The City shall submit to the Authority, the Infrastructure Council, and the DEP such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the Loan Agreements or Grant Agreements or other sources of financing for the Project.

The City shall permit the Authority, the Infrastructure Council and the DEP, or their agents and representatives, to inspect all records pertaining to the operation of the System, at all reasonable times, following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

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

The accounting system for the System shall follow currently accepted accounting practices in accordance with the rules and regulations of the West Virginia Public Service Commission and the Bond Act. Separate control accounting records shall be maintained by the City. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books, and along with other bookkeeping records as prescribed by the City.

The City shall file with the Consulting Engineers and the Authority, the Infrastructure Council and DEP, and shall mail in each year to any owner or owners of Bonds requesting the same, an annual report containing the following:

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

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Ordinance with respect to said Bonds and the status of all said funds and accounts.

(C) The amount of any Bonds or other obligations Outstanding and secured by a lien on the Net Revenues of the System.

The City shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Accountants in compliance with the

applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto, to the extent legally required, and shall mail upon request, and make available generally, the report of said Independent Accountants, or a summary thereof, to any owner or owners of Bonds issued pursuant to this Ordinance, and shall submit said report to the Authority, the Infrastructure Council and the DEP. The report of said audit shall include a statement that the City is in compliance with the terms and provisions of the Act and the Loan Agreements and that the City's revenues are adequate to meet its operation and maintenance expenses and debt service requirements.

The City shall, commencing on the date contracts are executed for the construction of the Project and for two years following the completion of the Project, each month complete a Monthly Financial Report and forward a copy by the 10th of each month to the Authority, the Infrastructure Council and the DEP.

The City shall, during construction of the Project, complete Payment Requisition Forms, the form of which is attached to the SRF Loan Agreement as Exhibit C and is incorporated herein by reference, and forward a copy to the DEP in compliance with the City's construction schedule.

The City shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in Exhibit E of the SRF Loan Agreement or as promulgated from time to time.

The City shall permit the Authority, the Infrastructure Council or the DEP, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction of the Project, the City shall also provide the Authority, the Infrastructure Council and the DEP, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority, the Infrastructure Council and the DEP with respect to the System pursuant to the Act.

Section 7.16. Operating Budget. The Board shall, annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority, the Infrastructure Council and the DEP within thirty days of the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Board shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made, except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued

operation of the System. The City shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and to any Holder of any Bonds who shall file his address with the City and request in writing that copies of all such budgets and resolutions be furnished him and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

Section 7.17. Mandatory Connection. The mandatory use of the System is essential and necessary to protect and preserve the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the City and to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Bureau of Public Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the 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 matter from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30 day notice of the availability of the System, pay the rates and charges established therefor.

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

Section 7.18. Statutory Mortgage Lien. For the further protection of the Bondholders, a statutory mortgage lien upon the System is granted and created by the Bond Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon delivery of the Bonds and shall be for the benefit of all Owners of the Bonds.

Section 7.19. PSC Order. The City shall comply with the conditions of the PSC Order and any supplement or amendment thereto.

Section 7.20. Covenant to Amend Ordinance. The City retains the right to make any amendments to or insertions or deletions from this Ordinance by a further amendatory ordinance or by the Supplemental Resolution as the City deems necessary prior to the issuance of the Bonds to meet the requirements of the Authority, the DEP and the Infrastructure Council.

Section 7.21. Securities Law Compliance. The City will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

Section 7.22. Maintenance of Sinking Fund Account. The City has dedicated amounts in the checking and savings account components of its "Sanitary Board of The City of Mullens Sinking Fund Account" (collectively, the "Account") to the City's contribution to the Project in the amount of $332,281 (or such greater or lesser amount as shall be set forth in the Supplemental Resolution). The City covenants that, from the enactment of this Ordinance until the Completion Date, that it will (i) continue to maintain the Account; (ii) maintain in effect the ordinance establishing the sewer fee that funds the Account and to continue to direct moneys raised by the sewer fee into the Account; and (iii) to spend the moneys in the Account, including all investment earnings on the Account, only on Costs of the Project on the prior written approval of the DEP and the Authority, acting on behalf of the Infrastructure Council; provided, that the City may apply to DEP and the Authority for written approval to spend moneys in the Account on expenditures unrelated to the Project.

ARTICLE VIII

INVESTMENT OF FUNDS

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

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount. The Commission, the Depository Bank or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss of such liquidation. The Depository Bank or such other bank or national banking association 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.

ARTICLE IX

DEFAULT AND REMEDIES

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

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

(B) If default occurs in the City's observance of any of the covenants, agreements or conditions on its part relating to such Bonds set forth in this Ordinance, any supplemental resolution, or in such Bonds, and such default shall have continued for a period of 30 days after the City shall have been given written notice of such default by any bank or banking association holding any fund or account hereunder or an owner of such Bonds; or

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

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default with respect to any Bonds, any Registered Owner of such Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding, enforce all rights of such registered Owners, including the right to require the City to perform its duties under the Act and the Ordinance relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon such Bonds, (iv) by action at law or bill in equity, require the City to account as if it were the trustee of an express trust for the registered Owners of such Bonds, and (v) by action or bill in equity, enjoin any acts in violation of the Ordinance with respect to such Bonds, or the rights of such registered Owners.

Section 9.03. Appointment of Receiver. Any Bondholder may, by proper legal action, compel the performance of the duties of the City under the Ordinance and the Act, including the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any default in the payment of interest on any Bonds when the same shall become due, or in the payment of the principal of any Bond or Bonds, either at the specified date of maturity thereof or at a date set for redemption thereof, or otherwise in the performance of any covenant contained in the Ordinance other than as to such payment and such default shall continue for a period of thirty (30) days after written notice to the City of such default, any Bondholder shall, in addition to all other remedies or rights, have the right, by appropriate legal proceedings, to obtain the appointment of a receiver to administer the System on behalf

of the City, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the Bonds and any interest thereon, the deposits into the funds and accounts hereby established as herein provided and the payment of Operating Expenses of the System and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of the Ordinance and the Act.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate, maintain, manage and control such facilities, and each and every part thereof, and in the name of the City exercise all the rights and powers of the City with respect to said facilities as the City itself might do.

Whenever all that is due upon the Bonds issued pursuant to the Ordinance and interest thereon and under any covenants of the Ordinance 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 Ordinance shall have been cured and made good, possession of the System shall be surrendered to the City upon the entry of an order of the court to that effect. Upon any subsequent default, any owner of Bonds issued pursuant to this Ordinance shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby and a successor receiver appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the City and for the joint protection and benefit of the City and Owners of Bonds issued pursuant to the Ordinance. 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 City and Bondholders, and the curing and making good of any default under the provisions of the Ordinance, and the title to and ownership of said System shall remain in the City, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance of Bonds. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the Owners of all Bonds the principal thereof, and redemption premium, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in the Ordinance, then the pledge of Net Revenues and any other moneys and securities pledged under this Ordinance and all covenants, agreements and other obligations of the City to the Bondholders shall thereupon cease, terminate and become void and be discharged and satisfied.

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

ARTICLE XI

MISCELLANEOUS

Section 11.01. Modification or Amendment. No material modification or amendment of this Ordinance or of any ordinance or resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Bondholders shall be made without the consent in writing of the owners of two-thirds (2/3) or more in principal amount of the Bonds then Outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the City to pay such principal and interest out of the revenues of the System without the consent of the owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of Bonds required for consent to the above permitted amendments or modifications.

Section 11.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

Section 11.03. Repeal of Conflicting Ordinances. All ordinances, resolutions and orders, or parts thereof, in conflict with this Ordinance are, to the extent of such conflict, repealed.

Section 11.04. Covenant of Due Procedure. The City covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the City Manager and members of Board of Commissioners 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 11.05. Abstract of Ordinance and Notice of Public Hearing. Upon adoption hereof, the abstract of this Ordinance in the form set forth in Exhibit B attached hereto and incorporated herein by reference, shall be published once a week for two successive weeks, with at least six full days intervening between each publication, in the The Mullens Advocate [and the Independent Herald, newspapers], a newspaper of general circulation in the City of Mullens, together with a notice stating that this Ordinance has been adopted and that the City contemplates the issuance of the Bonds, and that any person interested may appear before the City upon a certain date, not less than ten days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the City for review by interested persons during office hours of the City. The Board of Commissioners hereby

determines that the Abstract contains sufficient information as to give notice of the contents hereof. At such hearing, all objections and suggestions shall be heard and the City shall take such action as it shall deem proper in the premises.

Section 11.06. Effective Date. This Ordinance shall take effect after passage, public hearing and otherwise in the manner prescribed by law.

First Reading: November 12, 1998

Second Reading
and Passage: November 19, 1998

Public Hearing: December 10, 1998

This Ordinance was placed into effect following the public hearing held on December 10, 1998.

(SEAL)

Earl Mongeau II
City Manager

S. R. Brewer
Mayor

EXHIBIT A

Project Description

Replacement, installation and rehabilitation of approximately 2,800 LF of 18"; 2,700 LF of 15"; 5,500 LF of 12"; 6,200 LF of 10"; and 3,600 LF of 8" PVC gravity sewer pipe; 950 LF of 18"; 200 LF of 10"; 6,200 LF of 8"; and 600 LF of 6" DIP gravity sewer pipe; 100 LF of 1.25" and 3,400 LF of 4" PVC force main; the acquisition and construction of 111 standard, 42 standard watertight, and 300 extra depth manholes; one grinder pump station; one pump plant station; one pump station; and one 330,000 gpd wastewater treatment plant; and, to the extent funds are avaiable at the end of the construction period and with the written consent of the DEP and the Authority, on behalf of the Infrastructure Council, the acquisition and construction by change orders of certain line extensions to serve additional customers.

EXHIBIT B

THE CITY OF MULLENS, WEST VIRGINIA

NOTICE OF PUBLIC HEARING and ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on November 19, 1998, the Board of Commissioners of The City of Mullens, West Virginia (the "City") enacted an ordinance which:

1. Authorized the acquisition and construction of certain additions, extensions, betterments and improvements (the "Project") to the City's existing wastewater collection and treatment system of the City (the "System") and the financing of the permanent cost, not otherwise provided, thereof through the issuance of not more than $4,500,000 in aggregate principal amount of Sewerage System Revenue Bonds, with series designations to be set forth in the Supplemental Resolution (the "Bonds"). The Project, estimated at $7,258,581, was authorized to be financed with the Bond proceeds and grants in the approximate amount of $6,926,300 and a contribution by the City in the approximate amount of $332,281.

2. Directed that the Bonds be issued in two series and in the form of one bond each, fully registered with a payment record attached; that interest on the Bonds shall be zero percentum (0%) per annum, that said Bonds mature in not more than forty years and that said Bonds be sold for the par value thereof; that the Bonds be executed in the name of the City by the Mayor, and the seal of the City be affixed thereto and attested to by the City Manager; that such Bonds be duly authenticated by the Registrar and delivered to the West Virginia Water Development Authority as the Original Purchaser on behalf of the West Virginia Infrastructure and Jobs Development Council and the West Virginia Division of Environmental Protection.

3. Directed the continuation of the Revenue Fund and the disposition of the System revenues; provided for the payment of operating expenses; provided for the monthly payment of principal and interest when due; provided for the creation of reserve accounts for the Bonds and a Renewal and

Replacement Fund; and provided for the use of excess funds of the System.

4. Provided for the disbursement of Bond proceeds and created a Bond Construction Trust Fund.

5. Pledged to payment of the Bonds the Net Revenues of the System.

6. Provided upon certain conditions for the issuance of additional bonds.

7. Provided for insurance coverage on the Project; provided that the City will render no free service; provided for the enforcement of collection of fees, rates, rentals or other charges for service.

8. Established the terms for defaults and the remedies of the Bondholders.

9. Provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance.

The City contemplates the issuance of the Bonds described in, and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Board of Commissioners of the City of Mullens at a regular meeting thereof at 7:00 p.m., prevailing time, on December 10, 1998, at City Hall, 316 Moran Avenue, Mullens, West Virginia, and present objections and be heard as to whether the above described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Board of Commissioners of City, is on file with the City Manager for review by interested persons during the regular hours at City Hall, to-wit: 9:00 a.m. to 4:30 p.m., Monday through Friday.

City Manager - The City of Mullens,
West Virginia

CERTIFICATE OF TRUTH AND ACCURACY

I, the undersigned, as City Manager of the City of Mullens, Wyoming County, West Virginia, do hereby certify that the foregoing document is a true and accurate copy of the official record of The City of Mullens, such records being in the custody of the undersigned and maintained at City Hall, 316 Moran Avenue, Mullens, West Virginia, and that the action taken by the Board of Commissioners in the foregoing document remains in full force and effect and has not been amended.

Dated this 10th day of December, 1998.

Earl Morgan III
City Manager

[SEAL]

CHASFS3:133268

SPECIAL MEETING
NOVEMBER 19, 1998

At a special meeting of the City of Mullens' Board of Commissioners held in council chambers of city hall at 7:00 pm, those present were Mayor Randy Brewer, Commissioners Butch Carte and Butch McNeely, Chris Callas from Jackson & Kelly, and City Manager Earl Mongeni II.

Mayor Brewer informed council that the purpose of the special meeting was for the second reading of the bond ordinance on the sewage plant.

Chris Callas from Jackson & Kelley asked the City Manager if a notice of the special meeting was posted to the public? The City Manager confirmed that this was in fact posted. Mr. Callas also asked that a copy of that notice be attached to the minutes of the special meeting. He went on to say that under West Virginia law, after this reading the City of Mullens must have a public hearing which has already been arranged for at the regular council meeting on November 10, 1998.

On a motion and second by Commissioner McNeely and Commissioner Carte it was unanimously voted to read the bond ordinance by title only.

Chris Callas read the Bond Ordinance by Title as followed:

An Ordinance authorizing the acquisition and construction of certain additions, extensions, betterments and improvements to the existing sewerage collection and treatment system of The City of Mullens; authorizing the issuance of two series of Sewerage System Revenue Bonds of the City of Mullens in aggregate principal amount not to exceed $4,500,000 to be used, along with other funds and moneys of, or availabe to, The City of Mullens which may be lawfully expended for such purposes, to finance the cost of such acquisition and construction and to pay other costs in connection therewith; providing for the rights and remedies of and security for the owners of such bonds; authorizing execution and delivery of all documents relating to the issuance of such bonds; approving, ratifying and confirming a loan agreements relating to such bonds; and adopting other provisions related thereto.

Commissioner McNeely made a motion to enact the Bond Ordinance as read. Commissioner Carte second. The motion passed unanimously.

Mr. Callas also told council that the complete Bond Ordinance must be published two times in the Mullens Advocate as a Class II publication. The first publication to be run on November 25, 1998 and the second publication on December 2, 1998. He informed Mayor Brewer and City Manager Earl Mongeni II that he also was going to leave a letter from the Water Development Authority, along with six copies of the SRF loan agreement that needs signed and returned to SRF before loan closing.

On a motion a second by Commissioner Carte and Commissioner McNeely it was unanimously voted to adjourn the meeting.

The meeting was adjourned at 7:28 PM.

S. R. Brewer
Mayor

Earl Mongeni II
City Manager

NOTICE OF SPECIAL MEETING OF THE

BOARD OF COMMISSIONERS OF THE CITY OF MULLENS

The Board of Commissioners of the City of Mullens will conduct a special meeting at 7:00 p.m. on Thursday, November 19, 1998, at City Hall, Mullens, West Virginia, for the purpose of acting on a bond ordinance and other matters relating to the proposed $4,500,000 City of Mullens Sewerage System Revenue Bonds. The meeting is open to the public.

THE CITY OF MULLENS

By: Earl Mongomery
City Manager

CHASFS3:134046

SUPPLEMENTAL RESOLUTION

Introduced in Council

December 10, 1998

Introduced by

S. R. Brewer, Mayor

Adopted by Council

December 10, 1998

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITIES, INTEREST RATE, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE CITY OF MULLENS SEWERAGE SYSTEM REVENUE BONDS, SERIES 1998 A AND SERIES 1998 B; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; MAKING PROVISIONS FOR THE PAYMENT OF THE BONDS; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Board of Commissioners (the "Governing Body") of The City of Mullens (the "City"), has duly and officially adopted a Bond Ordinance on November 19, 1998, effective December 10, 1998 (the "Bond Ordinance"), entitled:

> AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, EXTENSIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING SEWERAGE COLLECTION AND TREATMENT SYSTEM OF THE CITY OF MULLENS; AUTHORIZING THE ISSUANCE OF TWO SERIES OF SEWERAGE SYSTEM REVENUE BONDS OF THE CITY OF MULLENS IN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $4,500,000 TO BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE CITY OF MULLENS WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENTS RELATING

TO SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

WHEREAS, the Bond Ordinance provides for the issuance of The City of Mullens Sewerage System Revenue Bonds, with series designations to be made at a later date (the "Bonds"), in the aggregate principal amount not to exceed $4,500,000, and has authorized the execution and delivery of certain loan agreements relating to the Bonds, including all amendments and supplements (collectively, the "Loan Agreements"), by and among the City, the West Virginia Water Development Authority (the "Authority"), for itself and on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council"), and the West Virginia Division of Environmental Protection ("DEP"), all in accordance with Chapter 16, Article 13, Chapter 22C, Article 2, and Chapter 31, Article 15A, of the West Virginia Code of 1931, as amended (collectively, 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 Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the exact series designations, 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 BOARD OF COMMISSIONERS OF THE CITY OF MULLENS, WEST VIRGINIA, AS FOLLOWS:

Section 1. It is hereby found and determined:

(A) That the Abstract and Notice was duly published in The Mullens Advocate, a newspaper of general circulation in the City with the first publication thereof being on November 25, 1998, which first publication was not less than ten (10) days before the day set by the Ordinance and Notice for the public hearing at which interested persons might appear before the Council of the City and present protests and suggestions and with the last publications thereof being on December 2, 1998, which last publication dates were prior to said date set by the Ordinance and Notice for the public hearing, and a copy of the Affidavits of Publication reflecting such publications are attached hereto and incorporated herein;

(B) That in accordance with the Ordinance and the Notice, the City Manager has maintained in his office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office;

(C) That, in the chambers of the Governing Body, City Hall, 316 Moran Avenue, Mullens, West Virginia on Thursday, December 10, 1998 at 7:00 p.m. prevailing time, in accordance with the Ordinance and Notice, the Governing Body met for the purpose of hearing protests and suggestions regarding whether the Ordinance should be put into effect and heard all protests and suggestions with regard thereto;

(D) That, at the public hearing, no significant reasons were presented that could require modification or amendment of the Ordinance and no written protest with regard thereto was filed by 30 percent or more of the freeholders of the City; and

(E) The Ordinance shall be put into effect as of the date hereof and the Bonds contemplated thereby shall be issued, all as provided in the Ordinance and this Supplemental Resolution.

Section 2. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued:

(A) The City of Mullens Sewerage System Revenue Bonds, Series 1998 A, originally represented by a single Bond, numbered AR-1, in the principal amount of $1,780,000. The Bonds shall be dated the date of delivery thereof, shall finally mature June 1, 2013, and shall bear no interest. The principal on the Bonds is payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2000. The Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, upon payment of the redemption premium, if any, and upon continued compliance with the applicable Loan Agreement, so long as the Authority shall be the registered owner of the Bonds, and shall be payable in installments of principal in the amounts as set forth in "Schedule Y," attached thereto and incorporated herein by reference. The City shall pay the 1% SRF Administrative Fee as provided in the applicable Loan Agreement.

(B) The City of Mullens Sewerage System Revenue Bonds, Series 1998 B, originally represented by a single Bond, numbered BR-1, in the principal amount of $2,586,300. The Bonds shall be dated the date of delivery thereof, shall finally mature June 1, 2030, and shall bear no interest. The principal on the Bonds is payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2013, or such other date as shall be determined in accordance with Section 5.03A(2) of the Ordinance. The Bonds shall be subject to redemption upon the written consent of the Authority and the Infrastructure Council, upon continued compliance with the applicable Loan Agreement, so long as the Authority shall be the registered owner of the Bonds, and shall be payable in installments of principal in the amounts as set forth in "Schedule Y," attached thereto and incorporated herein by reference.

Section 3. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Bond Ordinance.

Section 4. The City does hereby ratify the Loan Agreements, copies of which are incorporated herein by reference, and the execution and delivery of the Mayor of the Loan Agreements, and the performance of the obligations contained therein, on behalf of the City are hereby authorized, directed, ratified and approved. The City hereby affirms all covenants and representations made in the Loan Agreements and in the applications to the DEP, Infrastructure Council and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds will be advanced from time to time as requisitioned by the City.

Section 5. The City does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia, as Registrar (the "Registrar") for the Bonds and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the City and the Registrar, 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 City are hereby authorized, approved and directed.

Section 6. The City does hereby appoint and direct the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds.

Section 7. The City does hereby appoint The Peoples Bank of Mullens, Mullens, West Virginia, as Depository Bank under the Bond Ordinance.

Section 8. The City has created the Reserve Accounts which will be funded with equal payments on a monthly basis, in accordance with and pursuant to the schedule set forth in Section 5.03 of the Bond Ordinance, until such Reserve Accounts hold an amount equal to the maximum amount of principal and interest which will mature and become due on each Series of Bonds in the then current or any succeeding year. Moneys in the Reserve Accounts and the Sinking Funds (established for the annual payment of principal and interest) will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

Section 9. The proceeds of the Bonds, as advanced from time to time, shall be deposited in or credited to the Bond Construction Trust Fund, as received from time to time for payment of Costs of the Project, including costs of issuance of the Bonds.

Section 10. The Mayor and the City Manager 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 December 17, 1998, to the Authority pursuant to the Loan Agreements.

Section 11. The financing of the Project in part with proceeds of the Bonds is in the public interest, serves a public purpose of the City and will promote the health, welfare and safety of the residents of the City.

Section 12. The City hereby determines to invest all moneys in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the City hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such money market accounts until further directed in writing by the City. Moneys in the Sinking Funds, including the Reserve Accounts therein, shall be invested by the Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 13. This Supplemental Resolution shall be effective immediately following adoption hereof.

[Remainder of Page Intentionally Left Blank]

The foregoing Resolution was read and duly adopted at a regular meeting of the Board of Commissioners of The City of Mullens held on the 10th day of December, 1998.

THE CITY OF MULLENS

[SEAL]

Mayor

ATTEST:

City Manager

State of West Virginia
County of Wyoming, to wit:

I, Eva Smith, being first duly sworn upon my oath, do depose and say that I am the Asst. Legal Editor of the Mullens Advocate, Inc. a corporation publisher of the newspaper entitled Mullens Advocate, Inc. a Republican newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published weekly , for at least fifty weeks during the calendar year, in the Municipality of Mullens, Wyoming County, West Virginia; that such newspaper is a newspaper of "general circulation," as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforesaid municipality and Wyoming County, West Virginia; 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; that the annexed notice of

15" Legal Notice

was duly published in said newspaper once a week for 2 successive weeks, (Class II). commencing with the issue of the 25 day of Nov ,1998 , and ending with the issue of the 2nd day of Dec , 1998 (and was posted at the (if required) Mullens on the 25 day of Nov. , 1998); that said annexed notice was published on the following dates: 11/25, 12/2 and that the cost of publishing said annexed notice as aforesaid was $ 101.06

Eva Smith
Eva Smith, Asst. Legal Editor
Mullens Advocate, Inc.

Taken subscribed and sworn to before me in my said county this 2 day of Dec. , 1998.

My commission expires June 21, 2004.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
IRENE WOOTEN
c/o WELCH DAILY NEWS, INC.
125 WYOMING ST., P. O. BOX 548
WELCH, WV 24801
My Commission Expires June 21, 2004

Irene Wooten
Notary Public, State of West Virginia

LEGAL NOTICE

THE CITY OF MULLENS, WEST VIRGINIA NOTICE OF PUBLIC HEARING AND ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on November 19, 198, the Board of Commissioners of The City of Mullens, West Virginia (the "City") enacted an ordinance which:

1. Authorized the acquisition and construction of certain additions, extensions, betterments and improvements (the "Project") to the City's existing wastewater collection and treatment system of the City (the "System") and the financing of the permanent cost, not otherwise provided, thereof through the issuance of not more than $4,500,000 in aggregate principal amount of Sewerage System Revenue Bonds, with series designations to be set forth in the Supplemental Resolution (the "Bonds"). The project, estimated at $7,258,581, was authorized to be financed with the Bond proceeds and grants in the approximate amount of $6,926,300 and a contribution by the City in the approximate amount of $332,281.

2. Directed that the Bonds be issued in two series, and in the form of one bond each, fully registered, with a payment record attached; that interest on the Bonds shall be zero percentum (0%) per annum, that said Bonds mature in not more than forty years and that said Bonds be sold for the par value thereof; that the Bonds be executed in the name of the City by the Mayor, and the seal of the City to be affixed thereto and attested to by the City Manager; that such Bonds be duly authenticated by the Registrar and delivered to the West Virginia Water Development Authority as the Original Purchaser on behalf of the West Virginia Infrastructure and Jobs Development Council and the West Virginia Division of Environmental Protection.

3. Directed by the continuation of the Revenue Fund and the disposition of the System revenues; provided for the payment of operating expenses; provided for the monthly payment of principal and interest when due; provided for the creation of reserve accounts for the Bonds and a Renewal and Replacement Fund; and provided for the use of excess funds of the System.

4. Provided for the disbursement of Bond proceeds and created a Bond Construction Trust Fund.

5. Pledged to payment of the Bonds the Net Revenues of the System.

6. Provided upon certain conditions for the issuance of additional bonds.

7. Provided for insurance coverage on the Project; provided that the City will render no free service; provided for the enforcement of collection of fees, rates, rentals or other charges for service.

8. Established the terms for defaults and the remedies of the Bondholders.

9. Provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance.

The City contemplates the issuance of the Bonds described in, and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Board of Commissioners of the City of Mullens at a regular meeting thereof at 7:00 p.m., prevailing time, on December 10, 1998, at City Hall, 316 Moran Avenue, Mullens, West Virginia, and present objections and be heard as to whether the above described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Board of Commissioners of City, is on field with the City Manager for review by interested person during the regular hours at City Hall, to-wit: 9:00 a.m. to 4:30 p.m., Monday through Friday.

William E. Mongeni II
City Manager, The City of Mullens, West Virginia

CERTIFICATE OF TRUTH AND ACCURACY

I, the undersigned, as City Manager of the City of Mullens, Wyoming County, West Virginia, do hereby certify that the foregoing document is a true and accurate copy of the official record of The City of Mullens, such records being in custody of the undersigned and maintained at City Hall, 316 Moran Avenue, Mullens, West Virginia, and that the action taken by the Board of Commissioners in the foregoing document remains in full force and effect and has not been amended.

Dated this 19th day of November, 1998
William E. Mongeni II,
City Manager
2 wks., 11/25, 12/2

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of The City of Mullens on the 10th day of December, 1998.

Dated: December 10, 1998.

Earl Mongeneth

City Manager

CHASFS3:133917

THE CITY OF MULLENS
SEWERAGE SYSTEM REVENUE BONDS,
SERIES 1998 A AND SERIES 1998 B

EXCERPT OF MINUTES ON
PUBLIC HEARING AND ADOPTION OF SUPPLEMENTAL RESOLUTION

I, Earl Mongeni, II, City Manager of The City of Mullens (the "City"), hereby certify that the following is a true and correct excerpt of the minutes of a regular meeting of the Board of Commissioners of the City:

The Board of Commissioners met in a regular session pursuant to notice duly given, published and posted, copies of which are attached hereto and incorporated herein, on the 10th day of December, 1998, at City Hall, 316 Moran Avenue, Mullens, West Virginia, at 7:00 p.m., prevailing time.

Present: S. R. Brewer, Mayor
Earl Mongeni, II, City Manager;
Harold "Butch" Carte, Member;
Lewis Arnold, Member;
Robert J. Toler, Member; and
Butch McNeely, Member.

Also present were Christopher L. Callas, Esq. of Jackson & Kelly, Bond Counsel, and W. Richard Staton, Counsel to The City.

S. R. Brewer, Mayor, presided and Earl Mongeni, II, served as City Manager.

The Mayor announced that a quorum of members was present and that the meeting was open for any business properly before it.

Mr. Callas presented an Ordinance in writing entitled:

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, EXTENSIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING SEWERAGE COLLECTION AND TREATMENT SYSTEM OF THE CITY OF MULLENS; AUTHORIZING THE ISSUANCE OF TWO SERIES OF SEWERAGE SYSTEM REVENUE BONDS OF THE CITY OF MULLENS IN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $4,500,000 TO BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE CITY OF

MULLENS WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENTS RELATING TO SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

There were no comments from those people present nor any written protests. Thereupon, on motion of Commissioner Toler, seconded by Commissioner McNeely, it was unanimously ordered that said Ordinance shall be effective on and from the date hereof.

Mr. Callas presented a Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITIES, INTEREST RATE, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE CITY OF MULLENS SEWERAGE SYSTEM REVENUE BONDS, SERIES 1998 A AND SERIES 1998 B; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; MAKING PROVISIONS FOR THE PAYMENT OF THE BONDS; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

Thereupon, on motion of Commissioner McNeely, seconded by Commissioner Toler, it was unanimously ordered that said Supplemental Resolution shall be adopted on and from the date hereof.

There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

I hereby certify that the foregoing action of the City remains in full force and effect and has not been amended or appealed.

WITNESS my signature on this 17th day of December, 1998.

[SEAL]

Earl Mongeni, II, City Manager

CHASFS3:135074

#373

AFFIDAVIT OF PUBLICATION:

State of West Virginia

County of Wyoming, to wit:

I, Eva Smith, being first duly sworn upon my oath, do depose and say that I am the Asst. Legal Editor of the Mullens Advocate, Inc. a corporation publisher of the newspaper entitled Mullens Advocate, Inc. a Republican newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published weekly , for at least fifty weeks during the calendar year, in the Municipality of Mullens, Wyoming County, West Virginia; that such newspaper is a newspaper of "general circulation," as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforesaid municipality and Wyoming County, West Virginia; 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; that the annexed notice of

15" Legal Notice

was duly published in said newspaper once a week for 2 successive weeks, (Class II). commencing with the issue of the 25 day of Nov ,1998 , and ending with the issue of the 2nd day of Dec , 1998 (and was posted at the (if required) Mullens

on the 25 day of Nov. , 1998); that said annexed notice was published on the following dates: 11/25, 12/2

and that the cost of publishing said annexed notice as aforesaid was $ 16.06

Eva Smith

Eva Smith, Asst. Legal Editor
Mullens Advocate, Inc.

Taken subscribed and sworn to before me in my said county this 2 day of Dec. , 1998.

My commission expires June 21 2004.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
IRENE WOOTEN
c/o WELCH DAILY NEWS, INC.
125 WYOMING ST., P. O. BOX 568
WELCH, WV 24801
My Commission Expires June 21, 2004

Irene Wooten

Notary Public, State of West Virginia

LEGAL NOTICE

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2. Directed that the Bonds be issued in two series and in the form of one bond each, fully registered with a payment record attached; that interest on the Bonds shall be zero percentum (0%) per annum, that said Bonds mature in not more than forty years and that said Bonds be sold for the par value thereof; that the Bonds be executed in the name of the City by the Mayor, and the seal of the City to be affixed thereto and attested to by the City Manager; that such Bonds be duly authenticated by the Registrar and delivered to the West Virginia Water Development Authority as the Original Purchaser on behalf of the West Virginia Infrastructure and Jobs Development Council and the West Virginia Division of Environmental Protection.

3. Directed by the continuation of the Revenue Fund and the disposition of the System revenues; provided for the payment of operating expenses; provided for the monthly payment of principal and interest when due; provided for the creation of reserve accounts for the Bonds and a Renewal and Replacement Fund; and provided for the use of excess funds of the System.

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7. Provided for insurance coverage on the Project; provided that the City will render no free service; provided for the enforcement of collection of fees, rates, rentals or other charges for service.

8. Established the terms for defaults and the remedies of the Bondholders.

9. Provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance.

The City contemplates the issuance of the Bonds described in, and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Board of Commissioners of the City of Mullens at a regular meeting thereof at 7:00 p.m., prevailing time, on December 10, 1998, at City Hall, 316 Moran Avenue, Mullens, West Virginia, and present objections and be heard as to whether the above described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Board of Commissioners of City, is on field with the City Manager for review by interested person during the regular hours at City Hall, to-wit: 9:00 a.m. to 4:30 p.m., Monday through Friday.

William E. Mongeni II
City Manager-The City of Mullens, West Virginia

CERTIFICATE OF TRUTH AND ACCURACY

I, the undersigned, as City Manager of the City of Mullens, Wyoming County, West Virginia, do hereby certify that the foregoing document is a true and accurate copy of the official record of The City of Mullens, such records being in custody of the undersigned and maintained at City Hall, 316 Moran Avenue, Mullens, West Virginia, and that the action taken by the Board of Commissioners in the foregoing document remains in full force and effect and has not been amended.

Dated this 19th day of November, 1998
William E. Mongeni II,
City Manager

SRF-LP-1
(August 1998)

LOAN AGREEMENT

THIS WATER POLLUTION CONTROL REVOLVING FUND LOAN AGREEMENT (the "Loan Agreement"), made and entered into in several counterparts, by and among the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), the WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION, a division of the West Virginia Bureau of Environment (the "DEP"), and the local government designated below (the "Local Government").

CITY OF MULLENS
(Local Government)

W I T N E S S E T H:

WHEREAS, the United States Congress under Title VI of the federal Clean Water Act, as amended (the "Clean Water Act"), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining state water pollution control revolving funds for the planning, design, construction, acquisition and/or improvement of wastewater treatment facilities;

WHEREAS, pursuant to the provisions of Chapter 20, Article 5I, of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a state water pollution control revolving fund program (the "Program") to direct the distribution of loans to particular local governments pursuant to the Clean Water Act;

WHEREAS, under the Act the DEP is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency ("EPA") to accept capitalization grant awards (U.S. General Services Administration; Catalog of Federal Domestic Assistance, 32nd Edition § 66.458 (1998)) and DEP has been awarded capitalization grants to partially fund the Program;

WHEREAS, under the Act and under the direction of DEP, the Authority has established a permanent perpetual fund known as the "West Virginia Water Pollution Control Revolving Fund" (hereinafter the "Fund");

WHEREAS, pursuant to the Act, the Authority and DEP are empowered to make loans from the Fund to local governments for the acquisition or construction of

wastewater treatment projects by such local governments, all subject to such provisions and limitations as are contained in the Clean Water Act and the Act;

WHEREAS, the Local Government constitutes a local government as defined by the Act;

WHEREAS, the Local Government is included on the DEP State Project Priority List and the Intended Use Plan and has met DEP's pre-application requirements for the Program;

WHEREAS, the Local Government is authorized and empowered by the statutes of the State to construct, operate and improve a wastewater treatment project and to finance the cost of constructing or acquiring the same by borrowing money to be evidenced by revenue bonds issued by the Local Government;

WHEREAS, the Local Government intends to construct, is constructing or has constructed such a wastewater treatment project at the location and as more particularly described and set forth in the Application, as hereinafter defined (the "Project");

WHEREAS, the Local Government has completed and filed with the Authority and DEP an Application for a Loan with attachments and exhibits and an Amended Application for a Loan also with attachments and exhibits (together, as further revised and supplemented, the "Application"), which Application is incorporated herein by this reference; and

WHEREAS, having reviewed the Application and the Fund having available sufficient funds therefor, the Authority and DEP are willing to lend the Local Government the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Local Government with moneys held in the Fund, subject to the Local Government's satisfaction of certain legal and other requirements of the Program.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Local Government, DEP and the Authority hereby agree as follows:

ARTICLE I

Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "cost," "fund," "local government," and "project" have the definitions and meanings ascribed to them in the Act or in the SRF Regulations.

1.2 "Consulting Engineers" means the professional engineer, licensed by the State, designated in the Application and any successor thereto.

1.3 "Loan" means the loan to be made by the Authority and DEP to the Local Government through the purchase of Local Bonds, as hereinafter defined, pursuant to this Loan Agreement.

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

1.5 "Local Bonds" means the revenue bonds to be issued by the Local Government pursuant to the provisions of the Local Statute, as hereinafter defined, to evidence the Loan and to be purchased by the Authority with money held in the Fund, all in accordance with the provisions of this Loan Agreement.

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

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

1.8 "Program" means the wastewater treatment facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Clean Water Act and administered by DEP.

1.9 "Project" means the wastewater treatment facility project hereinabove referred to, to be constructed or being constructed by the Local Government in whole or in part with the net proceeds of the Local Bonds or being or having been constructed by the Local Government in whole or in part with the proceeds of bond anticipation notes or other interim financing, which is to be paid in whole or in part with the net proceeds of the Local Bonds.

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

1.11 "System" means the wastewater treatment facility owned by the Local Government, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

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

ARTICLE II

The Project and the System

2.1 The Project shall generally consist of the construction and acquisition of the facilities described in the Application, to be, being or having been constructed in accordance with plans, specifications and designs prepared for the Local Government by the Consulting Engineers, the DEP and Authority having found, to the extent applicable, that the Project is consistent with the applicable provisions of the Program.

2.2 Subject to the terms, conditions and provisions of this Loan Agreement and of the Local Act, the Local Government has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared for the Local Government by the Consulting Engineers.

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Local Government, subject to any mortgage lien or other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property is approved by DEP and the Authority.

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

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

2.6 The Local Government agrees that it will permit the Authority and DEP and their respective agents to have access to the records of the Local Government pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof or if the Project is an improvement to an existing system at any reasonable time following commencement of construction.

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

2.8 The Local Government shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and DEP. Until the Project facilities are completed and accepted by the Local Government, the Local Government or (at the option of the Local Government) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Local Government, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Local Government on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding. Prior to commencing operation of the Project, the Local Government must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Local Government shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority, DEP and the Local Government at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Local Government shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Local Government shall notify DEP in writing of such receipt. The Local Government shall submit a Performance Certificate, the form of which is attached hereto as Exhibit A, and being incorporated herein by reference, to DEP within 60 days of the end of the first year after the Project is completed.

2.10 The Local Government shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to DEP when the Project is 90% completed. The Local Government agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Local Government agrees that qualified operating personnel properly certified by the State will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The Local Government shall notify DEP in writing of the certified operator employed at the 25% completion stage.

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

2.12 The Local Government, commencing on the date contracts are executed for the construction of the Project and for two years following the completion of the Project, shall each month complete a Monthly Financial Report, the form of which is attached hereto as Exhibit B and incorporated herein by reference, and forward a copy by the 10th of each month to the Authority.

2.13 The Local Government, during construction of the Project, shall complete Payment Requisition Forms, the form of which is attached hereto as Exhibit C and incorporated herein by reference, and forward the Form to DEP in compliance with the Local Government's construction schedule.

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

(a) The Local Government shall have delivered to the Authority a report listing the specific purposes for which the proceeds of the Loan will be expended and the procedures as to the disbursement of loan proceeds, including an estimated monthly draw schedule;

(b) The Local Government shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this Loan Agreement;

(c) The Local Government shall have authorized the issuance of and delivery to the Authority of the Local Bonds described in this Article III and in Article IV hereof;

(d) The Local Government shall either have received bids or entered into contracts for the construction of the Project, which are in an amount and otherwise compatible with the plan of financing described in the Application; provided, that, if the Loan will refund an interim financing of construction, the Local Government must either be constructing or have constructed its Project for a cost and as otherwise compatible with the plan of financing described in the Application; and, in either case, the Authority and DEP shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit D;

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

(f) The Local Government shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the construction of the Project and operation of the System, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

(g) The Local Government shall have obtained any and all approvals for the issuance of the Local Bonds required by State law, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

(h) The Local Government shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project) with all requisite appeal periods having expired, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

(i) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsection 4.1(b)(ii) hereof, and the Authority and DEP shall have received a certificate of the accountants for the Local Government, or such other person or firm experienced in the finances of local governments and satisfactory to the Authority and DEP, to such effect; and

(j) The net proceeds of the Local Bonds, together with all moneys on deposit or to be simultaneously deposited (or, with respect to proceeds of grant anticipation notes or other indebtedness for which a binding purchase contract has been entered, to be deposited on a date certain) and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, shall be sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and the Authority and DEP shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of wastewater treatment projects and satisfactory to the Authority and DEP, to such effect, such certificate to be in form and substance satisfactory to the Authority and DEP, and evidence satisfactory to the Authority and DEP of such irrevocably committed grants.

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

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

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Local Government by written notice to the Authority, which written notice shall be given not less than ten (10) business days prior to the date designated; provided, however, that if the Authority is unable to accept delivery on the date designated, the Local Bonds shall be delivered to the Authority on a date as close as possible to the designated date and mutually agreeable to the Authority, DEP and the Local Government. The date of delivery so designated or agreed upon is hereinafter referred to as the "Date of Loan Closing." Notwithstanding the foregoing, the Date of Loan Closing shall in no event occur more than ninety (90) days after the date set forth in Exhibit E hereto.

3.5 The Local Government understands and acknowledges that it is one of several local governments which have applied to the Authority and DEP for loans to finance wastewater treatment projects and that the obligation of the Authority to make any such loan is subject to the Local Government's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing and to the requirements of the Program. The Local Government specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Fund to purchase all the Local Bonds and that, prior to such purchase, the Authority may purchase the bonds of other local governments set out in the State Project Priority List, as defined in the SRF Regulations. The

Local Government further specifically recognizes that all loans will be originated in conjunction with the SRF Regulations and with the approval of DEP.

3.6 The Local Government shall provide DEP with the appropriate documentation to comply with the special conditions established by federal and state regulations as set forth in Exhibit E hereto at such times as are set forth in Exhibit E.

ARTICLE IV

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

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

(a) That the gross revenues of the System shall always be used for purposes of the System. The revenues generated from the operation of the System will be used monthly, in the order of priority listed below:

(i) to pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document and beginning on the date set forth in Schedule X to provide debt service on the Local Bonds by depositing in a sinking fund one-third (1/3) of the interest payment next coming due on the Local Bonds and one-third (1/3) of the principal payment next coming due on the Local Bonds and, beginning three (3) months prior to the first date of payment of principal of the Local Bonds, if the reserve account for the Local Bonds (the "Reserve Account") was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof in an amount equal to an amount at least equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

(iii) to create a renewal and replacement, or similar, fund in an amount equal to two and one-half percent (2-1/2%) of the gross revenues from the System, exclusive of any payments into the Reserve Account, for the purpose of improving

or making emergency repairs or replacements to the System or eliminating any deficiencies in the Reserve Account; and

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

Provided that if the Local Government has existing outstanding indebtedness which has greater coverage or renewal and replacement fund requirements, then the greater requirements will prevail until said existing indebtedness is paid in full.

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by the net revenues from the System;

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

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

(iv) That, except as otherwise required by State law or the Regulations, the System may be sold, mortgaged, leased or otherwise disposed of as a whole or substantially as a whole provided that the net proceeds to be realized from such sale, mortgage, lease or other deposition shall be sufficient to fully pay all of the local bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of such System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

(v) That the Local Government shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and

on any obligations secured by a lien on or payable from the revenues of the System prior to the Local Bonds and with the written consent of the Authority and DEP; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

(vii) That the Local Government will not render any free services of the System;

(viii) That any Local Bond owner may, by proper legal action, compel the performance of the duties of the Local Government under the Local Act, including the making and collection of sufficient rates or charges for services rendered by the System, and shall also have, in the event of a default in payment of principal of or interest on the Local Bonds, the right to obtain the appointment of a receiver to administer the System or construction of the Project, or both, as provided by law and all rights as set forth in Section 5 of the Act;

(ix) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, all delinquent rates and charges, if not paid when due, shall become a lien on the premises served by the System;

(x) That, to the extent legally allowable, the Local Government will not grant any franchise to provide any services which would compete with the System;

(xi) That the Local Government shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and DEP, which report shall include a statement that the Local Government is in compliance with the terms and provisions of the Local Act and this Loan Agreement and that the Local Government's revenues are adequate to meet its operation and maintenance expenses and debt service requirements;

(xii) That the Local Government shall annually adopt a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding fiscal year and shall submit a copy of such budget to the Authority and DEP within 30 days of adoption thereof;

(xiii) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, prospective users of the System shall be required to connect thereto;

(xiv) That the proceeds of the Local Bonds, advanced from time to time, except for accrued interest and capitalized interest, if any, must (a) be deposited in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Local Government and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing for non-construction costs) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim funding of such Local Government, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority and DEP, the proceeds of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein;

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Local Government may authorize redemption of the Local Bonds with 30 days written notice to the Authority;

(xvi) That the Local Government shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the West Virginia Municipal Bond Commission (the "Commission") its required interest, principal and reserve fund payment. The Local Government shall complete the Monthly Payment Form, attached hereto as Exhibit F and incorporated herein by reference, and submit a copy of said form along with a copy of the check to the Authority by the 5th day of such calendar month;

(xvii) That the Commission shall serve as paying agent for all Local Bonds;

(xviii) That, unless it qualifies for an exception to the provisions of Section 148 of the Code, which exception shall be set forth in an opinion of bond counsel, the Local Government will furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information requested by the Authority;

(xix) That the Local Government shall have obtained the certificate of the Consulting Engineers to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority, the Project is adequate for the purposes for which it was designed and the funding plan as submitted to the Authority is sufficient to pay the costs of acquisition and construction of the Project; and

(xx) That the Local Government shall, to the full extent permitted by applicable law and the rules and regulations of the West Virginia Public Service Commission, terminate the services of any water facility owned by it to any customer of the System who is delinquent in payment of charges for services provided by the System and will

not restore the services of the water facility until all delinquent charges for the services of the System have been fully paid or, if the water facility is not owned by the Local Government, then the Local Government shall enter into a termination agreement with the water provider.

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

4.2 The Loan shall be secured by the pledge and assignment by the Local Government, as effected by the Local Act, of the fees, charges and other revenues of the Local Government from the System.

4.3 At least five percent (5%) of the proceeds of the Local Bonds will be advanced on the Date of Loan Closing. The remaining proceeds of the Local Bonds shall be advanced by the Authority monthly as required by the Local Government to pay Costs of the Project, provided, however, if the proceeds of the Local Bonds will be used to repay an interim financing, the proceeds will be advanced on a schedule mutually agreeable to the Local Government, the DEP and the Authority. The Local Bonds shall not bear interest during the construction period but interest shall commence accruing on the completion date as defined in the SRF Regulations, provided that the annual repayment of principal and payment of interest shall begin not later than one (1) year after the completion date. The repayment of principal and interest on the Local Bonds shall be as set forth on Schedule Y hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

4.4 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Local Government. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series.

4.5 As provided by the SRF Regulations, the Local Government agrees to pay from time to time, if required by the Authority and DEP, the Local Government's allocable share of the reasonable administrative expenses of the Authority relating to the Program. Such administrative expenses shall be determined by the Authority and shall include without limitation Program expenses, legal fees paid by the Authority and fees paid to the trustee and paying agents for any bonds or notes to be issued by the Authority for contribution to the Fund and the fees and expenses of any corporate trustee for the Fund.

4.6 The obligation of the Authority to make any loans shall be conditioned upon the availability of moneys in the Fund in such amount and on such terms and conditions as, in the sole judgment of the Authority, will enable it to make the Loan.

ARTICLE V

Certain Covenants of the Local Government; Imposition and Collection of User Charges; Payments To Be Made by Local Government to the Authority

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

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

5.3 In the event the Local Government defaults in any payment due to the Authority pursuant to Section 4.2 hereof, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

5.4 The Local Government hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Local Government, the Authority may exercise any or all of the rights and powers granted under Section 5 of the Act, including without limitation the right to impose, enforce and collect directly charges upon users of the System.

ARTICLE VI

Other Agreements of the Local Government

6.1 The Local Government hereby acknowledges to the Authority and DEP its understanding of the provisions of the Act, vesting in the Authority and DEP certain powers, rights and privileges with respect to wastewater treatment projects in the event of default by local governments in the terms and covenants of loan agreements, and the Local Government hereby covenants and agrees that, if the Authority should hereafter have

recourse to said rights and powers, the Local Government shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Loan Agreement.

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

6.3 The Local Government hereby agrees to repay on or prior to the Date of Loan Closing any moneys due and owing by it to the Authority or any other lender for the planning or design of the Project, provided that such repayment shall not be made from the proceeds of the Loan.

6.4 The Local Government hereby covenants that it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Local Government fails to make any such rebates as required, then the Local Government shall pay any and all penalties, obtain a waiver from the Internal Revenue Service and take any other actions necessary or desirable to preserve the exclusion from gross income for federal income tax purposes of interest on the Local Bonds.

6.5 Notwithstanding Section 6.4, the Authority and DEP may at any time, in their sole discretion, cause the rebate calculations prepared by or on behalf of the Local Government to be monitored or cause the rebate calculations for the Local Government to be prepared, in either case at the expense of the Local Government.

6.6 The Local Government hereby agrees to give the Authority and DEP prior written notice of the issuance by it of any other obligations to be used for the Project, payable from the revenues of the System or from any grants for the Project or otherwise related to the Project or the System.

6.7 The Local Government hereby agrees to file with the Authority upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule A to the Application, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE VII

Miscellaneous

7.1 Schedule Y shall be attached to this Loan Agreement by the Authority as soon as practicable after the Date of Loan Closing is established and shall be approved by an official action of the Local Government supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority.

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

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

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

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

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

7.7 This Loan Agreement shall terminate upon the earlier of:

(i) written notice of termination to the Local Government from either the Authority or DEP;

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

(iii) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Local Government to the Authority or DEP; provided that the amount of the Loan made under this Loan Agreement in any succeeding fiscal year is contingent upon funds being appropriated by the legislature or otherwise being available to make the Loan. In the event funds are not appropriated or otherwise available to make all of the Loan, the responsibility of the Authority and DEP to make all the Loan is terminated; provided further that the obligation of the Local Government to repay the amount of the Loan made by the Authority and DEP as set forth in (iii) above is not terminated due to such non-funding on any balance on the Loan. The DEP agrees to use its best efforts to have the amount contemplated under this Loan Agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default under the Loan Agreement.

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

CITY OF MULLENS
[Proper Name of Local Government]

(SEAL)

By: _____
Its: Mayor

Attest:

Date: November 19, 1998

_____
Its Recorder

WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION

By: _____
Its: Chief

Date: 11/25/98

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: _____
Its: Director

Attest:

Date: November 19, 1998

_____
Secretary-Treasurer

EXHIBIT A

[Form of Performance Certificate]

[TO BE PROVIDED BY DEP]

EXHIBIT B

[Form of Monthly Financial Report]
[Name of Local Government]
[Name of Bond Issue]
Fiscal Year - __
Report Month: _____

ITEM	CURRENT MONTH	YEAR TO DATE	BUDGET YEAR TO DATE	BUDGET DIFFERENCE
1. Gross Revenues Collected				
2. Operation and Maintenance Expense				
3. Other Bond Debt Payments (including Reserve Fund deposits)				
4. SRF Bond Payments (include Reserve Fund deposits)				
5. Renewal and Replacement Fund Deposit				
6. Funds available for capital construction				

Witnesseth my signature this __ day of ____, ____.

[Name of Local Government]

By: _____
Authorized Officer

EXHIBIT C

PAYMENT REQUISITION FORM

(All Copies to Be Provided by DEP for Each Project)

EXHIBIT D

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____
(Issuer)

_____
(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No._____, of _____, Consulting Engineers, _____, _____, hereby certify that my firm is engineer for the acquisition and construction of _____ to the _____ system (herein called the "Project") of _____ (the "Issuer") to be constructed primarily in _____County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the _____ passed by the _____ of the Issuer on _____, 19___, effective _____, 19___, and the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection ("DEP") dated _____, 19___.

1. The Bonds are being issued for the purpose of _____ _____ (the "Project").

2. The undersigned hereby certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least twenty years, (iii) the Issuer has received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, (v) the rates and charges for the System as adopted by the ____ of the Issuer are sufficient to comply with the provisions of Subsection 4.1(b) of the Loan Agreement, (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of construction and

acquisition of the Project as set forth in the Application, and (vii) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this _____ day of _____, 19___.

_____

By _____

West Virginia License No. __

[SEAL]

EXHIBIT E

SPECIAL CONDITIONS

A. The recipient agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. AUDIT REQUIREMENT (Supplement to Article IV 4.1 (b) (xi)) - The loan recipient that receives $300,000 or more in a fiscal year must obtain audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133 or any appropriate successor. Financial statement audits are required once all funds have been received by the loan recipient.

EXHIBIT F

[Monthly Payment Form]

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

Re: [Name of bond issue]

Dear Sirs:

The following deposits were made to the West Virginia Municipal Bond Commission on behalf of [Local Government] on _____, __.

Sinking Fund:

Interest $_____

Principal $_____

Total: $_____

Reserve Fund: $_____

Witness my signature this ___ day of_____.

[Name of Local Government]

By: _____
Authorized Officer

Enclosure: copy of check(s)

EXHIBIT G

[Opinion of Bond Counsel for Local Government]

[To Be Dated as of Date of Loan Closing]

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

Gentlemen:

We are bond counsel to _____ (the "Local Government"), a _____.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated _____, 19__, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Local Government and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Local Government, dated _____, 19_ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of $_____, issued in the form of one bond registered as to principal and interest to the Authority, with interest payable _____ 1, ____ 1, _____ 1, and _____ 1 of each year, beginning _____ 1, 19_, at the respective rate or rates and with principal payable in installments on ____ 1 in each of the years, all as follows:

Year	Installment	Interest Rate

The Local Bonds are issued for the purpose of _____ and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly enacted by the Local Government on _____ (the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

1. The Loan Agreement has been duly authorized by and executed on behalf of the Local Government and is a valid and binding special obligation of the Local Government enforceable in accordance with the terms thereof.

2. The Loan Agreement inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Local Government without the consent of the Authority.

3. The Local Government is a duly organized and presently existing _____ _____, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Government has legally and effectively enacted the Local Act and all other necessary _____ in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

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

6. The Local Bonds are, by statute, exempt _____, and under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Local Bonds is excludable from the gross income of the recipients thereof for federal income tax purposes.

No opinion is given herein as to the effect upon enforceability of the Local Bonds of bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights or in the exercise of judicial discretion in appropriate cases.

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

Very truly yours,

SCHEDULE X

DESCRIPTION OF BONDS

Principal Amount of Bonds	$ 1,780,000
Purchase Price of Bonds	$ 1,780,000

Interest on the Bonds shall be zero percent from the date of delivery ~~to and including _____~~. Principal ~~and interest~~ on the Bonds is payable quarterly, commencing September 1, 2000, at a rate of 0 % per annum. Quarterly payments will be made thereafter on each September 1, December 1, March 1 and June 1 as set forth on Schedule Y attached hereto and incorporated herein by reference. As of the date of this Loan Agreement, it is the Authority's and DEP's understanding that the Local Government has other obligations outstanding which have a lien as to the source of and security for payment equal to or superior to the lien being granted by the Bonds.

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

The Bonds will be fully registered in the name of the West Virginia Water Development Authority as to principal ~~and interest~~ and such Bonds shall grant the Authority a first lien on the net revenues of the Local Government's system.

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

City of Mullens, West Virginia

Loan Agreement C-544076

$1,780,000; 0% Interest Rate; 1% Administrative Fee; 13 years

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
3/01/1999	-	-	-
6/01/1999	-	-	-
9/01/1999	-	-	-
12/01/1999	-	-	-
3/01/2000	-	-	-
6/01/2000	-	-	-
9/01/2000	34,231.00	-	34,231.00
12/01/2000	34,231.00	-	34,231.00
3/01/2001	34,231.00	-	34,231.00
6/01/2001	34,231.00	-	34,231.00
9/01/2001	34,231.00	-	34,231.00
12/01/2001	34,231.00	-	34,231.00
3/01/2002	34,231.00	-	34,231.00
6/01/2002	34,231.00	-	34,231.00
9/01/2002	34,231.00	-	34,231.00
12/01/2002	34,231.00	-	34,231.00
3/01/2003	34,231.00	-	34,231.00
6/01/2003	34,231.00	-	34,231.00
9/01/2003	34,231.00	-	34,231.00
12/01/2003	34,231.00	-	34,231.00
3/01/2004	34,231.00	-	34,231.00
6/01/2004	34,231.00	-	34,231.00
9/01/2004	34,231.00	-	34,231.00
12/01/2004	34,231.00	-	34,231.00
3/01/2005	34,231.00	-	34,231.00
6/01/2005	34,231.00	-	34,231.00
9/01/2005	34,231.00	-	34,231.00
12/01/2005	34,231.00	-	34,231.00
3/01/2006	34,231.00	-	34,231.00
6/01/2006	34,231.00	-	34,231.00
9/01/2006	34,231.00	-	34,231.00
12/01/2006	34,231.00	-	34,231.00
3/01/2007	34,231.00	-	34,231.00
6/01/2007	34,231.00	-	34,231.00
9/01/2007	34,231.00	-	34,231.00
12/01/2007	34,231.00	-	34,231.00
3/01/2008	34,231.00	-	34,231.00
6/01/2008	34,231.00	-	34,231.00
9/01/2008	34,231.00	-	34,231.00
12/01/2008	34,231.00	-	34,231.00
3/01/2009	34,231.00	-	34,231.00
6/01/2009	34,231.00	-	34,231.00
9/01/2009	34,231.00	-	34,231.00
12/01/2009	34,231.00	-	34,231.00
3/01/2010	34,231.00	-	34,231.00
6/01/2010	34,231.00	-	34,231.00
9/01/2010	34,230.00	-	34,230.00

City of Mullens, West Virginia

Loan Agreement C-544076

$1,780,000; 0% Interest Rate; 1% Administrative Fee; 13 years

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
12/01/2010	34,230.00	-	34,230.00
3/01/2011	34,230.00	-	34,230.00
6/01/2011	34,230.00	-	34,230.00
9/01/2011	34,230.00	-	34,230.00
12/01/2011	34,230.00	-	34,230.00
3/01/2012	34,230.00	-	34,230.00
6/01/2012	34,230.00	-	34,230.00
9/01/2012	34,230.00	-	34,230.00
12/01/2012	34,230.00	-	34,230.00
3/01/2013	34,230.00	-	34,230.00
6/01/2013	34,230.00	-	34,230.00*
Total	**1,780,000.00**	**-**	**1,780,000.00**

*Plus $2,267.78, one-percent administrative fee paid quarterly.
Total fee paid over life of the loan is $117,924.56.

IC/WDA-1
(July 1996)

LOAN AGREEMENT

THIS LOAN AGREEMENT, Made and entered into in several counterparts, by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), acting on behalf of the WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL (the "Council") and the governmental agency designated below (the "Governmental Agency");

CITY OF MULLENS
(Governmental Agency)

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of Chapter 31, Article 15A, of the Code of West Virginia, 1931, as amended (the "Act"), the Authority is empowered upon request of the Council to make loans to governmental agencies for the acquisition or construction of projects by such governmental agencies, subject to such provisions and limitations as are contained in the Act;

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

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

WHEREAS, the Governmental Agency intends to construct, is constructing or has constructed such a project at the location and as more particularly described and set forth in the Application, as hereinafter defined (the "Project");

WHEREAS, the Governmental Agency has completed and filed with the Authority an Application for a Construction Loan with attachments and exhibits and an Amended Application for a Construction Loan also with attachments and exhibits (together, as further revised and supplemented, the "Application"), which Application is incorporated herein by this reference; and

WHEREAS, having reviewed the Application and made all findings required by the Act and having available sufficient funds therefor, the Council has authorized the Authority to lend the Governmental Agency the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Governmental Agency with money in the Infrastructure Fund subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Council's loan program (the "Program") as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Governmental Agency and the Authority hereby agree as follows:

ARTICLE I

Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "cost," "governmental agency," "project," "waste water facility" and "water facility" have the definitions and meanings ascribed to them in the Act.

1.2 "Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Bonds, acting in its administrative capacity pursuant to Section 10 of the Council Act and upon authorization from the Council.

1.3 "Consulting Engineers" means the professional engineer, licensed by the State, who shall not be a regular, full-time employee of the State or any of its agencies, commissions or political sub-divisions, and designated in the Application and any qualified successor thereto; provided, however, when a Loan is made for a Project financed, in part, by the Office of Abandoned Mine Lands, "Consulting Engineers" shall mean the West Virginia Division of Environmental Protection, or any successor thereto.

1.4 "Infrastructure Fund" means the West Virginia Infrastructure Fund established in accordance with Section 9 of the Act.

1.5 "Loan" means the loan to be made by the Authority to the Governmental Agency through the purchase of Local Bonds, as hereinafter defined, pursuant to this Loan Agreement.

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

1.7 "Local Bonds" means the revenue bonds to be issued by the Governmental Agency pursuant to the provisions of the Local Statute, as hereinafter defined, to evidence the Loan and to be purchased by the Authority, all in accordance with the provisions of this Loan Agreement.

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

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

1.10 "Project" means the project hereinabove referred to, to be constructed or being constructed by the Governmental Agency in whole or in part with the net proceeds of the Local Bonds.

1.11 "System" means the project owned by the Governmental Agency, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

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

ARTICLE II

The Project and the System

2.1 The Project shall generally consist of the construction and acquisition of the facilities described in the Application, to be, being or having been constructed in accordance with plans, specifications and designs prepared for the Governmental Agency by the Consulting Engineers, the Authority and Council having found, to the extent applicable, that the Project is consistent with the Act.

2.2 Subject to the terms, conditions and provisions of this Loan Agreement and of the Local Act, the Governmental Agency has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared for the Governmental Agency by the Consulting Engineers.

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Governmental Agency, subject to any mortgage lien or

other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property or any interest therein is approved by the Authority and Council.

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

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

2.6 The Governmental Agency agrees that it will permit the Authority and its agents and representatives to have access to the records of the Governmental Agency pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof or if the Project is an improvement to an existing system at any reasonable time following commencement of construction.

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

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

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

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

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

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

2.12 The Governmental Agency, commencing on the date contracts are executed for the construction of the Project and for two years following the completion of the Project, shall each month complete a Monthly Financial Report, the form of which is attached hereto as Exhibit C and incorporated herein by reference, and forward a copy by the 15th of each month to the Authority and Council.

ARTICLE III

Conditions to Loan;
Issuance of Local Bonds

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

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

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

(c) The Governmental Agency shall either have received bids or entered contracts for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application; provided, that, if the Loan will refund an interim financing of construction, the Governmental Agency must either be constructing or have constructed its Project for a cost and as otherwise compatible with the plan of financing described in the Application; and, in either case, the Authority shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit A;

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

(e) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the construction of the Project and operation of the System with all requisite appeal periods having expired without successful appeal, and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

(f) The Governmental Agency shall have obtained any and all approvals for the issuance of the Local Bonds required by State law, and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local

counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

(g) The Governmental Agency shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project) with all requisite appeal periods having expired without successful appeal, and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

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

(i) The net proceeds of the Local Bonds, together with all moneys on deposit or to be simultaneously deposited (or, with respect to proceeds of grant anticipation notes or other indebtedness for which a binding purchase contract has been entered, to be deposited on a date certain) and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, shall be sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and the Authority shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of water development projects and satisfactory to the Authority, to such effect, such certificate to be in form and substance satisfactory to the Authority, and evidence satisfactory to the Authority of such irrevocably committed grants.

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

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

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Governmental Agency by written notice to the

Authority, which written notice shall be given not less than ten (10) business days prior to the date designated; provided, however, that if the Authority is unable to accept delivery on the date designated, the Local Bonds shall be delivered to the Authority on a date as close as possible to the designated date and mutually agreeable to the Authority and the Governmental Agency. The date of delivery so designated or agreed upon is hereinafter referred to as the "Date of Loan Closing." Notwithstanding the foregoing, the Date of Loan Closing shall in no event occur more than ninety (90) days after the date of execution of this Loan Agreement by the Authority.

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Council for loans to finance projects and that the obligation of the Authority to make any such loan is subject to the Council's authorization and the Governmental Agency's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing. The Governmental Agency specifically recognizes that the Authority will not purchase the Local Bonds unless and until it has available in the Infrastructure Fund funds sufficient to purchase all the Local Bonds and that, prior to such execution, the Authority may commit to and purchase the revenue bonds of other governmental agencies for which it has sufficient funds available.

ARTICLE IV

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

4.1 The Governmental Agency shall, as one of the conditions of the Authority to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official action of the Governmental Agency in accordance with the Local Statute, which shall, as enacted, contain provisions and covenants in substantially the form as follows, unless the specific provision or covenant is modified or waived by the Council:

(a) That the gross revenues of the System shall always be used for purposes of the System. The revenues generated from the operation of the System will be used monthly, in the order of priority listed below:

(i) to pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document and beginning on the date set forth in Schedule

X to provide debt service on the Local Bonds by depositing in a sinking fund one-third (1/3) of the interest payment next coming due on the Local Bonds and one-third (1/3) of the principal payment next coming due on the Local Bonds and, beginning three (3) months prior to the first date of payment of principal of the Local Bonds, if the reserve account for the Local Bonds, if any (the "Reserve Account"), was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof in an amount equal to an amount at least equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

(iii) to create a renewal and replacement, or similar, fund in an amount equal to two and one-half percent (2-1/2%) of the gross revenues from the System, exclusive of any payments into the Reserve Account, for the purpose of improving or making emergency repairs or replacements to the System or eliminating any deficiencies in the Reserve Account; and

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

Provided, that if the Governmental Agency has existing outstanding indebtedness which has greater coverage or renewal and replacement fund requirements, then the greater requirements will prevail until said existing indebtedness is paid in full.

(b) Covenants substantially as follows:

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

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

amount required in any year for debt service on the Local Bonds and any such prior or parity obligations;

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

(iv) That, except as otherwise required by State law or with the written consent of the Council and the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Local Bonds outstanding, with further restrictions on the disposition of portions of the System as are normally contained in such covenants;

(v) That the Governmental Agency shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, based upon the rates, Operating Expenses and customer usage on the date of closing, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by a lien on or payable from the revenues of the System prior to the Local Bonds; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

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

(viii) That any Local Bond owner may, by proper legal action, compel the performance of the duties of the Governmental Agency under the Local Act, including the making and collection of sufficient rates or charges for services rendered by the System, and shall also have, in the event of a default in payment of principal of or interest on the Local Bonds, the right to obtain the appointment of a receiver to administer the System or construction of the Project, or both, as provided by law;

(ix) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, all delinquent rates and charges, if not paid when due, shall become a lien on the premises served by the System;

(x) That, to the extent legally allowable, the Governmental Agency will not grant any franchise to provide any services which would compete with the System;

(xi) That the Governmental Agency shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority, which report shall include a statement that the Governmental Agency is in compliance with the terms and provisions of the Local Act and this Loan Agreement and that the Governmental Agency's revenues are adequate to meet its operation and maintenance expenses and debt service requirements;

(xii) That the Governmental Agency shall annually adopt a detailed budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding fiscal year and shall submit a copy of such budget to the Authority within 30 days of adoption thereof;

(xiii) That for wastewater systems, to the extent authorized by the laws of the State and the rules and regulations of the PSC, prospective users of the System shall be required to connect thereto;

(xiv) That the proceeds of the Local Bonds must (a) be deposited in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Governmental Agency and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing for non-construction costs) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim funding of such Governmental Agency, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority, the proceeds of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein;

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Governmental Agency may not redeem any Local Bonds by it without the written consent of the Authority and the Council and otherwise in compliance with this Loan Agreement;

(xvi) That, unless it qualifies for an exception to the provisions of Section 148 of the Code, which exception shall be set forth in an opinion of bond counsel, the Governmental Agency will furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information requested by the Authority;

(xvii) That the Governmental Agency shall take any and all action, or shall refrain from taking any action, as shall be deemed necessary by the Authority to maintain the exclusion from gross income for Federal income tax purposes of interest on the State's general obligation bonds or any bonds secured by the Local Bonds;

(xviii) That the Governmental Agency shall have obtained the certificate of the Consulting Engineer in the form attached to the Loan Application, to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority, the Project is adequate for the purposes for which it was designed and the funding plan as submitted to the Authority is sufficient to pay the costs of acquisition and construction of the Project;

(xix) To the extent applicable, that the Governmental Agency shall, to the full extent permitted by applicable law and the rules and regulations of the West Virginia Public Service Commission, terminate the services of any water facility owned by it to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore the services of the water facility until all delinquent charges for the services of the System have been fully paid or, if the water facility is not owned by the Governmental Agency, then the Governmental Agency shall enter into a termination agreement with the water provider;

(xx) That the Governmental Agency shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the Local Bonds (as that term is defined in the Code) from time to time as the Authority may request; and

(xxi) That the Governmental Agency shall submit all proposed change orders to the Council for written approval. The Governmental Agency shall obtain the written approval of the Council before expending any proceeds of the Local Bonds held in "contingency" as set forth in the final Schedule B. The Governmental Agency shall obtain the written approval of the Council before expending any proceeds of the Local Bonds available due to bid/construction/project underruns.

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

4.2 The Loan shall be secured by the pledge and assignment by the Governmental Agency, as effected by the Local Act, of the fees, charges and other revenues of the Governmental Agency from the System as further set forth by and subject only to such

reservations and exceptions as are described in Schedules X and Y hereto or are otherwise expressly permitted in writing by the Authority and the Council.

4.3 The principal of the Loan shall be repaid by the Governmental Agency on the days and in the years provided in Schedule X hereto. Interest payments on the Loan shall be made by the Governmental Agency on a quarterly basis as provided in said Schedule X.

4.4 The Loan shall bear interest from the date of first payment at the rate or rates per annum set forth on Schedule X hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

4.5 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Governmental Agency. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series, as reflected by Schedule X hereto.

4.6 The Governmental Agency agrees to expend the net proceeds of the Local Bonds for the Project within 3 years of the issuance of the State's general obligation bonds unless otherwise agreed to by the Council.

ARTICLE V

Certain Covenants of the Governmental Agency; Imposition and Collection of User Charges; Payments To Be Made by Governmental Agency to the Authority

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

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

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

5.4 The Governmental Agency hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Governmental Agency, the Authority may exercise any or all of the rights and powers granted under the Act and State law, including without limitation the right to an appointment of a receiver.

ARTICLE VI

Other Agreements of the Governmental Agency

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

6.2 The Governmental Agency hereby covenants that it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Governmental Agency fails to make any such rebates as required, then the Governmental Agency shall pay any and all penalties, obtain a waiver from the Internal Revenue Service and take any other actions necessary or desirable to preserve the exclusion from gross income for Federal income tax purposes of interest on the Local Bonds.

6.3 Notwithstanding Section 6.2, the Authority may at any time, in its sole discretion, cause the rebate calculations prepared by or on behalf of the Governmental Agency to be monitored or cause the rebate calculations for the Governmental Agency to be prepared, in either case at the expense of the Governmental Agency.

6.4 The Governmental Agency hereby agrees to give the Authority prior written notice of the issuance by it of any other obligations to be used for the Project, payable

from the revenues of the System or from any grants for the Project or otherwise related to the Project or the System.

6.5 The Governmental Agency hereby agrees to file with the Authority upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule A to the Application, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE VII

Miscellaneous

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

7.2 The Authority shall take all actions required by the Council in making and enforcing this Loan Agreement.

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

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

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

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

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

7.8 This Loan Agreement shall terminate upon the earlier of:

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

(ii) termination by the Authority pursuant to Section 6.1 hereof; or

(iii) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Governmental Agency to the Authority, acting on behalf of the Council.

7.9 The Authority acknowledges that certain terms and requirements in this Loan Agreement may not be applicable when the Project is financed in part by the West Virginia Division of Environmental Protection, Office of Abandoned Mine Lands and under that circumstance those terms and requirements are specifically waived or modified as agreed to by the Authority and set forth in the Local Act.

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

CITY OF MULLENS

(SEAL)

By: S. R. Brewer
Mayor

Attest:

Earl Morgan Jr
City Manager

Date: December 17, 1998

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: Daniel B Underberg
Director

Attest:

Barbara B Meadows
Secretary-Treasurer

Date: December 17, 1998

EXHIBIT A

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____
(Issuer)

_____
(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No. ____, of _____, Consulting Engineers, _____, _____, hereby certify that my firm is engineer for the acquisition and construction of _____ to the _____ _____ system (herein called the "Project") of _____ (the "Issuer") to be constructed primarily in ___ County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the _____ passed by the _____ of the Issuer on _____, 19_, effective ___, 19_, and the Loan Agreement by and between the Issuer and the West Virginia Water Development Authority (the "Authority") dated _____, 19_.

1. The Bonds are being issued for the purpose of _____ _____ (the "Project").

2. The undersigned hereby certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least _____ years, (iii) the Issuer has received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy, (iv) the chosen bidder received any and all addenda to the original bid documents; (v) the bid documents reflect the Project as approved by the West Virginia [Division of Environmental Protection][Bureau for Public Health]; (vi) the chosen bid includes every construction item necessary to complete the Project, or explains any deviation thereof; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, (ix) the rates and charges for the System as adopted by the Issuer are sufficient to comply with the provisions of Subsection 4.1(b)(ii) of the Loan Agreement, (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably

pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this __ day of ____, 19_.

_____

By: _____

West Virginia License No. _____

[SEAL]

EXHIBIT B

[Opinion of Bond Counsel for Governmental Agency]

[To Be Dated as of Date of Loan Closing]

West Virginia Infrastructure and
Jobs Development Council
c/o West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25311

Ladies and Gentlemen:

We are bond counsel to _____ (the "GovernmentalAgency"),a_____
_____.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated _____, 19__, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Governmental Agency and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Governmental Agency, dated _____, 19__ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of $ _____, issued in the form of one bond registered as to principal and interest to the Authority, with interest and principal payable in installments on September 1, December 1, March 1 and June 1 of each year, beginning _____, at the rate as set forth in Exhibit A incorporated in and made a part of the Bonds.

The Local Bonds are issued for the purpose of _____ and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly enacted by the Governmental Agency on _____ (the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

1. The Loan Agreement has been duly authorized by and executed on behalf of the Governmental Agency and is a valid and binding special obligation of the Governmental Agency enforceable in accordance with the terms thereof.

2. The Loan Agreement inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Governmental Agency without the consent of the Authority.

3. The Governmental Agency is a duly organized and presently existing _____, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Governmental Agency has legally and effectively enacted the Local Act and all other necessary _____ in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

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

6. [If required, the Local Bonds are, by statute, exempt _____, and under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Local Bonds is excludable from the gross income of the recipients thereof for Federal income tax purposes.]

No opinion is given herein as to the effect upon enforceability of the Local Bonds of bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights or in the exercise of judicial discretion in appropriate cases.

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

Very truly yours,

EXHIBIT C

Monthly Financial Report

_____

[Name of Governmental Agency]

_____

_____

[Name of Bond Issue]

Fiscal Year - __

Report Month: _____

	ITEM	CURRENT MONTH	YEAR TO DATE	BUDGET YEAR TO DATE	DIFFERENCE
1.	Gross Revenues Collected				
2.	Operation and Maintenance Expense				
3.	Other Bond Debt Payments (including Reserve Fund deposits)				
4.	Bond Payments (include Reserve Fund deposits)				
5.	Renewal and Replacement Fund Deposit				
6.	Funds available for capital construction				

Witnesseth my signature this __ day of ____, 19_.

[Name of Governmental Agency]

By: _____
Authorized Officer

CHASFS3:58465

SCHEDULE X

DESCRIPTION OF BONDS

Principal Amount of Bonds	$2,586,300
Purchase Price of Bonds	$2,586,300

Principal on the Bonds is payable quarterly, commencing September 1, 2013, or such earlier date as provided for in Section 5.03A(2) of the Bond Ordinance, to and including June 1, 2030, at a rate of 0% per annum. Quarterly payments will be made thereafter on each September 1, December 1, March 1 and June 1 commencing September 1, 2013, or such earlier date as provided for in Section 5.03A(2) of the Bond Resolution, as set forth on Schedule Y attached hereto and incorporated herein by reference. The Bonds shall be issued on a parity with the Governmental Agency's Sewerage System Revenue Bonds Series 1998A issued simultaneously herewith.

The Governmental Agency shall submit its payments monthly to the West Virginia Municipal Bond Commission which will make quarterly payments to the West Virginia Water Development Authority at such address as is given to the West Virginia Municipal Bond Commission in writing by the Authority.

The Bonds will be fully registered in the name of the West Virginia Water Development Authority as to principal and such Bonds shall grant the Authority a first lien on the net revenues of the Governmental Agency's system.

The Governmental Agency may prepay the Bonds in full at any time at the price of par but only with the Council's written consent. The Governmental Agency shall request approval from the Authority and Council in writing of any proposed debt which will be issued by the Governmental Agency on a parity with Bonds which request must be filed at least 60 days prior to the intended date of issuance.

SCHEDULE Y

City of Mullens, West Virginia

Infrastructure Fund Loan (1996 Series D)
$2,586,300; 0% Interest Rate

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
6/01/2013	-	-	-
9/01/2013	38,034.00	-	38,034.00
12/01/2013	38,034.00	-	38,034.00
3/01/2014	38,034.00	-	38,034.00
6/01/2014	38,034.00	-	38,034.00
9/01/2014	38,034.00	-	38,034.00
12/01/2014	38,034.00	-	38,034.00
3/01/2015	38,034.00	-	38,034.00
6/01/2015	38,034.00	-	38,034.00
9/01/2015	38,034.00	-	38,034.00
12/01/2015	38,034.00	-	38,034.00
3/01/2016	38,034.00	-	38,034.00
6/01/2016	38,034.00	-	38,034.00
9/01/2016	38,034.00	-	38,034.00
12/01/2016	38,034.00	-	38,034.00
3/01/2017	38,034.00	-	38,034.00
6/01/2017	38,034.00	-	38,034.00
9/01/2017	38,034.00	-	38,034.00
12/01/2017	38,034.00	-	38,034.00
3/01/2018	38,034.00	-	38,034.00
6/01/2018	38,034.00	-	38,034.00
9/01/2018	38,034.00	-	38,034.00
12/01/2018	38,034.00	-	38,034.00
3/01/2019	38,034.00	-	38,034.00
6/01/2019	38,034.00	-	38,034.00
9/01/2019	38,034.00	-	38,034.00
12/01/2019	38,034.00	-	38,034.00
3/01/2020	38,034.00	-	38,034.00
6/01/2020	38,034.00	-	38,034.00
9/01/2020	38,034.00	-	38,034.00
12/01/2020	38,034.00	-	38,034.00
3/01/2021	38,034.00	-	38,034.00
6/01/2021	38,034.00	-	38,034.00
9/01/2021	38,034.00	-	38,034.00
12/01/2021	38,034.00	-	38,034.00
3/01/2022	38,034.00	-	38,034.00
6/01/2022	38,034.00	-	38,034.00
9/01/2022	38,034.00	-	38,034.00
12/01/2022	38,034.00	-	38,034.00
3/01/2023	38,034.00	-	38,034.00
6/01/2023	38,034.00	-	38,034.00
9/01/2023	38,034.00	-	38,034.00
12/01/2023	38,034.00	-	38,034.00
3/01/2024	38,034.00	-	38,034.00
6/01/2024	38,034.00	-	38,034.00
9/01/2024	38,034.00	-	38,034.00
12/01/2024	38,034.00	-	38,034.00

City of Mullens, West Virginia

Infrastructure Fund Loan (1996 Series D)

$2,586,300; 0% Interest Rate

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
3/01/2025	38,034.00	-	38,034.00
6/01/2025	38,034.00	-	38,034.00
9/01/2025	38,034.00	-	38,034.00
12/01/2025	38,034.00	-	38,034.00
3/01/2026	38,034.00	-	38,034.00
6/01/2026	38,034.00	-	38,034.00
9/01/2026	38,034.00	-	38,034.00
12/01/2026	38,034.00	-	38,034.00
3/01/2027	38,034.00	-	38,034.00
6/01/2027	38,034.00	-	38,034.00
9/01/2027	38,033.00	-	38,033.00
12/01/2027	38,033.00	-	38,033.00
3/01/2028	38,033.00	-	38,033.00
6/01/2028	38,033.00	-	38,033.00
9/01/2028	38,033.00	-	38,033.00
12/01/2028	38,033.00	-	38,033.00
3/01/2029	38,033.00	-	38,033.00
6/01/2029	38,033.00	-	38,033.00
9/01/2029	38,033.00	-	38,033.00
12/01/2029	38,033.00	-	38,033.00
3/01/2030	38,033.00	-	38,033.00
6/01/2030	38,033.00	-	38,033.00
Total	**2,586,300.00**	**-**	**2,586,300.00**

City of Mullens, West Virginia

Infrastructure Fund Loan (1996 Series D)
$2,586,300; 0% Interest Rate

DEBT SERVICE SCHEDULE

YIELD STATISTICS

Bond Year Dollars	$59,693.16
Average Life	23.081 Years
Average Coupon	-
Net Interest Cost (NIC)	-
True Interest Cost (TIC)	5.25E-15
Bond Yield for Arbitrage Purposes	5.25E-15
All Inclusive Cost (AIC)	5.25E-15

IRS FORM 8038

Net Interest Cost	-
Weighted Average Maturity	23.081 Years

APPALACHIAN REGIONAL COMMISSION

OFFICE OF THE
EXECUTIVE DIRECTOR
1666 Connecticut Avenue, N.W.
Washington, D.C. 20235
202/673-7874

August 18, 1992

Honorable Gaston Caperton
Governor of West Virginia
State Capitol
Charleston, West Virginia 25305

Re: Mullens Sewer Project (WV-11147-92-I-214-0612)

Dear Governor Caperton:

Enclosed is a copy of the Appalachian Regional Commission's approval of a grant for the referenced project dated August 13, 1992.

Appalachian Regional Commission funds in the amount of $160,000 have been made available to the Acting Administrator, Rural Development Administration, U.S. Department of Agriculture.

Sincerely yours,

Francis E. Moravitz

FRANCIS E. MORAVITZ
Executive Director

Enclosure

cc: State Alternate

APPALACHIAN REGIONAL COMMISSION
1666 Connecticut Avenue, N.W.
Washington, D.C. 20235

REV (2-91)

To: Mary Ann Baron, Acting Administrator
U.S. Dept. of Agriculture-RDA
South Building, Room 5014
14th & Indep. Ave., S.W.
Washington, D.C. 20250
Attn: Mildred McGlothin, #6330

The Appalachian Regional Commission has approved a project for assistance under the Appalachian Regional Development Act of 1965 as amended, as follows:

Mullens Sewer Project, Wyoming County West Virginia - WV-11147-92-I-214-0612

FUNDING:

ARC Section 214	$160,000	80%
Non-Federal (Local)	40,000	20%
Total Project Cost	$200,000	100%

Administrative Expenses per FmHA Agreement:

5% of 1st $50,000 = $2,500 and 1% of $110,000 = $1,100 for a total of $3,600.

Time Limitation. As the Commission may revoke or revise its approval of any project (except for Section 201 projects) if not underway within 18 months after the ARC approval date, please advise ARC when allowable activity has begun.

Underrun. ARC funds are limited to the lesser of (1) the amount specified in ARC's most recent approval or (2) the difference between the actual eligible project cost and the sum of the actual non-ARC basic grants and the non-federal funds specified in ARC's most recent approval, unless otherwise directed by the Commission.

Section 201 Funding Limitation. ARC assistance is established at the percentage amount specified above up to the above specified dollar amount. In no case shall ARC assistance exceed 80 percent of actual eligible project cost.

Advisory Note for Education Projects. The State education agency monitoring this grant is requested to advise the grantee that the memorandum "Closeout of ARC-Assisted Education Projects-Clarification (P.L. 89-4, Sections 211(a), 211(b) and 214)", dated April 14, 1978, and disseminated by the Division of Vocational and Technical Education, U.S. Office of Education, prescribes closeout procedures to be adhered to in closing out this project.

APPROVED: David E. Mesmer (for) 8/19/92
Federal Co-Chairman Date

Cecil H. Underwood, Governor

WEST VIRGINIA
MOUNTAINS OF OPPORTUNITY

WEST VIRGINIA DEVELOPMENT OFFICE

1900 KANAWHA BOULEVARD, EAST
CHARLESTON, WV 25305-0311

February 17, 1998

The Honorable Morgan K. Davis
Mayor
City of Mullens
315 Moran Avenue
Mullens, West Virginia 25882

Dear Mayor Davis:

Congratulations on the approval of a $1,000,000 Appalachian Regional Commission (ARC) grant, for a total project cost of $6,116,300, to the city of Mullens for the Sanitary Sewer Project. A copy of the approval letter is enclosed.

Should there be a need for any changes in the scope of the project or project funding, a request should be made to the West Virginia Development Office.

Please be aware that ARC funds are considered to be the last source of funding committed to a project. Should there be a cost underrun, the funds not used are considered Appalachian Regional Commission funds and would be returned to the Commission.

If you should have any questions, please feel free to contact me at 558-2001.

Sincerely,

Ben Newhouse
ARC Representative

BN:cc

Enclosure

2-18-98

APPALACHIAN REGIONAL COMMISSION
1666 Connecticut Avenue, N.W.
Washington, D. C. 20235

REV (2-91)

To: Harry Pippen
Director of Grants Administration
Environmental Protection Agency
401 M Street, S.W.
P.M. 216, Room SW 257
Washington, D.C. 20460

The Appalachian Regional Commission has approved a project for assistance under the Appalachian Regional Development Act of 1965 as amended, as follows:

Mullens Sanitary Sewer, WV-12701-I-214

Grantee: City of Mullens

FUNDING:

Section 214	$1,000,000	16%	
Federal	-0-	0	
State	1,250,000	20	CDBG
	2,586,300	42	IJDC (Water Development Authority)
Local	1,280,000	22	SRF (Div. of Environmental Prot.)
Total Project Cost	$ 6,116,300	100%	

Time Limitation. As the Commission may revoke or revise its approval of any project (except for Section 201 projects) if not underway within 18 months after the ARC approval date, please advise ARC when allowable activity has begun.

Underrun. ARC funds are limited to the lesser of (1) the amount specified in ARC's most recent approval or (2) the difference between the actual eligible project cost and the sum of the actual non-ARC basic grants and the non-federal funds specified in ARC's most recent approval, unless otherwise directed by the Commission.

Section 201 Funding Limitation. ARC assistance is established at the percentage amount specified above up to the above specified dollar amount. In no case shall ARC assistance exceed 80 percent of actual eligible project cost.

Advisory Note for Education Projects. The State education agency monitoring this grant is requested to advise the grantee that the memorandum **"Closeout of ARC-Assisted Education Projects-Clarification (P.L. 89-4, Sections 211(a), 211(b) and 214)"**, dated April 14, 1978, and disseminated by the Division of Vocational and Technical Education, U.S. Office of Education, prescribes closeout procedures to be adhered to in closing out this project.

APPROVED: _____ FEB 05 1998
Federal Co-Chairman Date

APPALACHIAN REGIONAL COMMISSION *A Proud Past, A New Vision*

To: Federal Co-Chairman

Subject: Mullens Sanitary Sewer, WV-12701-I-214

Grantee: City of Mullens

County: Wyoming (Distressed) **Basic Agency:** EPA

Goal: Funding is requested under Goal 2, Physical Infrastructure

Purpose: Renovation and upgrade of the City of Mullens existing wastewater collection system to reduce the amount of extraneous water entering the system.

Funding:

ARC:	$1,000,000	16%	
State:			
CDBG	1,250,000	20	
IJDC	2,586,300	42	(Water Development Authority)
Local: (SRF)	1,280,000	22	(Division of Environmental Protection)
Total:	$6,116,300	100%	

Description: The City of Mullens is proposing to replace the wastewater treatment plant and renovate portions of the collection system. Grant funds will be used for a new .3 MGD secondary sewer treatment plant with line replacement necessary to achieve acceptable effluent quality. The system currently provides service to 940 existing wastewater treatment customers.

Rationale:

- Mullens' existing collection and treatment facility suffers from hydraulic overload.
- The City of Mullens is currently under a Consent Decree with the Division of Environmental Protection. In order to comply with the terms of the Consent Decree the City must replace the existing treatment plant and much of its collection system.
- The existing system has infiltration and inflow which result in hydraulic overloading of the system and direct discharges into the receiving stream, the Guyandotte River, which is a tributary of the Ohio River.

Benefits:

- The central wastewater collection system would be rehabilitated to address current as well as the future needs of the City of Mullens and surrounding areas. The wastewater treatment facility will be replaced with a new treatment facility that will comply with State and Federal Water Pollution control laws.

This project is consistent with the ARC Act and Code and is recommended for funding.

THOMAS M. HUNTER
Executive Director

Cecil H. Underwood, Governor

WEST VIRGINIA
MOUNTAINS OF OPPORTUNITY

WEST VIRGINIA DEVELOPMENT OFFICE

1900 KANAWHA BOULEVARD, EAST
CHARLESTON, WV 25305-0311

February 17, 1998

The Honorable Morgan K. Davis
Mayor
City of Mullens
315 Moran Avenue
Mullens, West Virginia 25882

Dear Mayor Davis:

Congratulations on the approval of a $1,000,000 Appalachian Regional Commission (ARC) grant, for a total project cost of $6,116,300, to the city of Mullens for the Sanitary Sewer Project. A copy of the approval letter is enclosed.

Should there be a need for any changes in the scope of the project or project funding, a request should be made to the West Virginia Development Office.

Please be aware that ARC funds are considered to be the last source of funding committed to a project. Should there be a cost underrun, the funds not used are considered Appalachian Regional Commission funds and would be returned to the Commission.

If you should have any questions, please feel free to contact me at 558-2001.

Sincerely,

Ben Newhouse
ARC Representative

BN:cc

Enclosure

2-18-98

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

CECIL H. UNDERWOOD
GOVERNOR

December 15, 1998

The Honorable Randy Brewer
Mayor
City of Mullens
316 Moran Avenue
Mullens, West Virginia 25882

Dear Mayor Brewer:

On October 17, 1997, the city of Mullens received a commitment of $1,250,000 in Small Cities Block Grant funds to construct a wastewater collection system and treatment plant. The SCBG award was based upon your immediate need for funds; and, therefore, only $500,000 was made available from the FY1997 allocation, with a commitment to evaluate your progress and provide the remaining funding from future allocations.

Based upon the city of Mullens' ability to proceed with this worthwhile community development project, I am committing the remaining $750,000 from the FY1998 SCBG allocation. This brings the total commitment to $1,250,000. Your existing SCBG contract will be amended to include the additional funds.

It is with great pleasure that I am able to work with you to make this improvement a reality for the citizens of Mullens.

Very sincerely,

Cecil H. Underwood

CHU:jba

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

CECIL H. UNDERWOOD
GOVERNOR

October 17, 1997

The Honorable Morgan K. Davis
Mayor
City of Mullens
316 Moran Avenue
Mullens, West Virginia 25882

Dear Mayor Davis:

Thank you for your application to the Small Cities Block Grant Program for fiscal year 1997.

I am pleased to approve your request in the amount of $1,250,000 to the city of Mullens. These funds will enable you to construct a wastewater collection system and treatment plant.

In order to most effectively use the limited dollars available, I hereby commit $500,000 from our FY1997 allocation which will be immediately available to you. The remaining $750,000 necessary to complete this project will be evaluated and committed in the coming fiscal year. I encourage you to expedite this project and reach its completion as quickly as possible with this funding strategy in mind. My Community Development staff will contact you to complete the necessary contracts in order to proceed with your project.

It is with pleasure that I am able to work with you to make this improvement a reality for the citizens of Mullens.

Very sincerely,

Cecil H. Underwood

CHU:tha

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

May 13, 1996

GASTON CAPERTON
GOVERNOR

The Honorable W. Richard Staton
Post Office Box 357
Mullens, West Virginia 25882-0357

Dear Delegate Staton:

Enclosed please find a check to the City of Mullens for $150,000 to be used for sewer improvements.

I am happy to assist the citizens of your area with this money from my Contingency Fund.

If I or my staff may be of help to you in the future, please do not hesitate to contact my office.

Sincerely,

Gaston Caperton
Governor

GC:crs

Enclosure

THE CITY OF MULLENS
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1998 A AND SERIES 1998 B

CERTIFICATE OF:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES
6. PUBLIC SERVICE COMMISSION ORDER; RATES
7. INCUMBENCY AND OFFICIAL NAME
8. LAND AND RIGHTS-OF-WAY
9. MEETINGS
10. INSURANCE
11. LOAN AGREEMENTS
12. TRUTH AND ACCURACY
13. SPECIMEN BONDS
14. BOND PROCEEDS
15. CONFLICT OF INTEREST
16. CLEAN WATER ACT
17. YEAR 2000 COMPLIANCE
18. COUNTERPARTS

We, the undersigned MAYOR and the undersigned CITY MANAGER of The City of Mullens, West Virginia (the "City"), and the undersigned ATTORNEY for the City, hereby certify in connection with the fully registered The City of Mullens Sewerage System Revenue Bonds, Series 1998 A, numbered AR-1, dated the date hereof, in the principal amount of $1,780,000 and bearing no interest (the "Series 1998 A Bonds"), and the Sewerage System Revenue Bonds, Series 1998 B, numbered BR-1, dated the date hereof, in the principal amount of $2,586,300 and bearing no interest (the "Series 1998 B Bonds," and together with the Series 1998 A Bonds, the "Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this Certificate and not otherwise defined shall have the same meaning as in the Bond Ordinance duly passed by the Board of Commissioners (the "Board of Commissioners") of the City on November 19, 1998, effective December 10, 1998, and the Supplemental Resolution adopted December 10, 1998, relating to the Bonds (collectively, the "Ordinance"), the Loan Agreement entered into among the City, the Division of Environmental Protection ("DEP") and the West Virginia Water Development Authority (the "Authority"), dated November 19, 1998, for the Series 1998 A Bonds and the Loan Agreement entered into among the City and the Authority dated December 17, 1998, for the Series 1998 B Bonds (collectively, the "Loan Agreements").

2. NO LITIGATION: No controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting the issuance and delivery of the Bonds; nor questioning the proceedings and authority by which the Board of Commissioners of the City authorized the issuance and sale of the Bonds; nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the City or the title of the members or officers of the City or of the Board of Commissioners to their respective offices; nor questioning the acquisition and construction of certain additions, extensions, betterments and improvements to the existing wastewater collection and treatment system of the City financed in part by the proceeds of sale of the Bonds (the "Project"), nor operation by the City of the Project (the Project and any further extensions, additions, improvements or betterments thereto, herein collectively called the "System"), nor challenging the collection or use of the revenues of the System or the pledge of the revenues to the Bonds.

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

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the City since November 19, 1998. There are no bonds, notes or other obligations of the City which are secured by a lien on the revenues of the system. The Bonds are being issued for the purpose of paying costs of the Project and certain costs of issuance associated therewith. The Series 1998 A Bonds and the Series 1998 B Bonds are being issued as first lien bonds and will be on a parity as to liens, pledge and source of and security for payment on the Net Revenues of the System. The Grants remain in full force and effect.

5. SIGNATURES: The undersigned Mayor and City Manager are the duly elected or appointed, qualified and serving officers of the City as indicated by the official titles opposite their signatures below, and were duly authorized to execute and seal the Bonds for the City. The seal impressed upon the Bonds and this Certificate is the duly authorized, proper and only seal of the City.

6. PUBLIC SERVICE COMMISSION ORDER; RATES: The undersigned Counsel hereby certifies that the City has filed information with the Public Service Commission (the "PSC") and taken all other action required to maintain the Recommended Decision dated June 12, 1998 in Case No. 97-0206-S-CN, which became the Final Order of the PSC on July 2, 1998, as modified by the Commission Order dated December 11, 1998, granting a Certificate of Convenience and Necessity and approving the sale of the Bonds, in full force and effect, and has taken all other action required by applicable law. The rates for use of the System have been duly enacted by ordinance, and the City has complied with all

requirements of the Public Service Commission to make the rates valid and effective and such rates are in full force and effect. The time for appeal of such ordinance has expired and there has been no appeal thereof.

7. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the City is "The City of Mullens", and it is a municipal corporation of the State of West Virginia in Wyoming County of said State. The governing body of the City is its Board of Commissioners, consisting of four members and the Mayor. The City Manager is the ex-officio clerk of the Board of Commissioners. The Sanitary Board of the City has three members, including the Mayor. The names and dates of commencement and termination of terms of office for all such officials during these Bond proceedings, including current terms, are listed below:

Office	Name	Date Of Commencement Of Office	Date Of Termination Of Office
Mayor	S. R. Brewer	07/01/98	06/30/02
City Manager	Earl Mongeni, II	07/01/98	06/30/02
Member	Harold "Butch" Carte	07/01/98	06/30/02
Member	Lewis Arnold	07/01/98	06/30/02
Member	Robert J. Toler	07/01/98	06/30/02
Member	Butch McNeely	07/01/98	06/30/02

Sanitary Board Members

S. R. Brewer	Ex-officio Chairman
Jackie D. Harris	Member
Meryl M. Hall	Member

The duly appointed and acting City Attorney is W. Richard Staton, Esquire, Mullens, West Virginia. Prior to the construction phase of the Project, the City will ensure that one member of the Sanitary Board will be a registered professional engineer.

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

9. MEETINGS: All actions, ordinances, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the City in any way connected with the construction, acquisition, operation and financing of the Project were authorized or adopted at meetings of the Board of Commissioners duly and regularly or specifically called and held pursuant to all applicable statutes and the rules of procedure of Board of Commissioners, and a quorum of duly appointed, qualified and acting members of the Board of Commissioners was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

10. INSURANCE: The City will maintain or, as appropriate, will require all contractors to maintain Worker's Compensation, public liability and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Ordinance.

11. LOAN AGREEMENTS: As of the date hereof, (i) the representations of the City contained in the Loan Agreements are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreements do not contain any untrue statements of material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the City has occurred since November 19, 1998, which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading; and (iv) the City is in compliance with the Loan Agreements.

12. TRUTH AND ACCURACY: As of the date hereof, S. R. Brewer, Mayor and Earl Mongeni, II, City Manager hereby certify that the copies of documents previously or on the date hereof certified by them as being true and accurate are true and accurate as of the date hereof and that none of such documents has been repealed, rescinded, amended or otherwise modified.

13. SPECIMEN BONDS: Attached hereto as Exhibits A and B are specimens of the Bonds which, except as to execution and authentication, are identical in all respects with such Bonds this day delivered to the Authority and being substantially in the form prescribed in the Ordinance.

14. BOND PROCEEDS: On the date hereof, the City received $89,000 from the Authority and the DEP, being a portion of the principal amount of the Series 1998 A Bonds, and $64,658 from the Authority and the Infrastructure Council, being a portion of the principal amount of the Series 1998 B Bonds, each of which is more than a de minimus amount of the proceeds of the respective series of Bonds. The balance of the principal amount of each series of Bonds will be advanced to the City from time to time as acquisition and construction of the Project progresses.

15. CONFLICT OF INTEREST: No officer or employee of the City has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the City or in the sale of any land, materials, supplies or services to the City or to any contractor supplying the City, relating to the Bonds, the Ordinance, and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

16. CLEAN WATER ACT: The project as described in the Ordinance complies with Sections 208 and 303(e) of the Clean Water Act.

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

[Remainder of this page intentionally left blank]

18. COUNTERPARTS: This Certificate may be executed in counterpart and such parts shall be deemed to be the Certificate.

WITNESS our signatures and the official corporate seal of The City of Mullens, West Virginia on this 17th day of December, 1998.

[SEAL]

Signature	Official Title
	Mayor
	City Manager
	Attorney

CHASFS3:133909

EXHIBIT A

Specimen of Series A Bond

NUMBER
AR-1

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF WYOMING
THE CITY OF MULLENS
SEWERAGE SYSTEM
REVENUE BONDS, SERIES 1998 A
(WEST VIRGINIA SRF PROGRAM)

No. AR-1 $1,780,000

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF MULLENS, a municipal corporation of the State of West Virginia, in Wyoming County of said State (the "City"), 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 Seven Hundred Eighty Thousand Dollars ($1,780,000), or such lesser amount as is set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December in each year beginning September 1, 2000, as set forth on the "Schedule of Debt Service" attached as Exhibit A hereto and incorporated herein by reference. The SRF Administrative Fee (as defined in the hereinafter-described Bond Ordinance) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2000, as set forth on Exhibit B attached hereto.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and as otherwise provided by the Loan Agreement dated November 19, 1998, among the Authority, the West Virginia Division of Environmental Protection and the City.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of a certain additions, extensions, betterments and improvements to the existing wastewater treatment and collection facilities of the City (the "Project") and (ii) 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"), an Ordinance duly enacted by the City on November 19, 1998, and a Supplemental Resolution adopted by the City on the December 10, 1998 (collectively called the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance 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 Ordinance.

THIS BOND RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE CITY'S SEWERAGE SYSTEM REVENUE BONDS, SERIES 1998 B, ISSUED SIMULTANEOUSLY HEREWITH (THE "PARITY BONDS").

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues, on a parity with the lien of the Parity Bonds, to be derived from the operation of the System, moneys in the Reserve Account created under the Ordinance and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations, nor shall the City be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Ordinance, the City has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with the Bonds, including the Parity Bonds, provided however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the Bonds and any bonds on a parity therewith, including the Parity Bonds, in any succeeding fiscal year, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The City has entered into certain further covenants with the registered owners of the Bonds, for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Ordinance, only upon the books of One Valley Bank, National Association, (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner or its attorney duly authorized in writing,

upon the surrender of this Bond together, with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

This Bond, under the provision of the Act is, and has provided all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Ordinance or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the City, 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 City for the prompt payment of the principal of and interest on this Bond.

All provisions of the Ordinance, 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.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, THE CITY OF MULLENS has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its City Manager, and has caused this Bond to be dated the 17th day of December, 1998.

[SEAL]

Mayor

ATTEST:

City Manager

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Original Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above.

ONE VALLEY BANK,
NATIONAL ASSOCIATION,
as Registrar

By Charlotte S Morgan
Its Authorized Officer

Dated: DECEMBER 17, 1998

EXHIBIT A

RECORD OF ADVANCES

	Amount	Date		Amount	Date
(1)	$ 89,000	December 17, 1998	(9)	$	
(2)	$		(10)	$	
(3)	$		(11)	$	
(4)	$		(12)	$	
(5)	$		(13)	$	
(6)	$		(14)	$	
(7)	$		(15)	$	
(8)	$		(16)	$	

Total $_____

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

Date	Principal	Coupon	Total P+I
3/01/1999	-	-	-
6/01/1999	-	-	-
9/01/1999	-	-	-
12/01/1999	-	-	-
3/01/2000	-	-	-
6/01/2000	-	-	-
9/01/2000	34,231.00	-	34,231.00
12/01/2000	34,231.00	-	34,231.00
3/01/2001	34,231.00	-	34,231.00
6/01/2001	34,231.00	-	34,231.00
9/01/2001	34,231.00	-	34,231.00
12/01/2001	34,231.00	-	34,231.00
3/01/2002	34,231.00	-	34,231.00
6/01/2002	34,231.00	-	34,231.00
9/01/2002	34,231.00	-	34,231.00
12/01/2002	34,231.00	-	34,231.00
3/01/2003	34,231.00	-	34,231.00
6/01/2003	34,231.00	-	34,231.00
9/01/2003	34,231.00	-	34,231.00
12/01/2003	34,231.00	-	34,231.00
3/01/2004	34,231.00	-	34,231.00
6/01/2004	34,231.00	-	34,231.00
9/01/2004	34,231.00	-	34,231.00
12/01/2004	34,231.00	-	34,231.00
3/01/2005	34,231.00	-	34,231.00
6/01/2005	34,231.00	-	34,231.00
9/01/2005	34,231.00	-	34,231.00
12/01/2005	34,231.00	-	34,231.00
3/01/2006	34,231.00	-	34,231.00
6/01/2006	34,231.00	-	34,231.00
9/01/2006	34,231.00	-	34,231.00
12/01/2006	34,231.00	-	34,231.00
3/01/2007	34,231.00	-	34,231.00
6/01/2007	34,231.00	-	34,231.00
9/01/2007	34,231.00	-	34,231.00
12/01/2007	34,231.00	-	34,231.00
3/01/2008	34,231.00	-	34,231.00
6/01/2008	34,231.00	-	34,231.00
9/01/2008	34,231.00	-	34,231.00
12/01/2008	34,231.00	-	34,231.00
3/01/2009	34,231.00	-	34,231.00
6/01/2009	34,231.00	-	34,231.00
9/01/2009	34,231.00	-	34,231.00
12/01/2009	34,231.00	-	34,231.00
3/01/2010	34,231.00	-	34,231.00
6/01/2010	34,231.00	-	34,231.00
9/01/2010	34,230.00	-	34,230.00

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

Date	Principal	Coupon	Total P+I
12/01/2010	34,230.00	-	34,230.00
3/01/2011	34,230.00	-	34,230.00
6/01/2011	34,230.00	-	34,230.00
9/01/2011	34,230.00	-	34,230.00
12/01/2011	34,230.00	-	34,230.00
3/01/2012	34,230.00	-	34,230.00
6/01/2012	34,230.00	-	34,230.00
9/01/2012	34,230.00	-	34,230.00
12/01/2012	34,230.00	-	34,230.00
3/01/2013	34,230.00	-	34,230.00
6/01/2013	34,230.00	-	34,230.00*
Total	1,780,000.00	-	1,780,000.00

*Plus $2,267.78, one-percent administrative fee paid quarterly.
Total fee paid over life of the loan is $117,924.56.

[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 City, with full power of substitution in the premises.

Dated: _____, ___.

_____

In the presence of:

_____

CHASFS3:133900

EXHIBIT B

Specimen of Series B Bond

NUMBER

BR-1

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF WYOMING
THE CITY OF MULLENS
SEWERAGE SYSTEM
REVENUE BONDS, SERIES 1998 B
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. BR-1 $2,586,300

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF MULLENS, a municipal corporation of the State of West Virginia, in Wyoming County of said State (the "Town"), 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"), acting on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council"), or registered assigns, the sum of Two Million Five Hundred Eighty-Six Thousand Three Hundred Dollars ($2,586,300), or such lesser amount as is set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December in each year beginning September 1, 2013, as set forth on the "Schedule of Debt Service" attached as Exhibit B hereto and incorporated herein by reference, or such earlier or later date as provided for in Section 5.03A(2) of the hereinafter-defined Ordinance. This Bond bears no interest.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and as otherwise provided by the Loan Agreement dated December 17, 1998, between the Authority, on behalf of the Infrastructure Council, and the City.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, extensions, betterments and improvements to the existing wastewater treatment and collection facilities of the City (the "Project") and (ii) 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"), an Ordinance duly enacted by the City on November 19, 1998, and a Supplemental Resolution adopted by the City on the December 10, 1998 (collectively called the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance 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 Ordinance.

THIS BOND RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE CITY'S SEWERAGE SYSTEM REVENUE BONDS, SERIES 1998 A, ISSUED SIMULTANEOUSLY HEREWITH (THE "PARITY BONDS").

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues, on a parity with the lien of the Parity Bonds, to be derived from the operation of the System, moneys in the Reserve Account created under the Ordinance and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations, nor shall the City be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Ordinance, the City has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with the Bonds, including the Parity Bonds, provided however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the Bonds and any bonds on a parity therewith, including the Parity Bonds, in any succeeding fiscal year, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The City has entered into certain further covenants with the registered owners of the Bonds, for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Ordinance, only upon the books of One Valley Bank, National Association, (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner or its attorney duly authorized in writing,

upon the surrender of this Bond together, with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

This Bond, under the provision of the Act is, and has provided all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Ordinance or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the City, 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 City for the prompt payment of the principal of and interest on this Bond.

All provisions of the Ordinance, 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.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, THE CITY OF MULLENS has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its City Manager, and has caused this Bond to be dated the 17th day of December, 1998.

[SEAL]

Mayor

ATTEST:

City Manager

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Original Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above.

ONE VALLEY BANK,
NATIONAL ASSOCIATION,
as Registrar

By Charlotte L Morgan
Its Authorized Officer

Dated: DECEMBER 17, 1998

EXHIBIT A

RECORD OF ADVANCES

	Amount	Date	Amount	Date
(1)	$ 64,658	December 17, 1998	(9) $	
(2)	$		(10) $	
(3)	$		(11) $	
(4)	$		(12) $	
(5)	$		(13) $	
(6)	$		(14) $	
(7)	$		(15) $	
(8)	$		(16) $	

Total $_____

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

Date	Principal	Coupon	Total P+I
6/01/2013	-	-	-
9/01/2013	38,034.00	-	38,034.00
12/01/2013	38,034.00	-	38,034.00
3/01/2014	38,034.00	-	38,034.00
6/01/2014	38,034.00	-	38,034.00
9/01/2014	38,034.00	-	38,034.00
12/01/2014	38,034.00	-	38,034.00
3/01/2015	38,034.00	-	38,034.00
6/01/2015	38,034.00	-	38,034.00
9/01/2015	38,034.00	-	38,034.00
12/01/2015	38,034.00	-	38,034.00
3/01/2016	38,034.00	-	38,034.00
6/01/2016	38,034.00	-	38,034.00
9/01/2016	38,034.00	-	38,034.00
12/01/2016	38,034.00	-	38,034.00
3/01/2017	38,034.00	-	38,034.00
6/01/2017	38,034.00	-	38,034.00
9/01/2017	38,034.00	-	38,034.00
12/01/2017	38,034.00	-	38,034.00
3/01/2018	38,034.00	-	38,034.00
6/01/2018	38,034.00	-	38,034.00
9/01/2018	38,034.00	-	38,034.00
12/01/2018	38,034.00	-	38,034.00
3/01/2019	38,034.00	-	38,034.00
6/01/2019	38,034.00	-	38,034.00
9/01/2019	38,034.00	-	38,034.00
12/01/2019	38,034.00	-	38,034.00
3/01/2020	38,034.00	-	38,034.00
6/01/2020	38,034.00	-	38,034.00
9/01/2020	38,034.00	-	38,034.00
12/01/2020	38,034.00	-	38,034.00
3/01/2021	38,034.00	-	38,034.00
6/01/2021	38,034.00	-	38,034.00
9/01/2021	38,034.00	-	38,034.00
12/01/2021	38,034.00	-	38,034.00
3/01/2022	38,034.00	-	38,034.00
6/01/2022	38,034.00	-	38,034.00
9/01/2022	38,034.00	-	38,034.00
12/01/2022	38,034.00	-	38,034.00
3/01/2023	38,034.00	-	38,034.00
6/01/2023	38,034.00	-	38,034.00
9/01/2023	38,034.00	-	38,034.00
12/01/2023	38,034.00	-	38,034.00
3/01/2024	38,034.00	-	38,034.00
6/01/2024	38,034.00	-	38,034.00
9/01/2024	38,034.00	-	38,034.00
12/01/2024	38,034.00	-	38,034.00

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

Date	Principal	Coupon	Total P+I
3/01/2025	38,034.00	-	38,034.00
6/01/2025	38,034.00	-	38,034.00
9/01/2025	38,034.00	-	38,034.00
12/01/2025	38,034.00	-	38,034.00
3/01/2026	38,034.00	-	38,034.00
6/01/2026	38,034.00	-	38,034.00
9/01/2026	38,034.00	-	38,034.00
12/01/2026	38,034.00	-	38,034.00
3/01/2027	38,034.00	-	38,034.00
6/01/2027	38,034.00	-	38,034.00
9/01/2027	38,033.00	-	38,033.00
12/01/2027	38,033.00	-	38,033.00
3/01/2028	38,033.00	-	38,033.00
6/01/2028	38,033.00	-	38,033.00
9/01/2028	38,033.00	-	38,033.00
12/01/2028	38,033.00	-	38,033.00
3/01/2029	38,033.00	-	38,033.00
6/01/2029	38,033.00	-	38,033.00
9/01/2029	38,033.00	-	38,033.00
12/01/2029	38,033.00	-	38,033.00
3/01/2030	38,033.00	-	38,033.00
6/01/2030	38,033.00	-	38,033.00
Total	**2,586,300.00**	**-**	**2,586,300.00**

[Form of Assignment]

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

_____

_____

_____

_____

_____

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

Dated: _____, ___.

_____

In the presence of:

_____

CHASFS3:133900

THE CITY OF MULLENS
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1998 A AND SERIES 1998 B

CERTIFICATE OF CITY MANAGER AS TO TRUTH
AND ACCURACY OF DOCUMENTS DELIVERED

I, the undersigned Earl Mongeni, II, the permanent, duly elected or appointed City Manager of The City of Mullens, West Virginia (the "City"), hereby certify that the copies of the following documents being delivered in connection with the closing of the sale of the $1,780,000 The City of Mullens Sewerage System Revenue Bonds, Series 1998 A (the "Series 1998 A Bonds") and the $2,586,300 The City of Mullens Sewerage System Revenue Bonds, Series 1998 B (the "Series 1998 B Bonds," and together with the Series 1998 A Bonds, the "Bonds"), are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the City and delivered in the transcript of proceedings, and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

1. Charter of the City.

2. Rules of Procedure.

3. Oaths of Office of the Mayor, City Manager, and members of the Board of Commissioners.

4. Rate Ordinance.

5. Ordinance creating the Sanitary Board.

6. Appointments of Members of the Sanitary Board.

7. Oaths of Office of the Members of the Sanitary Board.

8. Minutes of the regular Board of Commissioners meeting held November 12, 1998 regarding first reading of the Bond Ordinance.

9. Bond Ordinance (the "Ordinance") passed by the Board of Commissioners on November 19, 1998.

10. Minutes of special Board of Commissioners meeting on November 19, 1998, regarding second reading and passage of the Ordinance.

11. Supplemental Resolution adopted by the Board of Commissioners on December 10, 1998 authorizing the sale of the above-referenced Bonds.

12. Minutes of the December 10, 1998 public hearing and regular Board of Commissioners meeting regarding the adoption of the Supplemental Resolution.

13. Loan Agreement, dated November 19, 1998, between the City, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection ("DEP") for the Series 1998 A Bonds.

14. Loan Agreement, dated December 17, 1998 between the City and the Authority for the Series 1998 B Bonds.

15. West Virginia Infrastructure and Jobs Development Council approval letter dated November 10, 1997.

16. Copy of the Recommended Decision of the West Virginia Public Service Commission (the "Commission") dated June 12, 1998 in Case No. 97-0206-S-CN, which became the Final Order of the Commission (the "Final Order") on July 2, 1998, granting a Certificate of Convenience and Necessity and approving the sale of the Bonds.

17. Copy of the Commission Order dated December 11, 1998 modifying the Final Order.

18. Evidence of the grant from the Appalachian Regional Commission.

19. Evidence of the Small Cities Block Grant.

20. Evidence of the grant from the Office of the Governor of the State of West Virginia.

WITNESS my signature and the official seal of The City of Mullens, West Virginia as of the 17th day of December, 1998.

Earl Mongeau II

City Manager
The City of Mullens

(SEAL)

CHASFS3:133894

THE CITY OF MULLENS
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1998 A AND SERIES 1997 B

CERTIFICATE OF CONSULTING ENGINEER

I, Steven D. Cole, Registered Professional Engineer, West Virginia License No. 10436, of Woolpert LLP, Charleston, West Virginia, hereby certify that my firm is engineer for the acquisition and construction of certain additions, extensions, betterments and improvements (the "Project") to the existing sewerage collection and treatment system (the "System") of the City of Mullens (the "Issuer") to be constructed primarily in Wyoming County, West Virginia, which acquisition and construction is being permanently financed, in part, by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the Bond Ordinance enacted by the Council of the Issuer on November 19, 1998, effective December 10, 1998; the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection ("DEP") dated as of November 19, 1998, for the Series 1998 A Bonds, and the Loan Agreement by and between the Issuer and the Authority, dated December 17, 1998, for the Series 1998 B Bonds.

1. The Bonds are being issued for the purpose of (i) paying costs of the Project and (ii) paying certain costs of issuance thereof and related costs.

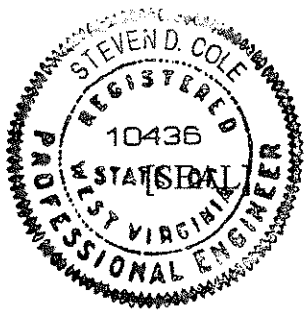
2. The undersigned hereby certifies that to the best of my knowledge and belief (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the applications submitted to the Authority, DEP and the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") requesting the Authority to purchase the Bonds (the "Applications") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least forty years, (iii) the Issuer has received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Applications and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy, (iv) the chosen bidders received any and all addenda to the original bid documents, (v) the bid documents reflect the Project as approved by the West Virginia Division of Environmental Protection, (vi) the chosen bids include every construction item necessary to complete the Project, or explain any deviation thereof, (vii) the uniform bid procedures were followed, (viii) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, (ix) the rates and charges for the System as adopted by the

Council of the Issuer are sufficient to comply with the provisions of Subsection 4.1(b) of the Loan Agreements, (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this 17th day of December, 1998.

WOOLPERT LLP

By _____
Steven D. Cole, P.E.
West Virginia License No. 10436



CHASFS3:133889

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL
CITY OF MULLENS
Wastewater Treatment Plant and Collection System Project 95S-167
FINAL TOTAL COST OF PROJECT, SOURCES OF FUNDS, AND COST OF FINANCING

A. Cost of Project	Total	SCBG	ARC	SRF Loan	IJDC Loan	DIGEST	LOCAL
1A. Construction - Contract A (Plant)	$3,098,000.00	$0.00	$620,000.00	$1,087,000.00	$1,391,000.00		
1B. Construction - Contract B (Lines)	$2,398,565.00	$884,000.00	$540,000.00	$673,000.00	$301,565.00		
2.Technical Services	$597,532.00	$201,000.00			$215,632.00	$150,000.00	$30,900.00
3. Legal & Fiscal	$25,000.00	$0.00					$25,000.00
4. Administrative	$60,000.00	$40,000.00			$20,000.00		
5. Sites & Other Lands	$235,000.00	$125,000.00					$110,000.00
6. Bond Counsel	$20,000.00			$20,000.00			
7. Interim Financing Costs	$0.00						
8. Construction Contingency	$824,484.00				$658,103.00		$166,381.00
9. Total of Lines 1 through 8	**$7,258,581.00**	**$1,250,000.00**	**$1,160,000.00**	**$1,780,000.00**	**$2,586,300.00**	**$150,000.00**	**$332,281.00**
B. Sources of Fund							
10. Federal Grants:							
a. SCBG	$1,250,000.00						
b A RC	$1,160,000.00						
11. State Grants:							
a. STATE DIGEST	$150,000.00						
b.							
12. Other Grants:							
13. Any Other Source:							
a. SRF Loan	$1,780,000.00						
b. Local	$332,281.00						
14. Infrastructure Fund Grant							
15. Total of Lines 10 through 14	**$4,672,281.00**						
16. Net Proceeds Required from Bond							
Issue (Line 9 minus Line 15)	**$2,586,300.00**						
C. Cost of Financing							
17. Funded Reserve Account	$0.00						
18. Other Costs							
a. Bond Counsel (incl. in figures above)							
b.							
19. Total Cost of Financing							
(Lines 17 and 18)	**$0.00**						
20. Size of IJDC Bond Issue	**$2,586,300.00**						
TOTAL FUNDING	$7,258,581.00	$1,250,000.00	$1,160,000.00	$1,780,000.00	$2,586,300.00	$150,000.00	$332,281.00

L. R. Brewer
MAYOR, CITY OF MULLENS

12/17/98
DATE

WOOLPERT CONSULTANTS

12/17/98
DATE

11/13/98

HOWARD M. CLOKE III
CERTIFIED PUBLIC ACCOUNTANT
P. O. BOX 513
BARBOURSVILLE, WEST VIRGINIA 25504
TEL & FAX 304-736-8162

THE CITY OF MULLENS
SEWER SYSTEM REVENUE BONDS
SERIES 1998 A AND SERIES 1998 B

CERTIFICATE OF ACCOUNTANT AS TO COVERAGE

I, Howard M. Cloke, Certified Public Accountant, have reviewed the sewer service rates of The City of Mullens, West Virginia (the "Issuer") and the estimated customer usage. It is my opinion that those rates are adequate to pay operation and maintenance expenses, and to meet the debt service coverage requirements of the Sewerage System Revenue Bonds, Series 1998 A, and the Sewerage System Revenue Bonds, Series 1998 B, pursuant to the Bond Ordinance adopted by the Board of Commissioners of the Issuer on November 19, 1998, effective December 10, 1998, and a Supplemental Resolution adopted by the Board of Commissioners on December 10, 1998, and are sufficient to comply with the provisions of the Loan Agreement entered into by and among the City, the West Virginia Division of Environmental Protection, and the West Virginia Water Development Authority (the "Authority") on November 10, 1998, for the Series 1998 A Bonds and the Loan Agreement entered into by and among the City and the Authority on December 17, 1998, for the Series 1998 B Bonds. The rates and charges provide debt service coverage in excess of 115%.

WITNESS my signature as of this 17th day of December, 1998.

Howard M. Cloke III
Certified Public Accountant

THE CITY OF MULLENS
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1998 A AND SERIES 1998 B

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 17th day of December, 1998, by and between THE CITY OF MULLENS, WEST VIRGINIA, a municipal corporation (the "Governmental Agency"), and ONE VALLEY BANK, NATIONAL ASSOCIATION, Charleston, West Virginia (the "Registrar").

WHEREAS, the Governmental Agency has, contemporaneously with the execution hereof, issued and sold its $1,780,000 The City of Mullens Sewerage System Revenue Bonds, Series 1998 A (the "Series 1998 A Bonds"), in the form of one bond, numbered AR-1, and its $2,586,300 The City of Mullens Sewerage System Revenue Bonds, Series 1998 B (the "Series 1998 B Bonds," together with the Series 1998 A Bonds, the "Bonds"), in the form of one bond, numbered BR-1, in fully registered form pursuant to a Bond Ordinance duly passed November 19, 1998, effective December 10, 1998, and a Supplemental Resolution adopted December 10, 1998 (collectively, the "Ordinance");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Ordinance, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Ordinance provides for an appointment by the Governmental Agency of a Registrar for the Bonds; and

WHEREAS, the Governmental Agency desires to appoint, and by the Ordinance and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Ordinance and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Governmental Agency and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar, for the Bonds, all as set forth in the Ordinance, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest, if any, on the Bonds from gross income for federal income tax purposes, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal

Securities Rulemaking Board or similar regulatory bodies as the Governmental Agency advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Governmental Agency with appropriate records of all transactions carried out by it as Registrar and to furnish the Governmental Agency with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Governmental Agency may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Governmental Agency.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Governmental Agency hereby agrees to pay to the Registrar, from time to time, the compensation for services rendered as provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection with this Registrar's Agreement.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Ordinance with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Ordinance, the terms of the Ordinance shall govern.

6. The Governmental Agency and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Ordinance will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective address:

GOVERNMENTAL AGENCY:

The City of Mullens
316 Moran Avenue
Mullens, WV 25882
Attention: S. R. Brewer, Mayor

REGISTRAR:

One Valley Bank, National Association
P. O. Box 1793
Charleston, WV 25326
Attention: Corporate Trust

The Governmental Agency and the Registrar shall notify the other in writing of any change of address.

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Ordinance.

IN WITNESS WHEREOF, THE CITY OF MULLENS 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.

THE CITY OF MULLENS

By _____
Mayor

ONE VALLEY BANK, NATIONAL ASSOCIATION

By: _____
Charlotte S. Morgan, ~~Vice President~~
ASSISTANT VICE PRESIDENT

CHASFS3:133919

EXHIBIT A

See Bond Ordinance (Tab No. 8)
See Supplemental Resolution (Tab No. 10)

CHASFS3:133919

THE CITY OF MULLENS
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1998 A AND SERIES 1998 B

ACCEPTANCE OF DUTIES OF DEPOSITORY BANK

The Peoples Bank of Mullens, with its office in Mullens, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Ordinance of The City of Mullens, West Virginia duly passed on November 19, 1998, effective December 10, 1998, and the Supplemental Resolution adopted December 10, 1998 (collectively, the "Ordinance"), authorizing issuance of $1,780,000 The City of Mullens Sewerage System Revenue Bonds, Series 1998 A (the "Series 1998 A Bonds") and $2,586,300 The City of Mullens Sewerage System Revenue Bonds, Series 1998 B (the "Series 1998 B Bonds"), each dated December 17, 1998 (collectively, the "Bonds") and agrees to perform all duties of the Depository Bank, as set forth in said Ordinance.

Witness my signature as of the 17th day of December, 1998.

THE PEOPLES BANK OF MULLENS

By _____
Its Authorized Officer

CHASFS3:133915

THE CITY OF MULLENS
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1998 A AND SERIES 1998 B

REQUEST AND AUTHORIZATION AS TO AUTHENTICATION AND DELIVERY OF THE BONDS

December 17, 1998

One Valley Bank, National Association
P. O. Box 1793
Charleston, WV 25326
Attention: Corporate Trust

Ladies and Gentlemen:

We herewith hand to you, duly executed, the $1,780,000 The City of Mullens Sewerage System Revenue Bonds, Series 1998 A, in the form of one bond numbered AR-1, and the $2,586,300 The City of Mullens Sewerage System Revenue Bonds, Series 1998 B, in the form of one bond numbered BR-1 (collectively, the "Bonds") of The City of Mullens, West Virginia (the "City"), authorized to be issued under and pursuant to the Bond Ordinance, duly passed by the Board of Commissioners of the City on November 19, 1998, effective December 10, 1998, and a Supplemental Resolution adopted by the Board of Commissioners on December 10, 1998 (collectively, the "Ordinance").

You are hereby requested and authorized to register, authenticate and deliver the Bonds on behalf of the City to the West Virginia Water Development Authority.

THE CITY OF MULLENS

By _____
Mayor

(SEAL)

Attest:

_____
City Manager

CHASFS3:133908

THE CITY OF MULLENS
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1998 A AND SERIES 1998 B

CERTIFICATE OF REGISTRATION OF BONDS

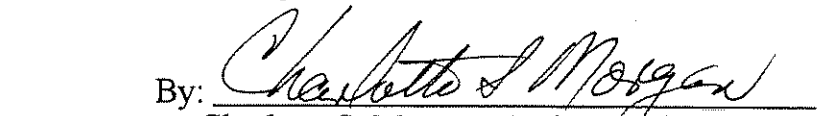
I, Charlotte S. Morgan, Assistant Vice President, One Valley Bank, National Association, Charleston, West Virginia, as Registrar (the "Registrar"), hereby certify that on December 17, 1998, the following bonds of The City of Mullens, West Virginia, were registered as to principal and interest in the name of "West Virginia Water Development Authority" in the books of the City kept for that purpose at our office, by a duly authorized officer on behalf of One Valley Bank, National Association, as Registrar:

A. The City of Mullens Sewerage System Revenue Bonds, Series 1998 A, in an aggregate principal amount of $1,780,000, numbered AR-1 and dated as of the date hereof; and

B. The City of Mullens Sewerage System Revenue Bonds, Series 1998 B, in an aggregate principal amount of $2,586,300, numbered BR-1 and dated as of the date hereof.

WITNESS my signature as of the 17th day of December, 1998.

ONE VALLEY BANK, NATIONAL ASSOCIATION
as Registrar

By: 
Charlotte S. Morgan, Assistant Vice President

CHASFS3:133898

THE CITY OF MULLENS
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1998 A AND SERIES 1998 B

RECEIPT FOR BONDS

The undersigned, Daniel B. Yonkosky, Director of the West Virginia Water Development Authority, for and on behalf of the West Virginia Water Development Authority (the "Authority"), hereby certifies as follows:

1. On December 17, 1998, in Charleston, West Virginia, the Authority received the entire original issue of $1,780,000 in aggregate principal amount of The City of Mullens Sewerage System Revenue Bonds, Series 1998 A (the "Series 1998 A Bonds"), said Bond being dated December 17, 1998, issued in the form of one bond, fully registered to the Authority, and numbered AR-1.

2. On December 17, 1998, in Charleston, West Virginia, the Authority received the entire original issue of $2,586,300 in aggregate principal amount of The City of Mullens Sewerage System Revenue Bonds, Series 1998 B (the "Series 1998 B Bonds"), said Bond being dated December 17, 1998, issued in the form of one bond, fully registered to the Authority, and numbered BR-1.

3. At the time of receipt of each series of Bonds, they had been executed by S. R. Brewer, as Mayor of The City of Mullens, by manual signature, and attested by Earl Mongeni, II, as City Manager of The City of Mullens, by manual signature, and the official seal of said City had been impressed upon each Bond.

IN WITNESS WHEREOF, Daniel B. Yonkosky duly signed and delivered this receipt on behalf of the West Virginia Water Development Authority on December 17, 1998.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By _____
Director

CHASFS3:133890

THE CITY OF MULLENS
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1998 A AND SERIES 1998 B

RECEIPT FOR BOND PROCEEDS

The undersigned S. R. Brewer, Mayor of The City of Mullens (the "City"), hereby certifies as follows:

1. The City has received and hereby acknowledges receipt from the West Virginia Water Development Authority (the "Authority"), as original purchaser of the $1,780,000 The City of Mullens Sewerage System Revenue Bonds, Series 1998 A (the "Series 1998 A Bonds"), of $89,000, being more than a de minimis portion of the purchase price of the Series 1998 A Bonds. The City understands that the remaining proceeds will be advanced to the City from time to time as construction proceeds to completion.

2. The City has received and hereby acknowledges receipt from the West Virginia Water Development Authority (the "Authority"), as original purchaser of the $2,586,300 The City of Mullens Sewerage System Revenue Bonds, Series 1998 B (the "Series 1998 B Bonds"), of $64,658, being more than a de minimis portion of the purchase price of the Series 1998 B Bond. The City understands that the remaining proceeds will be advanced to the City from time to time as construction proceeds to completion.

IN WITNESS WHEREOF, The City of Mullens has caused this receipt to be executed by its Mayor on December 17, 1998.

THE CITY OF MULLENS

By S. R. Brewer
MAYOR

CHASFS3:133888

DIVISION OF ENVIRONMENTAL PROTECTION

GASTON CAPERTON
GOVERNOR

1201 Greenbrier Street
Charleston, WV 25311-1088

LAIDLEY ELI McCOY, Ph.D.
DIRECTOR

September 6, 1996

Morgan K. Davis, Chairman
City of Mullens, Sanitary Board
316 Moran Avenue
Mullens, WV 25882

CERTIFIED RETURN RECEIPT REQUESTED

Dear Mr. Davis:

Enclosed find WV/NPDES Water Pollution Control Permit No. WV0020681, dated the 6th day of September 1996, for the City of Mullens, West Virginia.

All facilities permitted to discharge pollutants to the waters of the State, under Chapter 22, Article 11 of the West Virginia Code, are required to test their effluent in order to verify permit compliance. This testing is the responsibility of the permittee, and these test results are to be submitted to the office on the Discharge Monitoring Reports (DMRs), which are attached to the back of this Permit. A DMR is to be completed and received by this office, each month, no later than 20 days following the end of the reporting period. The address to which DMRs are to be sent is noted in Section E.2, Attention: Municipal Branch. It is suggested that several copies of the enclosed DMR forms be made for your future use, as this office does not supply permittees with DMR forms.

Please note Section G.7, on page 14, prohibiting the acceptance of new nondomestic wastewater discharges without prior Office approval.

Please, also, note Section G.11, on page 15, which requires the City's continued compliance under the ORDER effluent discharge limitations at the existing primary wastewater treatment plant.

Please, additionally, note the attachment to this Permit which describes the annual permit fee requirement.

Further, our records indicate that you received your last annual permit fee invoice in January 1996 on the anniversary date of your previous permit. Enclosed please find a pro-rated annual permit fee invoice, which covers the period from January 1996 to the issuance date of this permit. Your new annual permit fee billing cycle begins on the issuance date of this permit and you will not receive your next invoice until the anniversary of this permit.

All fees are now due and may be included in one check or money order made payable to the WV Division of Environmental Protection. Two (2) copies of the invoice are enclosed. Please return one(1) copy with your remittance to ensure immediate credit to your permit number. If you have any invoice related questions, you may contact Mr. Chris Reger at 304-558-2107, or by TDD No. at 304-558-2751.

If you have any questions regarding this permit, please contact John Morgan of this office at 304-558-4086, or by TDD at 304-558-2751.

Very truly yours,

OFFICE OF WATER RESOURCES

Pravin G. Sangani, P.E.
Municipal Branch Leader, Permits

PGS:mll

Enclosures

cc: Chris Reger w/invoice

WV MUNICIPAL BOND COMMISSION
Suite 300 - L & S Building
12 Quarrier Street, Charleston, WV 25301
(304) 348-3971

NEW ISSUE REPORT FORM
Date of Report: December 17, 1998

ISSUE: $1,780,000 City of Mullens Sewerage System Revenue Bonds, Series 1998A
ADDRESS: 315 Moran Avenue, Mullens, WV 25882 COUNTY: Wyoming
PURPOSE OF ISSUE: New Money X
Refunding _____ Refunds issue(s) dated: _____

ISSUE DATE: December 17, 1998 CLOSING DATE: December 17, 1998
ISSUE AMOUNT: $1,780,000 RATE: 0%
1st DEBT SERVICE DUE: 9/1/2000 1st PRINCIPAL DUE: 9/1/2000
1st DEBT SERVICE AMOUNT: $34,231.00 PAYING AGENT: WV Municipal Bond Commission

ISSUERS
BOND COUNSEL: Jackson & Kelly
Contact Person: Christopher Callas, Esquire
Phone: (304) 340-1251

UNDERWRITERS
BOND COUNSEL: _____
Contact Person: _____
Phone: _____

(DEPOSITORY)
CLOSING BANK: Peoples Bank of Mullens
Contact Person: Ronnie Bowling
Phone: (304) 294-7115

ESCROW TRUSTEE: _____
Contact Person : _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: Earl Mongeni, II
Position: City Manager
Phone: (304) 294-7132

OTHER: One Valley Bank, NA
Contact Person: Charlotte Morgan
Function: Registrar
Phone: (304) 348-7239

DEPOSITS TO MBC AT CLOSE:
By _____ Wire
_____ Check(s)

_____ Accrued Interest: $_____
_____ Capitalized Interest: $_____
_____ Reserve Account: $_____
_____ Other: _____ $_____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire
_____ Check
_____ IGT

_____ To Escrow Trustee: $_____
_____ To Issuer: $_____
_____ To Cons.Invest.Fund $_____
_____ To Other: _____ $_____

NOTES: _____

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

60560

WV MUNICIPAL BOND COMMISSION
Suite 300 - L & S Building
12 Quarrier Street, Charleston, WV 25301
(304) 348-3971

NEW ISSUE REPORT FORM
Date of Report: December 17, 1998

ISSUE: $2,586,300 City of Mullens Sewerage System Revenue Bonds, Series 1998B
ADDRESS: 315 Moran Avenue, Mullens, WV 25882 COUNTY: Wyoming
PURPOSE OF ISSUE: New Money X
Refunding _____ Refunds issue(s) dated: _____

ISSUE DATE: December 17, 1998 CLOSING DATE: December 17, 1998
ISSUE AMOUNT: $2,586,300 RATE: 0%
1st DEBT SERVICE DUE: 9/1/2013 1st PRINCIPAL DUE: 9/1/2013
1st DEBT SERVICE AMOUNT: $38,034.00 PAYING AGENT: WV Municipal Bond Commission

ISSUERS
BOND COUNSEL: Jackson & Kelly
Contact Person: Christopher Callas, Esquire
Phone: (304) 340-1251

UNDERWRITERS
BOND COUNSEL: _____
Contact Person: _____
Phone: _____

(DEPOSITORY)
CLOSING BANK: Peoples Bank of Mullens
Contact Person: Ronnie Bowling
Phone: (304) 294-7115

ESCROW TRUSTEE: _____
Contact Person : _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: Earl Mongeni, II
Position: City Manager
Phone: (304) 294-7132

OTHER: One Valley Bank, NA
Contact Person: Charlotte Morgan
Function: Registrar
Phone: (304) 348-7239

DEPOSITS TO MBC AT CLOSE:
By _____ Wire
_____ Check(s)

_____ Accrued Interest: $_____
_____ Capitalized Interest: $_____
_____ Reserve Account: $_____
_____ Other: _____ $_____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire
_____ Check
_____ IGT

_____ To Escrow Trustee: $_____
_____ To Issuer: $_____
_____ To Cons.Invest.Fund $_____
_____ To Other: _____ $_____

NOTES: _____

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

60560

West Virginia Infrastructure & Jobs Development Council

Public Members:
James D. Williams, Chairman
St. Albans
James L. Harrison, Sr., Vice Chairman
Princeton
Lloyd P. Adams, P.E.
Wheeling
Sheirl L. Fletcher
Morgantown

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

Susan J. Riggs, Esquire
Executive Secretary

November 10, 1997

The Honorable Morgan K. Davis
Mayor, City of Mullens
315 Moran Avenue
Mullens, WV 25882

Re: Wastewater Rehabilitation and Treatment Plant Project 95S-167

Dear Mayor Davis:

Reference is hereby made to that certain letter dated May 12, 1997 from the West Virginia Infrastructure and Jobs Development Council (Council) wherein the Council notified the City of Mullens (City) that it may be eligible for an Infrastructure Fund loan of approximately $4,416,300 for the City's proposed project to rehabilitate its wastewater system and construct a new treatment facility.

The Council, at its November 5, 1997 meeting, voted to offer the City a binding commitment for an Infrastructure Fund loan of $2,586,300. The Council also determined that in order to receive the proposed binding commitment, the City must adhere to a certain project schedule. Any binding commitment that is issued will be contingent upon the availability of funds in the Infrastructure Fund.

Please contact Susan J. Riggs at the above telephone number to establish the necessary project schedule and finalize the proposed binding commitment.

Sincerely,

James D. Williams

JDW/bh
cc: Norman L. Kirkham
Woolpert Consultants

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
7-2-98

Entered: June 12, 1998

CASE NO. 98-0193-S-CN

MULLENS SANITARY BOARD
Application for a certificate of convenience and necessity to construct certain improvements to its wastewater collection and treatment system.

RECOMMENDED DECISION

On February 20, 1998, Mullens Sanitary Board (Mullens), a municipal corporation, filed an application for a certificate of convenience and necessity to construct certain improvements to its wastewater collection and treatment system.

Mullens estimates that construction of the project will cost approximately $6,621,255. Mullens proposes to finance the construction of the project by a State Revolving Loan in the amount of $1,784,955, for a period of no more than 13 years, at an interest rate not to exceed 1%; a loan from the Appalachian Regional Commission in the amount of $1,000,000; a Small Cities Block Grant in the amount of $1,250,000; and a loan from the West Virginia Infrastructure and Job Development Council in the amount of $2,586,300, at an interest rate of 0% amortized over 29 years, with principal deferred for 13 years.

By Notice of Filing Order entered on February 20, 1998, Mullens was directed to give notice of its application by publishing a copy of the Notice of Filing, once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Wyoming County. If no public protests are timely filed in response to the published notice, the Commission is authorized to render a decision without a hearing by virtue of West Virginia Code §24-2-11.

On March 23, 1998, the Public Service Commission issued a Referral Order in this matter, referring this proceeding to the Division of Administrative Law Judges for a decision to be rendered on or before September 18, 1998.

On April 10, 1998, Mullens filed an affidavit of publication showing that publication was made on March 4, 1998, in The Mullens Advocate. Anyone objecting to the City's application was given thirty (30) days to

file a protest with the Commission. The protest period expired on April 3, 1998. As of the date of this order, no protests have been filed.

On April 10, 1998, James V. Kelsh, Staff Attorney, filed a Final Joint Staff Memorandum prepared by Audra Blackwell, Technical Analyst-in-Training, and Randy Lengyel, Utilities Analyst II, Water and Wastewater Division. According to Staff, the project is estimated to cost approximately $6,621,255 - Construction, $5,322,050; Engineering, $592,000; Legal and Fiscal, $40,000; Administrative, $35,000; Land & Right of Way, $35,000; Interim Financing, $45,000; Bond Counsel, $20,000; and Contingencies, $532,205, for a total project cost of $6,621,255. Mullens will finance this project by an Appalachian Regional Commission Grant in the amount of $1,000,000; a Small Cities Block Grant in the amount of $1,250,000; a loan from the State Revolving Fund in the amount of $1,784,955, to be amortized over thirteen years, with a 1% per annum administrative fee; and a $2,586,300 Infrastructure Council Loan at 0% interest, to be amortized over 29 years, with payments deferred for the first thirteen years. According to Staff, the Applicant has requested to raise rates. Mullens has passed a rate ordinance and the Applicant has received commitment letters from all of the above-mentioned parties. According to Staff, the Applicant's proposed rates will provide an adequate cash flow surplus, based upon the financial information that has been submitted.

According to Staff, since Mullens has all of its commitment letters, a passed rate ordinance and an adequate cash flow surplus, Staff has no objection to this filing. Therefore, Staff recommended that this certificate be approved. Furthermore, Staff recommended that, if there are any changes in the scope of the project or financing, Mullens be required to seek permission from the Commission before proceeding.

According to the Staff engineer, the design drawings, preliminary and final engineering reports, technical specifications and contract documents all support the application, as filed. Staff confirmed that the proposed project consists of the installation of approximately 2,800 LF of 18"; 2,700 LF of 15"; 5,500 LF of 12"; 6,200 LF of 10"; and 3,600 LF of 8" PVC gravity sewer pipe; 950 LF of 18", 200 LF of 10", 6,200 LF of 8"; and 600 LF of 6" DIP gravity sewer pipe; 100 LF of 1.25" and 3,400 LF of 4" PVC force main; 111 standard, 42 standard watertight, and 300 extra depth manholes; one grinder pump station; one plant pump station; one pump station; and one 330,000 gpd wastewater treatment plant.

According to Staff, the Mullens Sanitary Board currently owns and operates a wastewater collection and treatment system. The system suffers from inflow and infiltration (I&I) that is causing hydraulic overloading at the treatment plant. This situation results in direct discharges of wastewater into area waterways. Mullens is located in southeastern Wyoming County in the southern part of West Virginia. According to Staff, the West Virginia Division of Environmental Protection (WVDEP) entered into a consent decree with the City of Mullens for violating the State Water Pollution Control Act. The City of Mullens has failed to comply with its State NPDES Permit which authorized its discharge of pollutants into the Guyandotte River. The City was given a compliance schedule to construct necessary treatment facilities that would enable it to comply with the final effluent limitations in its NPDES Permit, the Federal Clean Water Act

and the State Water Pollution Control Act. The Guyandotte River is a tributary of the Ohio River.

Staff noted that the Mullens Sanitary Board is currently operating a 330,000 gpd primary wastewater treatment facility that serves approximately 940 equivalent customers in the project area. According to Staff, the facility is old, deteriorated and well beyond its design life. The wastewater system uses a gravity collection system consisting of clay, PVC, and metal piping. The system has approximately 39,600 linear feet of gravity main which varies from 4-inch to 18-inch in diameter, with 270 manholes. This collection system also contains two 50 gpm lift stations and 4,244 feet of 4-inch force mains. According to Staff, the area is drained by the Slab Fork Creek and Guyandotte River. The existing water quality in the area is generally good and within the water quality standards. However, the streams do suffer from raw wastewater and/or partially treated wastewater discharges. Using the water records from the Mullens Water Works, Woolpert Consultants estimated the average water usage per person to be 54 gpd/person.

Staff confirmed that the Mullens Sanitary Board was granted WV/NPDES Permit No. WV0020681, issued September 6, 1996, with an expiration date of September 5, 2001, to operate and maintain an existing wastewater collection system and an existing 0.33 million gallon per day primary wastewater treatment plant. The Mullens Sanitary Board presently employs one Class II treatment plant operator named James Dale Roop, with License Number 3895.

According to Staff, the existing plant capacity is 330,000 gpd, and the design flow calculations showed that the same capacity would be a sufficient design capacity for the new plant, once the I&I is removed from the collection system. The proposed wastewater treatment facility will include the following features: bar screen, grit chamber and grit classfier, extended aeration/decant basins, fine bubble diffused aeration, UV disinfection, sludge storage and belt press. The existing treatment plant pump station is also being replaced with a triplex pump station. A new wet well will also be installed and will have a capacity of 12,095 gallons. The new facility will meet the effluent limits stated in the NPDES Permit and will discharge into the Guyandotte River.

According to Staff, the treatment plant facilities have been designed to operate above the 100-year flood elevation. In addition, the treatment works have been designed to remain fully operational during a 25-year storm event. According to Staff, there are currently 940 customers. This gives a cost per customer of $7,044, which is a reasonable cost for the provision of sewer service.

According to Staff, the annual O&M expenses are projected to increase by a net amount of $44,544. The power and fuel costs will increase by approximately $27,760. Most of this cost is due to the new sequential batch reactor (SBR) unit and SBR blower. The operation labor costs will increase approximately $7,690. This will reflect the pay increase of a current plant worker who will be obtaining a Class I Operator's Certificate. Another $3,400 will be spent on administrative and general expenses such as property insurance, legal fees and accounting. Finally, the O&M expenses provided by the Board have been reviewed and appear to be

reasonable for the scope of the project being performed. According to Staff, the project shows necessity because of the following reasons:

1. This area must meet the State and Federal Water Pollution Control Laws and the Department of Environmental Protection's effluent discharge limitations;

2. The proposed wastewater collection and treatment system will eliminate threats to health and improve living conditions of the residents;

3. Based on Technical Staff's review of the plans and specifications services provided by this project, Mullens is in general conformance with the Commission's rules and regulations; and

4. The proposed project is convenient, in that it does not financially burden the Board or the customers.

Staff recommends the following:

1. Pursuant to West Virginia Code §24-2-11, the Mullens Sanitary Board be granted a certificate of convenience and necessity to construct the project described herein;

2. The specified grants and borrowings not to exceed $6,621,255, to finance this project be approved; and

3. The Mullens Sanitary Board petition the Commission for consent and approval if there is any change in the cost or scope of the project and/or its financing.

Upon consideration of all of the above, the Administrative Law Judge is of the opinion that the application should be approved, as recommended by Commission Staff, along with the proposed financing.

FINDINGS OF FACT

1. On February 20, 1998, Mullens Sanitary Board filed an application for a certificate of convenience and necessity. (See, application).

2. By Order entered on February 20, 1998, Mullens Sanitary Board was directed to give notice of its application. (See, Order entered February 20, 1998).

3. On April 10, 1998, Mullens Sanitary Board filed an affidavit of publication in this proceeding, indicating that the required notice was published on March 4, 1998. (See, affidavit of publication filed April 10, 1998).

4. The thirty-day protest period expired on April 3, 1998, with no protests having been filed. (See, affidavit of publication filed April 10, 1998; case file generally).

5. The file contains a permit from the Office of Environmental Health Services for this project, Permit No. WV0020661, issued September 6, 1996. (See, Final Joint Staff Memorandum filed April 10, 1998).

6. The total estimated project cost is $6,621,255, to be financed by an Appalachian Regional Commission Grant in the amount of $1,000,000; a Small Cities Block Grant in the amount of $1.25 million; a State Revolving Fund Loan in the amount of $1,784,995, to be amortized over thirteen years, with a 1% annum administrative fee; and a $2,586,300 Infrastructure Council Loan at 0% interest, to be amortized over twenty-nine years, with payments deferred for the fist thirteen years. (See, Final Joint Staff Memorandum with attachment filed April 10, 1998).

7. Staff is of the opinion that the project is in the public interest, adequately designed and funded, and should be approved. (See, Final Joint Staff Memorandum filed April 10, 1998, with attachment).

8. The current wastewater treatment plant and collection are overloaded and inadequate due, in part, to the age of the system and excessive inflow and infiltration. The Division of Environmental Protection has entered into a consent decree with the City of Mullens to improve its current wastewater treatment plant and collection system. (Final Joint Staff Memorandum filed April 10, 1998, and attachment).

CONCLUSIONS OF LAW

1. The public convenience and necessity required the proposed project.

2. The proposed project will provide adequate service.

3. The proposed project is adequately financed and is economically feasible.

4. Good cause has been shown to waive a formal hearing on this matter, pursuant to West Virginia Code §24-2-11, since no protests have been received to the project.

5. The issuance of a certificate of convenience and necessity shall be valid for the project, as approved herein.

6. Any changes in the scope of this project and/or funding after the granting of the certificate shall require further approval from the Public Service Commission.

ORDER

IT IS, THEREFORE, ORDERED that a certificate of convenience and necessity be, and it hereby is, granted to the Mullens Sanitary Board, a municipal corporation, to construct certain improvements to its wastewater collection and treatment facility at the City of Mullens, Wyoming County, all as set forth in the application filed herein on February 20, 1998.

IT IS FURTHER ORDERED that the proposed funding for this project, consisting of an Appalachian Regional Commission Grant in the amount of $1,000,000; a Small Cities Block Grant in the amount of $1.25 million; a State Revolving Fund Loan in the amount of $1,784,995, to be amortized over thirteen years, with a 1% per annum administrative fee; and a $2,586,300 Infrastructure Council Loan at 0% interest, to be amortized over 29 years, with payments deferred for the first thirteen years, be, and hereby is, approved.

IT IS FURTHER ORDERED that Mullens Sanitary Board shall file a notice of the actual in-service date of the project, within ten (10) days from the date that this project becomes operational.

IT IS FURTHER ORDERED that, if there are any changes to the cost, scope, financing or design of the project, as certificated herein, Mullins Sanitary Board shall petition the Commission for approval of such changes prior to commencing construction.

IT IS FURTHER ORDERED that formal hearing in this matter be waived, pursuant to West Virginia Code §24-2-11, for the reasons that no protests were received following publication and there remain no outstanding issues to be litigated.

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

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

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

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

Miles C. Cary
Administrative Law Judge

MCC:pst:jas

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the Public Service Commission of West Virginia, in the City of Charleston, on the 11th day of December, 1998.

CASE NO. 98-0193-S-CN (REOPENED)

MULLENS SANITARY BOARD
Application for a certificate of convenience and necessity to construct certain improvements to its wastewater collection and treatment system.

COMMISSION ORDER

Mullens Sanitary Board has petitioned to reopen this proceeding because bids for construction of the improvements to Mullens' wastewater collection and treatment system came in higher than expected. The revised project financing proposed by Mullens is reasonable and should be approved.

FINDINGS OF FACT

1. On July 2, 1998, Mullens was granted a certificate to construct certain improvements to its wastewater and collection facilities. Commission Order p. 6, Mullens San. Bd., Case No. 98-0193-S-CN. The project was estimated to cost $6,621,255. Id. p. 5. To fund the project, the Commission approved a $1,000,000 grant from the Appalachian Regional Commission, a $1.25 million Small Cities Block Grant, a $1,784,995 State Revolving Fund Loan, and a $2,586,300 Infrastructure Council loan. Id. If there were any changes in the project cost, Mullens was ordered to petition the Commission for approval of the changes. Id. p. 6.

2. On November 17, 1998, Mullens petitioned to reopen the case for approval of revised financing. Petition p 1. Bids for the plant and line components exceeded the estimate by $174,515, technical services for the project exceeded the estimate by $5,532, administrative expenses exceeded the estimate by $25,000, expenses for land and rights of way were $200,000 more than expected, and the construction contingency had increased by $292,279. Id. p. 2. Fiscal and legal fees were $15,000 less than estimated, and $45,000

ORDER

IT IS THEREFORE ORDERED that this proceeding is reopened.

IT IS FURTHER ORDERED that the following revised financing is approved for this project:

SRF Loan	$1,780,000
ARC Grant	1,160,000
Small Cities Block Grant	1,250,000
Infrastructure Council Loan	2,586,300
Budget Digest	150,000
Local Funds	332,281
TOTAL	$7,258,581

IT IS FURTHER ORDERED that if there are changes in the project scope, cost, design or further changes in financing, Mullens must seek Commission approval of those changes prior to commencing construction.

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

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

A True Copy, Teste:

Sandra Squire

Sandra Squire
Executive Secretary

ARC

JACKSON & KELLY
ATTORNEYS AT LAW
1600 LAIDLEY TOWER
P. O. BOX 553
CHARLESTON, WEST VIRGINIA 25322

TELEPHONE 304-340-1000 TELECOPIER 304-340-1130

WRITER'S DIRECT DIAL NO.

300 FOXCROFT AVENUE
MARTINSBURG, WEST VIRGINIA 25402
TELEPHONE 304-263-8800

256 RUSSELL AVENUE
NEW MARTINSVILLE, WEST VIRGINIA 26155
TELEPHONE 304-455-1751

6000 HAMPTON CENTER
MORGANTOWN, WEST VIRGINIA 26505
TELEPHONE 304-599-3000

412 MARKET STREET
PARKERSBURG, WEST VIRGINIA 26101
TELEPHONE 304-424-3490

1000 TECHNOLOGY DRIVE
FAIRMONT, WEST VIRGINIA 26554
TELEPHONE 304-368-2000

1144 MARKET STREET
WHEELING, WEST VIRGINIA 26003
TELEPHONE 304-233-4000

1660 LINCOLN STREET
DENVER, COLORADO 80264
TELEPHONE 303-390-0003

175 EAST MAIN STREET
LEXINGTON, KENTUCKY 40507
TELEPHONE 606-255-9500

2401 PENNSYLVANIA AVENUE N.W.
WASHINGTON, D.C. 20037
TELEPHONE 202-973-0200

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3.1(a)

December 17, 1998

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

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311

Re: The City of Mullens Sewerage System Revenue Bonds, Series 1998 A

Gentlemen:

We are bond counsel to The City of Mullens (the "Local Government"), a municipal corporation.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated November 19, 1998, including all schedules and exhibits attached thereto, by and among the Local Government, the West Virginia Division of Environmental Protection and the West Virginia Water Development Authority (the "Authority") for the above-referenced bonds (the "Loan Agreement") and (ii) the issue of a series of revenue bonds of the Local Government, dated December 17, 1998 (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of $1,780,000, issued in the form of one bond registered as to principal to the Authority, with the principal payable March 1, June 1, September 1, and December 1 of each year, beginning September 1, 2000, and shall bear no interest, all as set forth in "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purpose of paying a portion of the costs of the acquisition and construction of certain additions, extensions, betterments and improvements to the existing wastewater collection and treatment system of the Local Government (the "Project") and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 16, Article 13, and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond ordinance duly enacted by the Local Government on November 19, 1998, effective December 10, 1998, as supplemented on December 10, 1998 (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 Loan Agreement has been duly authorized by and executed on behalf of the Local Government and is a valid and binding special obligation of the Local Government enforceable in accordance with the terms thereof.

2. The Loan Agreement inures to the benefit of the Authority and the DEP and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Local Government without the consent of the Authority and the DEP.

3. The Local Government is a duly organized and presently existing 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 Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Government has legally and effectively enacted the Local Act and all other necessary resolutions in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Local Government, payable from the net revenues of the System referred to in the Local Act on a parity with the Local Government's Series 1998 B Bonds issued

simultaneously herewith and secured by a first lien on and pledge of the net revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

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

No opinion is given herein as to the effect upon enforceability of the Local Bonds of bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights or in the exercise of judicial discretion in appropriate cases.

We have examined executed and authenticated Local Bond numbered AR-1 and in our opinion the form of said bond and its execution and authentication is regular and proper.

Very truly yours,

Jackson & Kelly

CHASFS3:133885

JACKSON & KELLY
ATTORNEYS AT LAW
1600 LAIDLEY TOWER
P. O. BOX 553
CHARLESTON, WEST VIRGINIA 25322

TELEPHONE 304-340-1000 TELECOPIER 304-340-1130

WRITER'S DIRECT DIAL NO.

300 FOXCROFT AVENUE
MARTINSBURG, WEST VIRGINIA 25402
TELEPHONE 304-263-8800

256 RUSSELL AVENUE
NEW MARTINSVILLE, WEST VIRGINIA 26155
TELEPHONE 304-455-1751

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MORGANTOWN, WEST VIRGINIA 26505
TELEPHONE 304-599-3000

412 MARKET STREET
PARKERSBURG, WEST VIRGINIA 26101
TELEPHONE 304-424-3490

1000 TECHNOLOGY DRIVE
FAIRMONT, WEST VIRGINIA 26554
TELEPHONE 304-368-2000

1144 MARKET STREET
WHEELING, WEST VIRGINIA 26003
TELEPHONE 304-233-4000

1660 LINCOLN STREET
DENVER, COLORADO 80264
TELEPHONE 303-390-0003

175 EAST MAIN STREET
LEXINGTON, KENTUCKY 40507
TELEPHONE 606-255-9500

2401 PENNSYLVANIA AVENUE N.W.
WASHINGTON, D.C. 20037
TELEPHONE 202-973-0200

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3.1(b)

December 17, 1998

West Virginia Infrastructure and Jobs
Development Council
980 One Valley Square
Charleston, West Virginia 25301

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311

Re: The City of Mullens Sewerage System Revenue Bonds, Series 1998 B

Gentlemen:

We are bond counsel to The City of Mullens (the "Local Government"), a municipal corporation.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated December 17, 1998, including all schedules and exhibits attached thereto, by and between the Local Government and the West Virginia Water Development Authority (the "Authority"), acting on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") for the above-referenced bonds (the "Loan Agreement") and (ii) the issue of a series of revenue bonds of the Local Government, dated December 17, 1998 (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of $2,586,300, issued in the form of one bond registered as to principal to the Authority, with the principal payable March 1, June 1, September 1, and December 1 of each year, beginning on September 1, 2013, or on such earlier or later date as provided for in Section 5.03A(2) of the Local Act (as hereinafter defined), and shall bear no interest, all as set forth in "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purpose of paying a portion of the costs of the acquisition and construction of certain extensions, additions, betterments, and improvements to the existing wastewater collection and treatment system of the Local Government (the "Project") and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 16, Article 13, and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond ordinance duly enacted by the Local Government on November 19, 1998, effective December 10, 1998, as supplemented on December 10, 1998 (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 Loan Agreement has been duly authorized by and executed on behalf of the Local Government and is a valid and binding special obligation of the Local Government enforceable in accordance with the terms thereof.

2. The Loan Agreement inures to the benefit of the Authority and the Infrastructure Council and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Local Government without the consent of the Authority and the Infrastructure Council.

3. The Local Government is a duly organized and presently existing 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 Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Government has legally and effectively enacted the Local Act and all other necessary resolutions in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Local Government, payable from the net revenues of the System referred to in the Local Act on a parity with the Local Government's Series 1998 A Bonds issued simultaneously herewith and secured by a first lien on and pledge of the net revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

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

No opinion is given herein as to the effect upon enforceability of the Local Bonds of bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights or in the exercise of judicial discretion in appropriate cases.

We have examined executed and authenticated Local Bond numbered BR-1 and in our opinion the form of said bond and its execution and authentication is regular and proper.

Very truly yours,

Jackson & Kelly

CHASFS3:135034

LAW OFFICES
D. GROVE MOLER
W. RICHARD STATON, L. C.

219 HOWARD AVENUE

P O BOX 357
MULLENS, WEST VIRGINIA 25882-0357
TELEPHONE: (304) 294-7313
FAX: (304) 294-7324
E-MAIL: STATON@STATONLAW.COM

December 17, 1998

West Virginia Infrastructure & Jobs Development Council
1320 One Valley Square
Charleston, West Virginia 25301

West Virginia Division of Environmental Protection
Division of Water Resources
617 Road Street
Charleston, West Virginia 25301

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25311

Jackson & Kelly
P.O. Box 553
Charleston, West Virginia 25322

Re: City of Mullens Sewer System Revenue Bonds, Series 1998 A and Series 1998 B

Ladies and Gentlemen:

I am counsel for the City of Mullens, West Virginia (the "City"). As such, I have examined copies of the approving opinions of Jackson & Kelly, as bond counsel, relating to the above-captioned bonds of the City (the "Bonds"), the Loan Agreement by and among the West Virginia Water Development Authority (the "Authority"), the West Virginia Division of Environmental Protection (the "DEP"), and the City, dated November 19, 1998 for the Series 1998 A Bonds, and the Loan Agreement by and between the City and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council, dated December 17, 1998 for the Series 1998 B Bonds (collectively, the "Loan Agreement"), a Bond Ordinance duly passed by the Board of Commissioners (the "Board of Commissioners") of the City on November 19, 1998 effective December 10, 1998, as supplemented by a Supplemental Resolution adopted December 10, 1998, (collectively, the "Ordinance"), and other documents relating to the Bonds. Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Ordinance.

I am of the opinion that:

1. The Loan Agreements have each been duly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery by the Authority, constitutes a valid and binding agreement of City in accordance with their terms.

2. The officers and members of the Board of Commissioners were duly and properly elected or appointed and are thereby authorized to act on behalf of the City.

3. The Ordinance has been duly enacted by the Board of Commissioners of the City and is in full force and effect.

4. The execution and delivery of the Bonds and the Loan Agreements and the consummation of the transactions contemplated by the Loan Agreements and the carrying out of the terms thereof, do not and will not in any material respect conflict with or constitute on the part of the City a breach of or default under any agreement or other instrument to which the City is a party or any existing law, regulation, court order or consent decree to which the City is subject.

5. The City has received all the necessary permits, licenses, approvals and authorizations necessary for the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, the receipt of all requisite orders and approvals from the West Virginia Infrastructure and Jobs Development Council and the Public Service Commission for West Virginia, and has taken any other action required for the approval of such rates and charges. The City has received from the Public Service Commission a Recommended Decision dated June 12, 1998, which became the Final Order of the Commission on July 12, 1998, in Case No. 98-193-S-CN, granting the City a certificate of convenience and necessity and approval of financing, as modified and revised by the Commission Order dated December 11, 1998.

6. The City duly enacted a sewer rate ordinance on January 30, 1998, setting rates and charges for the services of the System. The time for appeal of such sewer rate ordinance has expired prior to date hereof without any appeal, and such rates are currently in effect.

7. To the best knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public council or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by or the validity of the Bonds or the collection or pledge of the Revenues therefor.

Sincerely,
W. RICHARD STATON, L. C.

W. Richard Staton

WRS/plq
F:\OFFICE\WPWIN\CITY\COUNSELO.LTR

LAW OFFICES
D. GROVE MOLER
W. RICHARD STATON, L. C.

219 HOWARD AVENUE

P O BOX 357
MULLENS, WEST VIRGINIA 25882-0357
TELEPHONE: (304) 294-7313
FAX: (304) 294-7324
E-MAIL: STATON@STATONLAW.COM

December 16, 1998

Susan J. Riggs, Executive Secretary
West Virginia Infrastructure and Jobs Development Council
980 One Valley Square
Charleston, WV 25301

Re: City of Mullens Sewer Project
Wyoming County, West Virginia
Project No. 955-1667

Dear Ms. Riggs:

This firm represents the City of Mullens and Mullens Sanitary Board with regard to the above referenced project. This Preliminary Title Opinion is being provided to you on behalf of my clients to satisfy your agency's requirements with regard to the loan through the West Virginia Infrastructure and Jobs Development Council. As such, please be advised of the following:

1. That I have investigated and ascertained the location of and am familiar with the legal description of the necessary sites, including easements and/or rights of way, being provided by the City of Mullens and Mullens Sanitary Board (collectively, the "Grantee"), for the sewerage system project identified above (the "Project"), all as described in the plans and specifications prepared by Woolpert LLP, the consulting engineers for the Project (the "Consulting Engineers").

2. That I have examined the records on file in the Office of the Clerk of the County Commission of Wyoming County, West Virginia, the county in which the Project is to be located, and in my opinion, the Grantee has acquired legal title or such other estate or interest in the necessary site components for the Project, including easements and/or rights of way, sufficient to assure undisturbed use and possession for the purpose of construction, operations and maintenance for the estimated life of the facilities to be constructed, except and subject to the following:

Re: City of Mullens Sewer Project
Wyoming County, West Virginia
Project No. 955-1667

a. Legal title, including, as appropriate, easements and/or rights of way, to the properties listed below will be acquired through formal condemnation proceedings. To the extent such proceedings have not yet been instituted and a right of entry has not yet been secured and recorded for each parcel identified below, such proceedings will be instituted and a right of entry will be secured and recorded within sixty days of the issuance of a notice to proceed for the construction of the Project and, in each case, prior to any work being performed on the respective parcel.

Owner(s)	**Tax Map**	**Parcel**
Brenton Baptist Church	1	42
Liberty Memorial Missions of Mullens	1	43.1
Gillespie, Sharon E.	1	87.9
Lilly, H. E.	1	134
Rezonnico, Rosa Rezzonico, William E.	2	42
WEC 97A-24 Investment Trust	2	197
WEC 97A-24 Investment Trust	2	198
Tunstalle, James E, Jr. & Tumera V. Tunstalle Teel, Joseph K and Helen P. (Also listed as James & Elizabeth Rosser)	4	260
Tunstalle, James Morris, Augustine E. & Maxine Morris Johnson	4	264
Tunstalle, Deloris Valjean Keene, James & Larry Farley (Now in name Deloris Valjean Tunstalle)	4	265
Muscari, Harriett F. Testamentary Trust	7	160.1
Muscari, Harriett F. Testamentary Trust	7	223

Re: City of Mullens Sewer Project
Wyoming County, West Virginia
Project No. 955-1667

The Grantee's legal title to or estate or interest in each such parcel is defeasible in the event the Grantee does not satisfy any resulting judgment or award in the condemnation proceedings. As such, this certification is subject to the pending litigation.

3. That any deeds or other documents that have been acquired to date by the Grantee have been duly recorded in the aforesaid Clerk's Office in order to protect the legal title to or estate or interest of the Grantee. To the extent that deeds or other documents are acquired through the efforts described in paragraph 1(a) above, such deeds and other documents will be duly and timely recorded after they have been delivered to the Grantee.

4. That I have been advised by the Consulting Engineers that the permits required by governmental authorities have been acquired.

If you have should have questions, please do not hesitate to contact me.

Sincerely,
W. RICHARD STATON, L. C.

W. Richard Staton

WRS/plq

cc: Mayor S. R. Brewer
David Cole
Sammy Gee
Howard M. Cloke, III
Woolpert Engineering

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