

\$4,575,502
THE CITY OF NITRO, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1996 A

CLOSING DOCUMENT LIST

1. Certified copy of Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended
2. Certified copy of the Charter of The City of Nitro
3. Certified copy of Ordinance enacted by City Council on August 6, 1996
4. Affidavit of Publication of Abstract of Ordinance and Notice of Public Hearing
5. Minutes of City Council Meeting of July 16, 1996
6. Minutes of City Council Meeting of August 6, 1996
7. Minutes of City Council Meeting of August 20, 1996
8. Certified copy of Supplemental Resolution adopted November 12, 1996
9. Minutes of City Council Meeting of November 12, 1996
10. Loan Agreement dated October 10, 1996
11. Municipal Bond Commission New Issue Form
12. Cross-Receipt for Bonds and Bond Proceeds
13. PSC Certificate of Convenience and Necessity
14. NPDES Permit
15. General Certificate
16. Direction to Authenticate and Deliver Bonds
17. IRS Form 8038-G

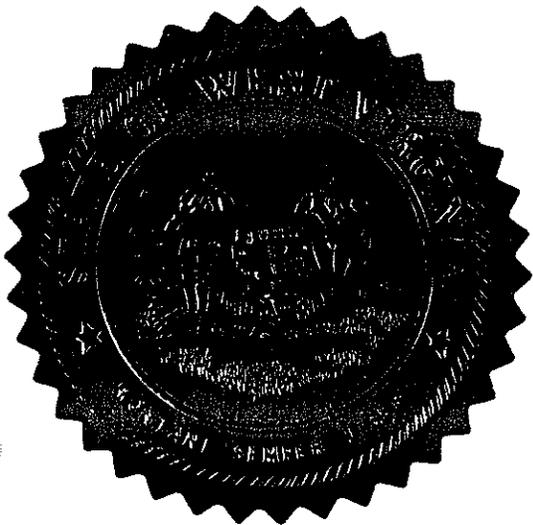
18. Tax Regulatory Agreement
19. Engineer's Certificate
20. Registrar's Agreement
21. Certificate of Registration
22. Registrar's Certificate
23. Opinion of Vaughan & Withrow, Bond Counsel, regarding the validity of the Bonds
24. Opinion of Philip Gaujot, City Attorney
25. Opinion of Vaughan & Withrow, Counsel to the Sanitary Board
26. Opinion of Frank Austin regarding debt service coverage and parity bonds
27. Specimen Bond
28. Letter from Infrastructure Council
29. Consent from WDA for Parity Bonds

State of West Virginia



Certificate

I, Ken Heckler, Secretary of State of the State of West Virginia, hereby certify that
THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13 OF THE WEST VIRGINIA CODE AND CHAPTER 16, ARTICLE 13 OF THE 1995 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
Ninth day of
December 19 96

Ken Heckler
Secretary of State

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 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 a 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.

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| <p>Sec. 16-13-1. Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.</p> <p>16-13-2. Sanitary board to supervise and control construction, etc., of works; appointment of board; definitions.</p> <p>16-13-3. Powers of sanitary board; contracts; employees; compensation thereof; extensions and improvements; replacement of damaged public works.</p> <p>16-13-4. Payment of preliminary expenses of surveys, etc.</p> <p>16-13-5. Ordinance necessary before acquisition or construction of works.</p> <p>16-13-6. Publication and hearing upon ordinance.</p> <p>16-13-7. Acquisition by condemnation or purchase.</p> <p>16-13-8. Cost of works.</p> <p>16-13-9. Contracts and obligations incurred to be paid for solely by revenue bonds.</p> <p>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</p> | <p>Sec. proceeds; additional and temporary bonds.</p> <p>16-13-11. Additional bonds to extend or improve works.</p> <p>16-13-12. Additional bonds for extension, etc., of works to have equal priority with original bonds.</p> <p>16-13-13. Application of revenue from bonds; lien.</p> <p>16-13-14. Securing bonds by trust indenture.</p> <p>16-13-15. Sinking fund; transfer of balance of net revenues.</p> <p>16-13-16. Rates for service; change or readjustment; hearing; lien and recovery; discontinuance of services.</p> <p>16-13-17. Municipality subject to established rates.</p> <p>16-13-18. Supervision of works by sanitary board; organization of board; qualification of members.</p> <p>16-13-18a. Publication of financial statement.</p> <p>16-13-19. Contract with other municipalities for service of works; powers of lessee as to rates; intercepting sewers.</p> <p>16-13-20. Discharge of lien on property acquired.</p> <p>16-13-21. Action on certificates or attached coupons; receivers.</p> |
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- Sec.
 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.

Editor's notes. — For redesignation of department of health as division of health, within the department of health and human resources, see § 5F-2-1.

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

Obligations incurred by a city under the authority of this article permitting the issuance of revenue bonds for the construction of sewers are not to be deemed "debts" within the constitutional inhibition. *United States v. City of Charleston*, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).
Legislative intent to protect municipal liabilities from general obligations. — 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. Atty Gen.*, April 3, 1979.

No conflict with statutory limitations on expenditure of tax funds. — 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).

Limitation imposed by article read into agreement with federal works administrator. — 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).

Municipality may not compel nonresidents to connect with a municipal sewer extended without its corporate limits. 48 *Op. Atty 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, refuse 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.)

Sections read together. — This section should be read and construed with former § 8-4-20 and §§ 16-13-2, 16-13-16, 24-1-1, 24-2-1, and 24-2-3. *Delardas v. Morgantown Water Comm'n*, 148 W. Va. 776, 137 S.E.2d 426 (1964).

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 nec-

essary 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. 566, 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).

§ 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.)

Sections together. — This section should be read and construed with former § 8-4-20 and §§ 16-13-1, 16-13-16, 24-1-1, 24-2-1 and 24-2-3. *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; extensions and improvements; replacement of damaged and 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.)

Contractor is not entitled to governmental immunities of municipality. — 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. *Weet Virginia Water Serv. Co. v. Cunningham*, 143 W. Va. 1, 98 S.E.2d 891 (1957).

And is liable on contract with 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 contractor's expense and cost and 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).

§ 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.)

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). And may obtain advances by any procedure it may see fit to adopt. — Money used in preliminary engineering work prior to actually beginning construction of a sewage disposal system need not be handled by the municipality.

ary board in accordance with the provisions of §§ 16-13-1, 16-13-2 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).

§ 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 or architect and the cost thereof estimated by the engineer or architect; (b) State the purpose of the works; (c) State the estimated cost of the 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,

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however, That if at such a hearing written protest is filed by twenty 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 to be furnished by the condemnor against any loss or damage to be sustained by 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

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construction, 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.)

Expenses incurred in "determining the feasibility or practicability of the enterprise." — 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. 106 (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. 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. 672, 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. 106 (1957).

Contractual obligation between municipalities not relieved by inability of town to sell revenue bonds. — Under the provisions of §§ 16-13-19 and 16-13-23a, a city and a town may 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

§ 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 registrations 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

it was not allowed to be art ownership in the treatment plant or i prior 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, 196 S.E.2d 166 (1973).

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

Textbooks. — Administrative Law in West Virginia (Neely), § 3.07.

Sections read together. — This section should be read and construed with former § 8-4-20 and §§ 16-13-1, 16-13-2, 24-1-1, 24-2-1, and 24-2-3. *Delardas v. Morgantown Water Comm'n*, 146 W. Va. 776, 137 S.E.2d 426 (1964).

Municipal sewer system is subject to jurisdiction of public service commission.

45 Op. Atty Gen. 642 (1954).

Hence, municipality is required to file its rates with the commission for approval in accordance with § 24-2-1 et seq. 45 Op. Atty Gen. 642 (1954).

Jurisdiction to enforce lien. — 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).

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).

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).

§ 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 appoint. 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.)

Effect of article generally. — 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).

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).

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).

Public service commission may order 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).

Sanitary board may be incorporated and domesticated in 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. 566, 186 S.E. 298 (1936).

Member of city council may not serve as consulting engineer to the sanitary board on

city as project. 49 Op. Att'y Gen. 60 (1961).
 Mayor and city manager may not both be appointed to municipal sanitary board.
 — 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).

§ 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, 196 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,

include 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)(6).

§ 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 depository 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 thereof 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

period same 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 depository 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 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.)

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§ 16-13-1. 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 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.
- Sec. 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. — For redesignation of department of health as division of health, within the department of health and human resources, see § 5F-2-1.

Textbooks. — Instructions for Virginia and West Virginia (3rd ed.), § 24-128.10.

Constitutionality of article. — 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. McMillon v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1956).

§ 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 interest of the public for each county commission to review current technology available and consider consolidating or centralizing the management of public service districts within its county or multi-county area to achieve efficiency of operations. The Legislature also finds that additional guidelines should be imposed on the creation of new public service districts and that county commissions shall dissolve inactive public service districts as hereinafter provided. The Legislature also finds that the public service commission shall promulgate rules and regulations to effectuate the expanded powers given to the commission relating to public service districts. (1953, c. 147; 1980, c. 60; 1986, c. 81.)

The title to Acts 1953, c. 147, is sufficient to give a fair and reasonable interpretation to all of the purposes of the act. State ex rel. McMillon v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1956).

And purpose. — The purpose of this article is to provide water and sewerage facilities in unincorporated districts. State ex rel. McMillon v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1956).

Public service districts are "public utilities." 50 Op. Atty Gen. 447 (1963).

Hence, they are required to pay a special license fee pursuant to § 24-3-6 for support of the public service commission. 50 Op. Atty Gen. 447 (1963).

Cited in *Berkeley County Pub. Serv. Dist. v. Vitro Corp. of Am.*, 152 W. Va. 262, 162 S.E.2d 189 (1963); *State v. Neary*, 365 S.E.2d 395 (W. Va. 1967).

WEST VIRGINIA CODE

ANNOTATED

VOLUME 5A

1995 Replacement

1996 Cumulative Supplement

Including Acts passed during the 1996 Regular Session

Prepared by the Editorial Staff of the Publishers

Under the Supervision of

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CHARLOTTESVILLE, VIRGINIA

1996

(1) The term "babyfood" or "food" means any food manufactured and packaged for sale for consumption by a child under the age of two;
 (2) The term "nonprescription drugs" does not include natural or herbal nonprescription drugs;

(3) The term "medical device" means any apparatus or tool which is defined by federal law as a medical device and which has been specified by the secretary of the department of health and human resources through legislative rules as a device which may be marketed or sold by transient vendors.

(c) Any transient vendor who sells babyfood, nonprescription drugs or medical devices at any flea market or swap meet in this state shall keep and make available records of the sources of such babyfood, nonprescription drugs or medical devices offered for sale or sold. The records may be receipts or invoices from the persons who sold the babyfood, nonprescription drugs or medical devices to the transient vendor or any other documentation that establishes the sources of the babyfood, nonprescription drugs or medical devices. The transient vendor shall keep those records with the babyfood, nonprescription drugs or medical devices being offered for sale so long as such goods are in his possession and shall maintain those records for a period of two years after the babyfood, nonprescription drugs or medical devices are sold.

(d) Upon the request of a law-enforcement agent or a representative of the state department of health, a transient vendor shall produce records of the sources of babyfood, nonprescription drugs or medical devices offered for sale or sold. If the transient vendor fails to immediately produce the requested records for goods offered for sale, the law-enforcement agent or representative for the state department of health may confiscate the babyfood, nonprescription drugs or medical devices then in possession of the vendor. If the transient vendor fails to produce the requested records for goods previously sold within a reasonable time, the law-enforcement agent or representative for the state department of health may confiscate any babyfood, nonprescription drugs or medical devices then in the possession of the vendor.

(e) Any person who violates the provisions of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than two hundred dollars for each babyfood item, nonprescription drug or medical device offered for sale or sold.

(f) The provisions of this section do not apply to a merchant who is licensed by the state department of tax and revenue; who sells food or nonprescription drugs or medical devices by sample, catalog or brochure for future delivery; or who sells at a residential premises pursuant to an invitation issued by the owner or legal occupant of the premises.

(g) The secretary of the department of health and human resources shall promulgate rules in accordance with the provisions of chapter twenty-nine-a [§ 29A-1-1 et seq.] of this code regarding the designation and authorized sale of medical devices sold by transient vendors pursuant to this subdivision. (1996, c. 136.)

Editor's notes. — Former § 16-7-8 (enacted by Acts 1937, c. 31), concerning the artificial coloring of meat and meat products, was repealed by Acts 1992, c. 7.

ARTICLE 9.

OFFENSES GENERALLY.

Sec. 16-9-1. [Repealed.]

§ 16-9-1.

Repealed by Acts 1996, c. 89.

Editor's notes. — Former § 16-9-1 (enacted by Acts 1913, c. 23, §§ 1, 2 and amended by Code 1923, c. 150, § 20h), concerning prohibition of common drinking cups, was repealed by Acts 1996, c. 89.

ARTICLE 9A.

TOBACCO USAGE RESTRICTIONS.

§ 16-9A-1. Legislative intent.

W. Va. Law Review. — Hall, "Secondhand Smoke as an Issue in Child Custody/Visitation Disputes," 97 W. Va. L. Rev. 115 (1994).

§ 16-9A-4. Use of tobacco or tobacco products in certain areas of certain public schools prohibited; penalty.

W. Va. Law Review. — Hall, "Secondhand Smoke as an Issue in Child Custody/Visitation Disputes," 97 W. Va. L. Rev. 115 (1994).

ARTICLE 13.

SEWAGE WORKS OF MUNICIPAL CORPORATIONS AND SANITARY DISTRICTS.

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

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.), cert. denied, — U.S. —, 116 S.Ct. 474, 133 L. Ed. 2d 404 (1995).

CHARTER and ORDINANCES
of the
CITY of NITRO
WEST VIRGINIA

12/10/96 A True And
EXACT Copy
John D. Libby
Recorder

(STATE OF WEST VIRGINIA,

At a Circuit Court for Kanawha County held at the
Court House thereof on the 20th. day of February, 1932.)

IN THE MATTER OF THE INCORPORATION OF THE CITY OF NITRO, W.VA.

This day came P. Witry, W. W. Burnett, Dr. C. B. Marshall,
H. K. Miller, Everett Scholz, Dr. J. W. Skaggs, J. C.
Jordon, A. M. Harmon, Dr. A. W. Milhoan, J. L. Bess, J. C.
Pickens, J. E. Roark, J. E. Hulshizer, L. H. Kessel and
W. L. Wintz in person and by Payne, Minor and Bouchelle,
their attorneys, and tendered to the Court their petition
praying among other things that the Clerk of the Circuit
Court of Kanawha County, West Virginia, be directed by an
order entered of record to issue a certificate of incorpora-
tion to the City of Nitro, West Virginia, and the said
petition is hereby ordered filed, and after hearing the
argument of counsel thereon and it appearing to the Court
upon examination of said petition and exhibits filed there-
with that the said petitioners are residents of the terri-
tory hereinafter described and have been such for more than
sixty (60) days, and that the said territory is a part of
Union District of Kanawha County and Pocatalico District
of Putnam County, all in the State of West Virginia, and
no part of same is included in any incorporated municipality;

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that said territory contains a resident population of not less than one hundred (100) persons, and includes within its boundaries a territory of not less than one quarter of one square mile, and an amount of territory not disproportionate to the number of residents thereof.

And it further appearing to the Court that the said petitioners have caused an accurate survey and map of the said territory intended to be embraced therein to be made by C. R. Conner, a practical surveyor, and that such survey and map shows the courses and distances of the boundaries thereof and the amount of territory contained therein, and the accuracy of said survey and map has been verified by the affidavit of said surveyor annexed thereto.

And it further appearing to the Court that the said petitioners have caused an accurate census to be taken of the resident population of said territory within sixty (60) days of the date hereof, and that said census exhibits the name of every head of each family residing within said territory on said date and the number of persons then belonging to each said family, and said census has been verified by the affidavit of Ray C. Alexander, the person who took the same, annexed thereto.

And it further appearing to the Court that after the said petitioners had had said survey, map and census completed and verified as aforesaid, they were left at the place of business of J. A. Goodwin at 3502 - 35th. Street, which is within said territory, and he, the said J. A. Goodwin, residing therein, and the said survey, map and census were there left as aforesaid subject to examination at all reason-

able hours, by all persons interested in the application, for the period of four (4) weeks from January 9, 1932, that being the date the notice of this application was first posted as provided by law.

And it further appearing to the Court that the said petitioners gave notice, as provided by law, that on this date they would apply by petition to the Circuit Court of Kanawha County for a certificate of the incorporation of said territory as a city by the name of Nitro, and said notice described the boundaries of said territory by courses and distances and specified the districts in which it lies, and said notice also stated where said survey, map and census had been left for examination as aforesaid, and said notice also specified a day on which all qualified voters residing within said territory will meet at a place named therein to vote upon the question of such incorporation.

And it further appearing to the Court that there is no newspaper printed within said territory and that the said petitioners therefore posted said notice and kept the same posted at Manufacturers Bank, Lyric Theatre Bldg; and L. H. Kessel Grocery Store, they being three of the most public places in said territory, for at least three (3) weeks before the time specified in said notice for the taking of said vote and making this application.

and it further appearing to the Court that on the 11th. day of February, 1932, that being the date fixed in said notice for the taking of the vote mentioned in the Fifth Section of Article 2, Chapter 8, of the Official Code of West Virginia, the qualified voters who had resided with-

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in the said proposed bounds of said territory for sixty (60) days preceding said date last aforesaid, did meet at the place named in said notice and cast their votes for or against said incorporation, and each said voter did deposit a ballot in a ballot box there provided for that purpose, and each ballot had printed thereon the words " For Incorporation " " Against Incorporation ", and said election was held under the superintendence of Ray C. Alexander, S. Montague and H. P. Roberts, being three voters within said boundary appointed for that purpose by the voters present, and the result of said election has been certified under oath and returned by said three voters to the Circuit Court of Kanawha County.

And it further appearing to the Court, upon examination of said certificates and the original ballots thereto attached, that the result of said election is that a majority of the legal votes cast on the question are in favor of said incorporation:

It is therefore considered by the Court and accordingly Adjudged, Ordered and Decreed that the Clerk of the Circuit Court of Kanawha County, West Virginia, be, and he is hereby directed to issue a certificate of incorporation in the form or substance as follows:

A certificate under oath of Ray C. Alexander, S. Montague, and H. P. Roberts was this day filed showing that a majority of all of the qualified voters residing in the following boundary, to-wit:

BEGINNING at a stake corner to the old Townsend Farm, the Nitro Reservation and the east Right of Way line of the New York Central Railroad, thence N 74° 15' E 41.5 feet to a Stone Monument on the west side of the old County Road, with Cedar and Walnut pointers, co-ordinate location South 2 plus 16.94 East 50 plus 59.97 as shown and laid upon map captioned "Property Map of United States Government Explosives Plant C, Nitro, West Virginia", filed in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Map Book No. 2, Page 124, on September 1, 1921, thence crossing the County Road and running up the hill S 87° 24' E 846 feet to a Stone Monument with Gum and Hickory Pointers near top of the River ridge at corner of a fence, co-ordinate N 0 plus 88.31 E 58 plus 48.97, thence along the brow of the River Ridge which leads down the river N 9° 28' E 825 feet to a Stone Monument in a low gap at top of River ridge, co-ordinate location N 8 plus 87.91 E 56 plus 45.37, thence N 23° 45' E for a distance of 2712.09 feet to a stake, co-ordinate location N 36 plus 00 E 56 plus 45.37, thence S 66° 15' E for a distance of 1954.63 feet to a stake, Co-ordinate location N 36 plus 00 E 76 plus 00, thence N 23° 45' E 1600.00 feet to a stake, Co-ordinate location N 52 plus 00 E 76 plus 00, thence N 66° 15' W 2400.00 feet to a stake, co-ordinate location N 52 plus 00 E 52 plus 00, thence N 23° 45' E 1700.00 feet more or less to the Kanawha-Putnam County line, thence with said County line, S 69° 09' W 2105.00 feet more or less, to a stake at the intersection of the said County line with the easterly right of way line of the New York Central Railroad, thence in a southerly direction along the said right of way line for a distance of 5945.00 more or less to the place of beginning, embracing an area of 298.50 acres more or less, lying in the County of Kanawha and District of Union; together with

All that territory situate in the County of Putnam, District of Pocatalico, and more particularly described as follows:

BEGINNING at the intersection of the easterly Right of Way line of the New York Central Railroad with the Kanawha-Putnam County line and running thence N 23° 45' E along said Right of Way line for a distance of 2980 feet more or less to a stake in said Right of Way line at co-ordinate line N 84 plus 00 as shown and laid down upon map captioned "Property Map of United States Government Explosives Plant C, Nitro, West Virginia" and filed in the office of the Clerk of the County Court of Putnam County, West Virginia, in Map Book No. 1, Page 10, on August 29, 1921; thence with the N 84 plus 00 Co-ordinate line, S 66° 16' E for a distance of 1512 feet more or less to a stake, Co-ordinate location N 84 plus 00 E 52

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plus 00, thence S 23° 45' W along said E 52 plus 00 Co-
ordinate line for a distance of 1500 feet more or less
to a stake in the Kanawha-Putnam County line, thence
S 69° 09' W with the said county line for a distance of
2105.00 feet to the place of beginning, embracing an
area of 77.70 acres, more or less;

have voted in due form of law in favor of the incorporation
of the City of Nitro, in the Counties of Kanawha and
✓ Putnam, bounded as herein set forth. And as it appears to
the satisfaction of the Court that all of the provisions
of Chapter 8 of the Code of West Virginia have been com-
plied with by the applicants for said incorporation, said
city is a body corporate duly authorized within the cor-
porate limits aforesaid, or as otherwise provided, to
exercise all the corporate powers conferred by the said
chapter from and after the date of this certificate.

It is further considered and ordered that
H. P. Roberts, R. C. Alexander, and S. F. Montague, three
legal voters residing within said territory, be and they
hereby are appointed as commissioners of election, to act
at the first election to be held in said City of Nitro as
in said Chapter 8 of the Code provided.

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, SS:

I, GEO. W. JENKINS, Clerk of the Circuit Court
for said County and in said State, do hereby certify that
the foregoing is a true copy from the records of said Court.

Given under my hand and the seal of said Court
this 20th. day of February, 1932.

Geo. W. Jenkins, Clerk,
CIRCUIT COURT, KANAWHA COUNTY,
WEST VIRGINIA.

SLICU

560 *secession*
544.20 *see*

(STATE OF WEST VIRGINIA,

At a Circuit Court for Kanawha County held at the Court House thereof on the 20th. day of February, 1932.)

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BEGINNING at a stake corner to the old Townsend Farm, the Nitro Reservation and the east Right of Way line of the New York Central Railroad, thence N. 74° 15' E. 41.5 feet to a Stone Monument on the west side of the old County Road, with Cedar and Walnut pointers, co-ordinate location South 2 plus 16.94 East 50 plus 59.97 as shown and laid upon map captioned "Property Map of United States Government Explosives Plant C, Nitro, West Virginia", filed in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Map Book No. 2, Page 124, on September 1, 1921, thence crossing the County Road and running up the hill S 87° 24' E 846 feet to a Stone Monument with Gum and Hickory Pointers near top of the River ridge at corner of a fence, co-ordinate N 0 plus 88.31 E 58 plus 48.97, thence along the brow of the River ridge which leads down the river N 9° 28' E 825 feet to a Stone Monument in a low gap at top of River ridge, Co-ordinate location N 8 plus 87.91 E 56 plus 45.37, thence N 23° 45' E for a distance of 2712.09 feet to a stake, Co-ordinate location N 36 plus 00 E 56 plus 45.37, thence S 66° 15' E for a distance of

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1954.63 feet to a stake, Co-ordinate location N 36 plus 00 E 76 plus 00, thence N 23° 45' E 1600.00 feet to a stake, Co-ordinate location N 52 plus 00 E 76 plus 00, thence N 66° 15' W 2400.00 feet to a stake, co-ordinate location N 52 plus 00 E 52 plus 00, thence N 23° 45' E 1700.00 feet more or less to the Kanawha-Putnam County Line, thence with said County line, S 69° 09' W 2105.00 feet more or less, to a stake at the intersection of the said County line with the easterly right of way line of the New York Central Railroad, thence in a Southerly direction along the said right of way line for a distance of 5945.00 more or less to the place of beginning, embracing an area of 298.50 acres more or less, lying in the County of Kanawha and District of Union; together with

All that territory situate in the County of Putnam, District of Pocatalico, and more particularly described as follows:

BEGINNING at the intersection of the easterly Right of Way line of the New York Central Railroad with the Kanawha-Putnam County line and running thence N 23° 45' E along said Right of Way line for a distance of 2980 feet more or less to a stake in said right of way line at co-ordinate line N 84 plus 00 as shown and laid down upon map captioned "Property Map of United States Government Explosives Plant C, Nitro, West Virginia", and filed in the office of the Clerk of the County Court of Putnam County, West Virginia, in Map Book No. I, Page 10, on August 29, 1921; thence with the N 84 plus 00 Co-ordinate line, S 66° 16' E for a distance of 1512 feet more or less to a stake, Co-ordinate location N 84 plus 00 E 52 plus 00, thence S 23° 45' W along said E 52 plus 00 Co-ordinate line for a distance of 1500 feet more or less to

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a stake in the Kanawha-Putnam County line, thence S 69° 09' W with the said county line for a distance of 2105.00 feet to the place of beginning, embracing an area of 77.70 acres, more or less; have voted in due form of law in favor of the incorporation of the City of Nitro, in the Counties of Kanawha and Putnam, bounded as herein set forth. And as it appears to the satisfaction of the Court that all of the provisions of Chapter 8 of the Code of West Virginia have been complied with by the applicants for said incorporation, said city is a body corporate duly authorized within the corporate limits aforesaid, or as otherwise provided, to exercise all the corporate powers conferred by the said chapter from and after the date of this Certificate.

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, SS:

I, GEO. W. JENKINS, Clerk of the Circuit Court for said County in said State, do hereby certify that the foregoing is a true copy in part of a decree entered by the Circuit Court of Kanawha County on the 20th. day of February, 1932, recorded in Chancery Order Book 64, Page _____, and is hereby certified by the undersigned as a compliance with said decree requiring the Clerk of said Court to issue a certificate of incorporation for the City of Nitro, West Virginia.

Given under my hand the seal of said Court this the 20th. day of February, 1932.

GEO. W. JENKINS, CLERK,
CIRCUIT COURT, KANAWHA COUNTY,
WEST VIRGINIA.

ELECTION OF THE FIRST COUNCIL
 OF THE
 CITY OF NITRO
 WEST VIRGINIA

The City of Nitro, on the 29th. day of March, 1932,
 held its first election of city officers, and the
 following named persons were declared duly elected:

E. E. HIGGINBOTHAM, MAYOR; T. A. LEWIS, RECORDER;

MEMBERS OF COUNCIL

J. F. SANTROCK, C. R. DAWSON, L. H. KESSEL,
 H. K. MILLER and Mrs. C. L. CRADDOCK.



ORDINANCE 96-07

AN ORDINANCE AMENDING AND SUPPLEMENTING AN ORDINANCE ENTITLED "ORDINANCE AUTHORIZING THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND BETTERMENT TO THE PUBLIC SEWERAGE SYSTEM FACILITIES OF THE CITY OF NITRO AND THE FINANCING CERTAIN PRELIMINARY COSTS THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$373,000.00 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, SERIES 1995 A, AND THE FINANCING TEMPORARILY OF CERTAIN COSTS THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$150,000.00 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, SERIES 1995 B; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO THE SERIES 1995 A BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO" BY AUTHORIZING THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND BETTERMENT TO THE PUBLIC SEWERAGE SYSTEM FACILITIES OF THE CITY OF NITRO AND THE FINANCING CERTAIN COSTS THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$4,900,000.00 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, SERIES 1996 A, PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO THE SERIES 1996 A BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF NITRO:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

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

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

A. The City of Nitro (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Kanawha and Putnam Counties of said State.

A True & Exact Copy
Robert J. Smith
Recorder
 12/10/96

Seal

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B. The Issuer presently owns and operates a public sanitary sewerage collection and treatment system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be designed and constructed certain additions, betterments and improvements for the existing sewerage facilities of the Issuer consisting of the improvements and upgrading of the wastewater treatment plant and the replacement of certain wastewater collection lines and all appurtenant facilities (the "Project") which constitute properties for the collection and treatment of wastewater (the existing sewerage system facilities of the Issuer, the Project and any further additions thereto or extensions thereof is herein called the "System") at an estimated cost of \$5,230,900.00, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have been approved by the Issuer.

C. By ordinance enacted July 11, 1995, and effective July 25, 1995, the Issuer issued its Sewer System Revenue Bonds, Series 1995 A, in the principal amount of \$373,000.00 to provide funds to pay the costs of the preliminary design of the Project, and its Sewer System Revenue Bonds, Series 1995 B to finance temporarily certain Project costs.

D. The Issuer intends to issue its Sewer System Revenue Bonds, Series 1996 A, in order to pay the remaining costs of the Project, to pay the amount outstanding on the 1995 Series B Bonds, to provide funds to reimburse itself for costs previously incurred and to pay the costs of issuance of the Series 1996 A Bonds

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

F. It is deemed necessary for the Issuer to issue its Sewerage System Revenue Bonds Series 1996 A in the total aggregate principal amount of not more than \$4,900,000.00 (the "Series 1996 A Bonds"). The proceeds of the Series 1996 A Bonds will be used to finance certain costs for the construction and acquisition of the Project and to reimburse the Issuer for certain costs already incurred. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Bonds prior to and during construction or acquisition and for a period not exceeding 6 months after completion of construction of the Project; amounts which may be deposited in the Reserve Accounts; engineering, and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees of the Authority (as hereinafter defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bonds or the repayment of indebtedness incurred by the Issuer for such purposes, shall be deemed Costs of the Project, as hereinafter defined.

G. The Issuer intends to finance such costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority") in connection with West Virginia Water Pollution Control Revolving Fund

Program (the "SRF Program"), pursuant to the Act, in order to take advantage of the favorable terms available to the Issuer under the SRF Program.

H. The period of usefulness of the System after completion of the Project is not less than 20 years.

I. It is in the best interests of the Issuer that its Series 1996 A Bonds be sold to the Authority (as hereinafter defined) pursuant to the terms and provisions of a loan agreement to be entered into by and among the Issuer, the Authority and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of the Environment ("DEP"), in form satisfactory to the Issuer, the Authority and the DEP, as shall be approved herein.

J. Other than the Series 1995 A Bonds, as defined herein, there is not outstanding any obligations of the Issuer which will rank prior to or on a parity with the Bonds as to lien and source of and security for payment. The Series 1995 A Bonds and the Series 1996 A Bonds shall be secured by a first lien on the revenues of the System, which lien shall be shared on a proportionate basis between each series of bonds.

K. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Bonds, or will have so complied prior to issuance of any thereof, including obtaining of a Certificate of Convenience and Necessity from the Public Service Commission of West Virginia.

L. The Issuer is a governmental unit which has general taxing powers to finance operations of or facilities of the nature of the Project and System, and the Issuer, all subordinate entities, all entities which issue obligations on behalf of the Issuer, and all entities formed or, to the extent provided under Section 148 of the Code, herein defined, availed of, to avoid the purposes of Section 148(f)(4)(C) of the Code and all other entities benefiting thereby reasonably expect to issue less than \$5,000,000 aggregate principal amount of tax-exempt obligations (other than private activity bonds) during the calendar year 1995.

M. Pursuant to the Act, the Issuer has heretofore established a Sanitary Board, and the Sanitary Board has petitioned the Council to issue the Series 1996 A Bonds for the purposes set forth herein.

N. The Project has been approved by the West Virginia Infrastructure and Jobs Development Counsel as required under Chapter 31, Article 15A of the West Virginia Code of 1931, as amended, or is grandfathered from review thereby.

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

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

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

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Series 1996 A Bonds, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

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

"Bond Construction Trust Fund" means the Bond Construction Trust Fund established by Section 4.01 hereof.

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

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

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

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

"Bonds" means the Series 1995 A Bonds and the Series 1996 A and any bonds on a parity therewith authorized to be issued hereunder.

"Closing Date" means, with respect to the Series 1996 A Bonds, the date upon which there is an exchange of the Bonds for the proceeds representing the purchase of the Bonds by the Authority.

"Code" means the Internal Revenue Code of 1986, as amended, and Regulations.

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

"Consulting Engineers" means Dunn Engineers, Inc., Charleston, West Virginia, or any engineer or firm of engineers that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

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

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

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

"DEP" means the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of the Environment.

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

(A) The excess of

(i) The aggregate amount earned from the Closing Date on all Nonpurpose Investments in which Gross Proceeds of the Series 1996 A Bonds are invested [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings], over

(ii) The amount that would have been earned if the Yield on such Nonpurpose Investments [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings] had been equal to the Yield on the Series 1996 A Bonds, plus

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

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

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

"Governing Body" means the Council of the Issuer, as it may hereafter be constituted.

"Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America.

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

(i) Original proceeds, namely, net amounts received by or for the Issuer as a result of the sale of the Series 1996 A Bonds, excluding original proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Series 1996 A Bonds;

(ii) Investment proceeds, namely, amounts received at any time by or for the Issuer, such as interest and dividends, resulting from the investment of any original proceeds (as referenced in clause (i) above) or investment proceeds (as referenced in this clause (ii)) in Nonpurpose Investments, increased by any profits and decreased (if necessary, below zero) by any losses on such investments, excluding investment proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Series 1996 A Bonds;

(iii) Transferred proceeds, namely, original proceeds of any prior obligations, and interest earnings and profits less losses resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any prior bonds and which are deemed to become proceeds of the Series 1996 A Bonds, ratably as original proceeds of the Series 1996 A Bonds, and interest earnings and profits resulting from investment

11 1/4 of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any such prior obligations, all on the date of such ratable discharge;

(iv) Sinking fund proceeds, namely, amounts, other than original proceeds, investment proceeds or transferred proceeds (as referenced in clauses (i) through (iii) above) of the Series 1996 A Bonds, which are held in any fund to the extent that the Issuer reasonably expects to use such other fund to pay Debt Service;

(v) Amounts in the Series 1996 A Bonds Reserve Account and in any other fund established as a reasonably required reserve or replacement fund;

(vi) Investment Property pledged as security for payment of Debt Service on the Series 1996 A Bonds by the Issuer;

(vii) Amounts, other than as specified in this definition, used to pay Debt Service on the Series 1996 A Bonds; and

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

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that "Gross Revenues" does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined, purchased pursuant to Article 7.01 hereof) or any Tap Fees, as hereinafter defined.

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

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

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

"Issuer" means The City of Nitro, in Kanawha and Putnam Counties, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" means the Loan Agreement to be entered into among the West Virginia Department of Environmental Protection, the Authority and the Issuer providing for the purchase of the Series 1996 A Bonds from the Issuer by the Authority, the forms of which shall be approved, and the execution and delivery by the Issuer authorized and directed by the Supplemental Resolution.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 1996 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Series 1996 A Bonds Reserve Account. For purpose of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 1996 A Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

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

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, fees and expenses of the Authority, fiscal agents, the Depository Bank, Registrar and the Paying Agent (all as herein defined), other than those capitalized as part of the Costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

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

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 6.07 hereof.

"Paying Agent" means the West Virginia Municipal Bond Commission, as paying agent for the Series 1996 A Bonds.

"Prior Ordinance" means the ordinance enacted by the Council of the Issuer on July 11, 1995, effective July 25, 1995, pursuant to which the Series 1995 A Bonds and the Series 1995 B Bonds were issued.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state or local governmental unit and use as a member of the general public. All of the foregoing shall be determined in accordance with the Code, including,

116 without limitation, giving due regard to "incidental use," if any, of the proceeds of the issue and/or proceeds used for "qualified improvements," if any.

"Project" means the acquisition and construction of certain improvements and betterments to the Issuer's wastewater collection and treatment facilities of the Issuer, consisting of the upgrading the wastewater treatment plant and certain collection lines and lift stations within the jurisdiction of the Issuer, and all necessary appurtenances.

"Purchase Price," for the purpose of computation of the Yield of the Series 1996 A Bonds, has the same meaning as the term "issue price" in Sections 1273(b) and 1274 of the Code, and, in general, means the initial offering price of the Series 1996 A Bonds to the public (not including bond houses and brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which price a substantial amount of the Series 1996 A Bonds of each maturity is sold or, if the Series 1996 A Bonds are privately placed, the price paid by the first buyer of the Series 1996 A Bonds or the acquisition cost of the first buyer. "Purchase Price," for purposes of computing Yield of Nonpurpose Investments, means the fair market value of the Nonpurpose Investments on the date of use of Gross Proceeds of the Series 1996 A Bonds for acquisition thereof, or if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Series 1996 A Bonds.

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

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
- (c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;
- (d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;
- (e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;
- (f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;
- (g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are

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

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

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

"Recorder" means the Recorder of the Issuer.

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

"Registrar" means the Bond Registrar.

"Regulations" means temporary and permanent regulations promulgated under the Code, or any predecessor thereto.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by Section 4.01 of the Prior Ordinance.

"Revenue Fund" means the Revenue Fund established by Section 4.01 of the Prior Ordinance.

"Series 1995 A Bonds" means the \$373,000.00 in aggregate principal amount of Sewerage System Revenue Bonds, Series 1995 A, of the Issuer issued pursuant to the Prior Ordinance.

"Series 1996 A Bonds" means the not more than \$4,900,000.00 in aggregate principal amount of Sewerage System Revenue Bonds, Series 1996 A, of the Issuer issued pursuant to this Ordinance.

"Series 1995 A Bonds Reserve Account" means the Series 1995 A Bonds Reserve Account established in the Series 1995 A Bonds Sinking Fund pursuant to Section 4.02 of the Prior Ordinance.

"Series 1996 A Bonds Reserve Account" means the Series 1996 A Bonds Reserve Account established in the Series 1996 A Bonds Sinking Fund pursuant to Section 4.02 hereof.

"Series 1995 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1995 A Bonds in the then current or any succeeding year.

"Series 1996 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1996 A Bonds in the then current or any succeeding year.

"Series 1995 A Bonds Sinking Fund" means the Series 1995 A Bonds Sinking Fund established by Section 4.02 of the Prior Ordinance.

"Series 1996 A Bonds Sinking Fund" means the Series 1996 A Bonds Sinking Fund established by Section 4.02 hereof.

"SRF Administrative Fee" means any administrative fee required to be paid pursuant to the Loan Agreement.

"SRF Program" means the State's Water Pollution Control Revolving Fund Program, under which the Authority purchases the water pollution control revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of a capitalization grant award from the United States Environmental Protection Agency and funds from the State.

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

"State" means the State of West Virginia.

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

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

"System" means the existing sewerage system facilities as expanded by the Project, and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with said sewerage system; and shall include any and all additions, extensions, improvements properties or other facilities at any time acquired or constructed for the System after completion of the Project.

"Yield" means that yield which, when used in computing the present worth of all payments of principal and interest (or other payments in the case of Nonpurpose Investments which require payments in a form not characterized as principal and interest) on a Nonpurpose Investment or on the Series 1996 A Bonds produces an amount equal to the Purchase Price of such Nonpurpose Investment or the Bonds, all computed as prescribed in applicable Regulations.

Words importing singular number shall include the plural number in each case and vice versa: words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender.

ARTICLE II

AUTHORIZATION OF CONSTRUCTION
AND ACQUISITION OF THE PROJECT

Section 2.01. Authorization for the Construction and Acquisition of the Project. There is hereby authorized acquisition and construction of the Project in accordance with the plans and specifications prepared by the Consulting Engineers. The Project consists generally of replacing approximately 4,400 lineal feet of 12" gravity sewer line, upgrading two pump stations, installing one new pump station, upgrading the wastewater treatment plant by installing a 625,000 gpd treatment unit, an aerobic digester, belt filter press, upgrading telemetry systems and similar work.. The proceeds of the Bonds hereby authorized shall be applied as provided in Article V hereof.

It is estimated that the proposed construction will cost approximately \$5,230,900.00, and will consist of the following:

Line Replacement	1,930,000.00
Treatment Plant Upgrade	1,705,000.00
21 st Street Project	277,300.00
Purchase of Jer Vac	165,000.00
Reimbursement/Refinance of Previous Upgrades	253,000.00
 Total Construction	 4,330,300.00
 Engineering	 254,900.00
Inspection	283,300.00
Easements	15,000.00
Legal	20,000.00
Other Administrative	15,000.00
Bond Counsel for 1996 Bonds	25,000.00
Project Contingency	244,400.00
Reserve for 1995 Bond	33,000.00
Bond Counsel for 1995 Bonds	10,000.00
 Total Costs	 900,600.00
 Total Project	 5,230,900.00

The Issuer has paid and intends to pay the costs of the Project from the proceeds of the \$373,000 Series 1995 A Bonds and the Series 1996 A Bonds.

The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the SRF Program.

ARTICLE III

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

Section 3.01. Authorization of Series 1996 A Bonds. For the purposes of paying certain Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 1996 A Bonds and related costs, there shall be issued negotiable Series 1996 A Bonds of the Series Issuer, in an aggregate principal amount of not more than \$4,900,000.00. Said Series 1996 A Bonds shall be issued as a single bond and designated as "Sewerage System Revenue Bonds, Series 1996 A." The Series 1996 A Bonds shall bear no interest until _____ . From _____ the Series 1996 A Bonds shall bear interest at the rate of two percent (2%) per annum. There shall also be payable on the Series 1996 A Bonds a one percent (1%) administrative fee. The Series 1996 A Bonds shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 1996 A Bonds shall be deposited in the Bond Construction Trust Fund.

Section 3.02. Terms of the Series 1996 A Bonds. The Series 1996 A Bonds shall bear interest as set forth above; shall be payable and mature on such dates and in such amounts as set forth in Schedule Y attached hereto; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution, or as specifically provided in the Loan Agreement. The Series 1996 A Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 1996 A Bonds shall be paid by check or draft of the Paying Agent mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 1996 A Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 1996 A Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 1996 A Bonds shall be exchangeable at the option and expense of the Holder for other fully registered Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

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

Section 3.03. Execution of Bonds. The Bonds shall be executed, either manually or by facsimile, in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and

sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

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

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

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

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

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

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

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

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 1996 A Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided and amounts, if any, in the Series 1996 A Bonds Reserve Account. No holder or holders of any of the Series 1996 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 1996 A Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Series 1996 A Bonds to be on Parity with the Series 1995 A Bonds. The payment of the debt service of all the Series 1995 A Bonds and Series 1996 A Bonds shall be secured forthwith equally and ratably with each other, by a first lien on the Net Revenues derived from the System, which first lien shall be shared prorata among all the above described indebtedness. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and to make the payments into the Sinking Funds, the Reserve Accounts therein and the Renewal and Replacement Fund hereinafter established, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 1996 A Bonds to the Bond Registrar, and the Registrar shall authenticate, register and deliver the Bonds to the original purchasers thereof upon receipt of the documents set forth below:

- A. If other than the Authority, a list of the names in which the Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;
- B. A request and authorization to the Bond Registrar, on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Bonds to the original purchasers; and
- C. The unqualified approving opinion of bond counsel on the Bonds.

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

[Form of Series 1996 A Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF NITRO
SEWERAGE SYSTEM REVENUE BOND
SERIES 1996 A

No. AR-__

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF NITRO, a municipal corporation and political subdivision of the State of West Virginia in Kanawha and Putnam Counties of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ Dollars (\$ _____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached hereto as Exhibit A and incorporated herein by reference, together interest thereon at the rate of two percent (2%) per annum and an administrative fee of one percent (1%) per annum, which interest and administrative fee shall begin to accrue _____, in installments on March 1, June 1, September 1 and December 1 of each year, beginning _____, as set forth on the "Schedule of Annual Debt Service" attached as Exhibit B hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit B.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and among the Issuer, the Authority and the West Virginia Division of Environmental Protection, dated _____, 1996.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, improvements and betterments to the sewerage system facilities of the Issuer (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"), and an Ordinance and Supplemental Resolution, duly enacted and adopted, respectively, by the Issuer on _____, 1996, and _____, 1996, (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH THE SEWERAGE SYSTEM REVENUE BONDS, SERIES 1995 A OF THE ISSUER (THE "SERIES 1995 A BONDS"), ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF \$373,000, WITH RESPECT TO LIENS AND SOURCES OF AND SECURITY FOR PAYMENT OF THE SERIES 1996 A BONDS.

This Bond is payable only from and secured by a first lien pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1996 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1996 A Bonds Reserve Account and unexpended Bond proceeds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount required in any year for principal of and interest on the Series 1996 A Bonds and the Series 1995 A Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 1996 A Bonds or the Series 1995 A Bonds, provided however, that so long as there exists in the Series 1996 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Series 1996 A Bonds in the then current or any succeeding year, and in the respective reserve accounts established for the Series 1995 A Bonds and any other obligations outstanding prior to or on a parity with the Series 1996 A Bonds or the Series 1995 A Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, THE CITY OF NITRO has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated _____, 1996.

[SEAL]

Mayor

ATTEST:

Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of The City of Nitro Sewerage System Revenue Bonds, Series 1996 A, described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____

as Registrar

By _____
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ADVANCES

Amount

Date

EXHIBIT B
 SCHEDULE OF ANNUAL DEBT SERVICE

(Form of)

ASSIGNMENT

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

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

Dated: _____.

In the presence of:

Section 3.11. Sale of Series 1996 A Bonds; Ratification of Execution of Loan Agreement with Authority. The Series 1996 A Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "Exhibit A" and made a part hereof and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, ratified and approved.

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

ARTICLE IV

SYSTEM REVENUES AND APPLICATION THEREOF

Section 4.01. Continuation or Establishment of Fund and Accounts with Depository Bank. The following special funds or accounts are hereby continued or created with and shall be held by, the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and from each other:

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

Section 4.02. Continuation or Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby continued or established with the Commission:

- (1) Series 1995 A Bonds Sinking Fund;
 - (a) Within the Series 1995 A Bonds Sinking Fund, the Series 1995 A Bonds Reserve Account.
- (2) Series 1996 A Bonds Sinking Fund;
 - (a) Within the Series 1996 A Bonds Sinking Fund, the Series 1996 A Bonds Reserve Account.

Section 4.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and

shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided.

(1) The Issuer shall, each month, pay from the Revenue Fund, all current Operating Expenses of the System ~~and retain the sum permitted as working capital.~~

(2) (a) From the moneys remaining in the Revenue Fund, the Issuer shall next commencing 3 months prior to the first date of payment of interest on the Series 1995 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1995 A Bonds Sinking Fund, a sum equal to 1/3rd of the amount of interest which will become due on said Series 1995 A 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 Series 1995 A Bonds Sinking Fund and the next quarterly interest payment date is less than 3 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.

(b) Simultaneously, the Issuer shall, commencing 3 months prior to the first date of payment of principal on the Series 1995 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1995 A Bonds Sinking Fund, a sum equal to 1/3rd of the amount of principal which will mature and become due on said Series 1995 A Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1995 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(c) Simultaneously, the Issuer shall, commencing 3 months prior to the first date of payment of interest on the Series 1996 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1996 A Bonds Sinking Fund, a sum equal to 1/3rd of the amount of interest which will become due on said Series 1996 A 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 Series 1996 A Bonds Sinking Fund and the next quarterly interest payment date is less than 3 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.

(d) Simultaneously, the Issuer shall, commencing 3 months prior to the first date of payment of principal on the Series 1996 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1996 A Bonds Sinking Fund, a sum equal to 1/3rd of the amount of principal which will mature and become due on said Series 1996 A Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1996 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

In the event there is insufficient money in the Revenue Fund to make the payments described in this paragraph above, the Issuer shall use the available moneys and make the payments provided for on a prorata basis.

(3) (a) Thereafter, the Issuer shall, commencing 3 months prior to the first date of payment of principal of the Series 1995 A Bonds apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1995 A Bonds Reserve Account, an amount equal to 1/120th of the Series 1995 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1995 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1995 A Bonds Reserve Requirement.

(b) Simultaneously, with the transfer to the Series 1995 A Bonds Reserve Account as aforesaid, the Issuer shall, commencing 3 months prior to the first date of payment of principal of the Series 1996 A Bonds apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1996 A Bonds Reserve Account, an amount equal to 1/120th of the Series 1996 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1996 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1996 A Bonds Reserve Requirement.

(4) From the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing with the month succeeding the first full calendar month after completion of the Project, transfer to the Renewal and Replacement Fund a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of the Series 1995 A Bonds Reserve Account or the Series 1996 A Bonds Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the Series 1995 A Bonds Reserve Account or the Series 1996 A Bonds 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 by Subsection 4.03(A)(2)(d)] shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 1995 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the respective Series 1995 A Bonds as the same shall become due. Moneys in the Series 1995 A Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the Series 1995 A Bonds, as the same shall come due, when other moneys in the Sinking Fund are insufficient therefor, and for no other purpose.

Moneys in the Series 1996 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the respective Series 1996 A Bonds as the same shall become due. Moneys in the Series 1996 A Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the Series 1996 A Bonds, as the same shall come due, when other moneys in the Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Sinking Fund and respective Reserve Accounts shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Bond Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Series 1996 A Bonds Sinking Fund and applied to the next ensuing interest payments, if any, due on the Series 1996 A Bonds, and then to the next ensuing principal payments due thereon.

Any withdrawals from the Series 1995 A Bonds Reserve Account which result in a reduction in the balance of the Series 1995 A Bonds Reserve Account to below the Series 1995 A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments set forth in Section 4.03(A)(2) above have been made in full.

Any withdrawals from the Series 1996 A Bonds Reserve Account which result in a reduction in the balance of the Series 1996 A Bonds Reserve Account to below the Series 1996 A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments set forth in Section 4.03(A)(2) above have been made in full.

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

The Issuer shall not be required to make any further payments into the Series 1995 A Bonds Sinking Fund or into the Reserve Account therein when the aggregate amount of funds in said Series 1995 A Bonds Sinking Fund and Reserve Account are at least equal to the aggregate principal amount of the Series 1995 A Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

The Issuer shall not be required to make any further payments into the Series 1996 A Bonds Sinking Fund or into the Reserve Account therein when the aggregate amount of funds in said Series 1996 A Bonds Sinking Fund and Reserve Account are at least equal to the aggregate principal amount of the Series 1996 A Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

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

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

Moneys in the respective Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 7.01 hereof.

The Series 1996 A Bonds Sinking Fund, including the Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 1996 A Bonds and any additional Bonds ranking on a parity therewith that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

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

C. The Issuer shall complete the "monthly Payment Form," a form of which is attached to the Loan Agreement as Exhibit F, and submit a copy of said form along with a copy of its check to the Authority by the 5th day of each calendar month.

D. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar or the Depository Bank, on such dates as the Commission, the Registrar or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay the Depository Bank's charges then due. The Issuer shall also remit from the Revenue Fund to the Authority, on such dates as the Authority shall require, the Issuer's allocable share of reasonable administrative expenses, if any, incurred by the Authority with respect to the SRF Program.

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

F. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates.

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

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

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

J. The Issuer shall each month on the day set forth in Section 4.03A(2) hereof, and if such day is not a business day, then the next succeeding business day), deposit with the Commission the SRF Administrative Fee as set forth in Schedule Y attached to the Loan Agreement.

ARTICLE V

BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 5.01. Application of Series 1996 A Bond Proceeds; Pledge of Unexpended Bond Proceeds. The moneys received from the sale of the Series 1996 A Bonds, as requisitioned by the Issuer, shall be deposited in the Bond Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 5.02.

The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Fund set forth in the Bond Legislation. Moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so expended, are hereby pledged as additional security for the Series 1996 A Bonds.

Section 5.02. Disbursements From the Bond Construction Trust Fund. On or before the Closing Date, the Issuer shall have delivered to the DEP and the Authority a report listing the specific purposes for which the proceeds of the Series 1996 A Bonds will be expended and the disbursement procedures for such proceeds, including a estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 5.01 hereof, disbursements from the Bond Construction Trust Fund shall be made only after submission to, and approval from the Authority and DEP of the following:

(1) a completed and signed "Payment Requisition Form," a form of which is attached to the Loan Agreement as Exhibit C, and

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

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

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

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

(D) That payment for each of the items proposed is then due and owing, or that Issuer or the Sanitary Board has previously paid such item in connection with the Project is being reimbursed for such payment.

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 Issuer.

After completion of the Project, as certified by the Consulting Engineers, the Depository Bank shall transfer any moneys remaining in the Bond Construction Trust Fund to the Series 1996 A Bonds Reserve Account, and when fully funded, shall return such remaining moneys to the Issuer for deposit in the Revenue Fund. The Issuer shall thereafter, apply such moneys in full, first to the next ensuing interest payments, if any, due on the Series 1996 A Bonds and thereafter to the next ensuing principal payments due thereon.

ARTICLE VI

ADDITIONAL COVENANTS OF THE ISSUER

Section 6.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Bonds as hereinafter provided in this Article VI. 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 6.02. Bonds not to be Indebtedness of the Issuer. The Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay said Bonds or the interest thereon.

Section 6.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 1996 A Bonds issued hereunder and Series 1995 A Bonds heretofore issued 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 and to make the payments into the Sinking Funds, including the Reserve Accounts therein, and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds as the same become due, and for the other purposes provided in the Bond Legislation.

Section 6.04. Initial Schedule of Rates and Charges. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the ordinance of the Issuer enacted February 23, 1995.

Section 6.05. Sale of the System. Except as otherwise required by law, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Bonds Outstanding, or to effectively defease this Bond Legislation in accordance with Section 9.01 hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Bonds, immediately be remitted to the Commission for deposit in the Sinking Funds, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Bonds. Any balance remaining after the payment of all the Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during

the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$25,000, the Sanitary Board shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$25,000 but not in excess of \$50,000, the Sanitary Board shall first, in writing determine with the written approval of the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$25,000 and not in excess of \$50,000, shall with the written consent of the Authority, be remitted by the Issuer to the Commission for deposit in the Sinking Fund and shall be applied only to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the par value thereof plus 3% of such par value or otherwise. Such payment of such proceeds into the Sinking Fund or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Bond Legislation. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of over 50% in amount of the Bonds then Outstanding and the Consulting Engineers. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 6.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 6.06 and in Section 6.07B, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that additional Bonds on a parity with the Bonds may be issued as provided for in Section 6.07 hereof. All obligations issued by the Issuer after the issuance of the Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Series 1995 A Bonds and the Series 1996 A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the Reserve Accounts and the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current.

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

The Issuer shall give the Authority and the DEP prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System from any grants for the Project, or any other obligations related to the Project or the System.

Section 6.07. Parity Bonds A. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Bond Legislation, except under the conditions and in the manner herein provided and with the written consent of the Authority and the DEP.

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

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

- (1) The Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then Outstanding; and
- (3) The Parity Bonds then proposed to be issued.

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

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

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

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity,

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

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

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Series 1996 A Bonds and the Series 1995 A Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 1996 A Bonds or the Series 1995 A Bonds.

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

B. Notwithstanding the foregoing, or any provision of Section 6.06 to the contrary, additional Bonds may be issued solely for the purpose of completing the Project as described in the application to the Authority submitted as of the date of the Loan Agreement without regard to the restrictions set forth in this Section 6.07, if there is first obtained by the Issuer the written consent of the Authority to the issuance of bonds on a parity with the Bonds.

Section 6.08. Books and Records. The Issuer shall keep complete and accurate records of the cost of acquiring the Project Site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority and the DEP such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Issuer shall permit the Authority and the DEP, or their agents and representatives, to inspect all records pertaining to the operation of the System at all reasonable times following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing System, at any reasonable time following commencement of construction.

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

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

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

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds and shall submit said report to the Authority and DEP, or any other original purchaser of the Bonds. Such audit report submitted to the Authority and DEP shall include a statement that the Issuer is in compliance with the terms and provisions of the Loan Agreement and this Bond Legislation.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for 2 years following completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreement as Exhibit B, and forward a copy to the Authority and DEP by the 10th day of each month.

The Issuer shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in Exhibit E of the Loan Agreement or as promulgated from time to time.

The Issuer shall permit the Authority or the DEP, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of the Project, the Issuer shall also provide the Authority and the DEP, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the DEP with respect to the System pursuant to the Act.

Section 6.09. Rates. Equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating

Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all reasonable expenses of operation, repair and maintenance of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds; provided that, in the event an amount equal to or in excess of the Reserve Requirement is on deposit in the Reserve Account and reserve accounts for obligations prior to or on a parity with the Bonds are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds. In any event, subject to any requirements of law, the Issuer shall not reduce the rates and charges for services set forth in the rate ordinance described in the Section 6.04 hereof.

Section 6.10. Operating Budget and Audit. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority and DEP within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and to any Holder of any Bonds, who shall file his or her address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him or her and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

Section 6.11. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 6.12. Engineering Services and Operating Personnel. The Issuer shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and the DEP covering the supervision and inspection of the development and construction of the Project and bearing responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority, the DEP and the Issuer at the completion of construction that construction of the Project is in

accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a "Performance Certificate," a form of which is attached to the Loan Agreement as Exhibit A, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project is 90% completed.

The Issuer agrees that qualified operating personnel properly certified by the State will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of the Loan Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 25% completion stage.

Section 6.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules of the Issuer, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

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

Section 6.14. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. The revenues so received shall be

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

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the Bank, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the Bank, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than \$1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than \$100,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

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

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

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

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

B. The Issuer shall also require all contractors engaged in the construction of the Project to carry such workers compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project, provided that the amounts and terms of such coverage are satisfactory to

the Authority and the DEP. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the DEP, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount at least 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 6.16. Completion of Project. The Issuer will complete the Project as promptly as possible and operate and maintain the System in good condition and in compliance with all federal and state requirements and standards.

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

Section 6.17. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

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

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

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

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

E. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it (including those deemed necessary by the Authority) so that the interest on the Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including those determined by the Authority) which would adversely affect such exclusion.

Section 6.18. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State of West Virginia and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30 day notice of the availability of the System, pay the rates and charges established therefor.

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

Section 6.19. Compliance with Loan Agreement and Law. The Issuer agrees to comply with all the terms and conditions of the Loan Agreement. Notwithstanding anything herein to the contrary, the Issuer will provide the DEP with copies of all documents submitted to the Authority.

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

ARTICLE VII

INVESTMENT OF FUNDS; NON ARBITRAGE

Section 7.01. Investments. Any moneys held as a part of the funds and accounts created by this Bond Legislation, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws. this Bond Legislation, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 7.01.

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission, the Depository Bank or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

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

Section 7.02. Arbitrage. The Issuer covenants that (i) it will restrict the use of the proceeds of the Bonds in such manner and to such extent as may be necessary, in view of the Issuer's reasonable expectations at the time of issuance of the Bonds, so that the Bonds will not constitute "arbitrage bonds" under Section 148 of the Code and Regulations, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a Federal information return with respect to the Bonds) so that the interest on the Bonds will be and remain excluded from gross income for Federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 7.03. Rebate of Excess Investment Earnings to the United States. In accordance with Section 148(f)(4)(C) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that the Bonds are not private activity bonds as defined in Section 141 of the Code; that 95% or more of the Net Proceeds of the Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and that the aggregate face amount of all the tax-exempt obligations (other than private activity bonds as defined in Section 141 of the Code) issued by the Issuer during the calendar year in which the Bonds are issued will not exceed \$5,000,000, determined in accordance with Section 148(f)(4)(C) of the Code and the Regulations promulgated thereunder. For purposes of this Section 7.03 and for purposes of applying Section 148(f)(4)(C) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a subordinate entity shall, for purposes of applying this Section 7.03 and Section 148(f)(4)(C) of the Code to any other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(C) of the Code and all other entities benefiting thereby shall be treated as one issuer.

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

A. CREATION OF FUNDS. There are hereby created, to be held by the Depository Bank as separate funds distinct from all other funds and accounts held by the Depository Bank under this Bond Legislation, the Earnings Fund and the Rebate Fund. All interest earnings and profits on amounts in all funds and accounts established under this Bond Legislation, other than (i) interest earnings and profits on any funds referenced in Subsection C(5) of this Section if such earnings in any Bond Year are less than \$100,000, (ii) interest earnings and profits on amounts in funds and accounts which do not constitute Gross Proceeds, and (iii) interest earnings and profits on the Rebate Fund shall, upon receipt by the Depository Bank, be deposited in the Earnings Fund. In addition, all interest earnings and profits on Gross Proceeds in funds held by the Issuer shall, upon receipt, be paid to the Depository Bank for deposit in the Earnings Fund. Annually, on or before the 30th day following the end of each Bond Year or on the preceding business day in the event that such last day is not a business day, or such earlier date as may be required under the Code, the Depository Bank shall transfer from the Earnings Fund to the Rebate Fund for purposes of ultimate payment to the United States an amount equal to Excess Investment Earnings, all as more particularly described in this Section. Following the transfer referenced in the preceding sentence, the Depository Bank shall transfer all amounts remaining in the Earnings Fund to be used for the payment of Debt Service on the next interest payment date and for such purpose, Debt Service due from the Issuer on such date shall be credited by an amount equal to the amount so transferred.

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

C. CALCULATION OF EXCESS INVESTMENT EARNINGS. Within 15 days following the last day of the first Bond Year, the Issuer shall calculate, and shall provide written notice to the Authority and Depository Bank of, the Excess Investment Earnings referenced in clause (A) of the definition of Excess Investment Earnings. Thereafter, within 15 days following the last day of each Bond Year and within 15 days following the date of the retirement of the Bond, the Issuer shall calculate, and shall provide written notice to the Authority and Depository Bank of, the amount of Excess Investment Earnings. Said calculations shall be made or caused to be made by the Issuer in accordance with the following:

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

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

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

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

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

D. PAYMENT TO THE UNITED STATES. The Issuer shall direct the Depository Bank to pay from the Rebate Fund an amount equal to Excess Investment Earnings to the United States in installments with the first payment to be made not later than 30 days after the end of the 5th Bond Year and with subsequent payments to be made not later than 5 years after the preceding payment was due. The Issuer shall assure that each such installment is in an amount equal to at least 90% of the Excess Investment Earnings with respect to the Gross Proceeds as of the close of the computation period. Not later than 60 days after the retirement of the Bonds, the Issuer shall direct the Depository Bank to pay from the Rebate Fund to the United States 100% of the theretofore unpaid Excess Investment Earnings in the Rebate Fund. In the event that there are any amounts remaining in the Rebate Fund following the payment required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States at the address prescribed by the Regulations as the same may be in time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required by this Subsection D, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor.

In the event of a failure to pay any such amount or amounts, the Issuer will pay, from any lawful sources available therefor, to the United States, an amount equal to the sum of 50% of the amount not paid, plus interest at the required rate on the portion of the amount which was not paid on the required date, beginning on such date, unless waived.

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

F. MAINTENANCE OF RECORDS. The Issuer shall keep and retain for a period of 6 years following the retirement of the Bonds, records of the determinations made pursuant to this Section 7.03.

G. INDEPENDENT CONSULTANTS. In order to provide for the administration of this Section 7.03, the Issuer and the Depository Bank (at the expense of the Issuer) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer or the Depository Bank may deem appropriate.

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

I. REPORTING TO AUTHORITY. The Issuer shall 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 relating thereto as may be requested by the Authority. Authority, including, without limitation, information with respect to earnings on all funds constituting "gross proceeds" of the Series 1996 A Bonds (as such term "gross proceeds" is defined in the Code). In addition, the Issuer shall cooperate with the authority in preparing rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the Issuer.

Section 7.04. Securities Laws Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

ARTICLE VIII

DEFAULT AND REMEDIES

Section 8.01. Events of Default. A. Each of the following events shall constitute an "Event of Default" with respect to the Series 1995 A Bonds:

- (1) If default occurs in the due and punctual payment of the principal of or interest on the Series 1995 A Bonds; or
- (2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 1995 A Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 1995 A Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, Registrar or any other Paying Agent or a Holder of a Bond; or
- (3) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

B. Each of the following events shall constitute an "Event of Default" with respect to the Series 1996 A Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest on the Series 1996 A Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 1996 A Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 1996 A Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, Registrar or any other Paying Agent or a Holder of a Bond; or

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

Section 8.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners.

Section 8.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might do.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Bond Legislation for Reserve, Sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Bond Legislation shall have been cured and made good, possession of the System shall be surrendered to the Issuer

upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE IX
DEFEASANCE

Section 9.01. Defeasance of Series 1995 A Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1995 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 1995 A Bonds only, the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 1995 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1995 A Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agents at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date, the principal installments of and interest on such Series 1995 A Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1995 A Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on said Series 1995 A Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal

installments of and interest on said Series 1995 A Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

Section 9.02. Defeasance of Series 1996 A Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1996 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 1996 A Bonds only, the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 1996 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1996 A Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agents at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date, the principal installments of and interest on such Series 1996 A Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1996 A Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on said Series 1996 A Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Series 1996 A Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

ARTICLE X

MISCELLANEOUS

Section 10.01. Amendment or Modification of Bond Legislation. No material modification or amendment of this Bond Legislation, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the respective rights of Registered Owners of the Bonds shall be made without the consent in writing of the Registered Owners of 66-2/3% or more in principal amount of the Series 1996 A Bonds or the Series 1995

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A Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein respectively pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the excludability of interest on the Bonds from gross income of the holders thereof.

Section 10.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 10.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Bonds.

Section 10.04. Headings. Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 10.05. Conflicting Provisions Repealed. All ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed, except for the provisions of the Ordinance enacted July 11, 1995, as amended and supplemented by a resolution adopted July 25, 1995, to the extent such provisions affect the Series 1995 A Bonds.

Section 10.06. Covenant of Due Procedure. Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the enactment of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, Recorder and members of the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 10.07. Effective Date. This Ordinance shall take effect immediately following public hearing hereon.

Section 10.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Bond Legislation determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in The Charleston Daily Mail, which is a qualified newspaper of general circulation in The City of Nitro, together with a notice stating that this Bond Legislation has been adopted and that the Issuer contemplates the issuance of the Bonds, and that any person interested may appear before the City Council upon a date certain, not less than ten days subsequent to the date

of the first publication of the abstract and notice, and present protests, and that a certified copy of the Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

Passed on First Reading - July 16, 1996

Passed on Second Reading - Aug 6, 1996

Effective Date Following
Public Hearing



Mayor


Recorder

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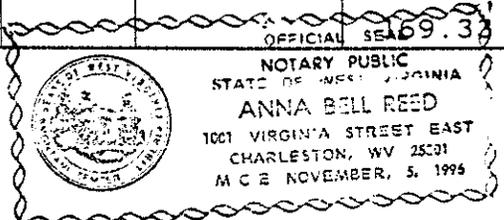
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State of West Virginia, **AFFIDAVIT OF PUBLICATION**

I, Anna Bell Reed of _____



THE CHARLESTON GAZETTE, A DAILY DEMOCRATIC NEWSPAPER, published in the city of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of: **NOTICE OF PUBLIC HEARING** was duly published in said paper(s) during the dates listed below, and was posted at the front door of the court house of said Kanawha County, West Virginia, on the 10TH day of AUGUST 1996. Published during the following dates: 08/09/96-08/16/96
Subscribed and sworn to before me this 20 day of August.
Printers fee \$ 169.33

Anna Bell Reed
Notary Public of Kanawha County, West Virginia

1/4/96

TRUE AND EXACT COPY
Herb Sibley
Recorder

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CITY OF NITRO COUNCIL MEETING MINUTES

JULY 16, 1996

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. Others attending: City Attorney Phillip Gaujot, City Recorder/Treasurer Herb Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Steven West, Councilmen Robert Young, David Miller, George Atkins and Frank Grover, Jr., and several Nitro Citizens.

Minutes of the Council Meeting July 16, 1996 were written from notes by Recorder Herb Sibley due to malfunction of recorder.

AGENDA ITEM NO. 1 - INVOCATION: Given by Ivan Meadows.

Mayor Casto introduced and commended Cheryl Wintz Withrow on her organization of the NHS Alumni Association Reunion and her father, Bill Wintz on the 60th reunion.

AGENDA ITEM NO. 2 - APPROVAL OF JULY 02, 1996 MINUTES: COUNCILMAN BOB YOUNG MOVED TO APPROVE THE SPECIAL COUNCIL MEETING MINUTES AND THE JULY 02, 1996 COUNCIL MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR. AND WAS CARRIED.

AGENDA ITEM NO. 3 - CAT ORDINANCE: This item was put in committee with Councilman Frank Grover, Jr. Chairman. Councilmen Bob Mattox and Richard Savilla. Recommendations for next Council meeting.

AGENDA ITEM NO. 4 - 1ST READING SANITARY BD ORD: An Ordinance regarding issuing a bond issue of \$4,900,000 to repair and upgrade Sanitary Sewers/ Treatment Plant was read and passed on 1st reading. Kapok to Boundary Street presentation by Attorney Jim Withrow. A question and answer session follow. COUNCILMAN STEVE WEST MOVED TO APPROVE ORDINANCE 96-07 ON 1ST READING. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS. The second reading will be August 6th, 1996 followed by public hearing (Copy Attached)

AGENDA ITEM NO. 5 - 2-HOUR PARKING REMOVED: COUNCILMAN BOB YOUNG MOVED TO REMOVE THE TWO HOUR PARKING ON 20TH STREET, ACROSS FROM CITY HALL. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

AGENDA ITEM NO. 6 - FINANCE REPORT: City Recorder / Treasurer Herbert Sibley gave a brief report for Fiscal Year 6/30/96. Mr. Sibley stated several line items were over expended. However, adjustment made and sent to State Tax Dept. Revenue for year, \$2,574,949. Expenses \$2,584,880, Budget \$2,550,120. Additional revenue accrued for B & O tax, April, May and June 1996 less collections for July 1995 was \$45,447 increase making total revenue \$2,620,396 verses expenses 2,584,880.

AGENDA ITEM NO. 7 - BUSINESS & PROF GROUP REPORT: Dean Miller reported the Christmas Parade is scheduled for December 7, 1996 at 6:00 p.m. Also, Mr. Miller expressed desire for

21st Street to be kept clean. Mayor Casto stated two City employees are assigned to keeping up this street Mr. Miller stated the drops have been installed on the poles for the Christmas Lights.

AGENDA ITEM NO. 8 - PLANNING COMMISSION APPOINTMENTS: Mayor Casto announced the new appointments for the Planning Commission. They are as follows: Dr. Charles Byrd, Margaret Hudson, Kermit Thompson, Jim Hutchinson, Janet Martin, Chuck Hudson, Dr. Guy Cassell, Greg Patton and Council nominee David Miller.

AGENDA ITEM NO. 9 - MAYOR'S REPORT: Mayor Casto discussed Cantrell property. Agreements being resolved and plan moving forward with Council approval continuing Grandfather zoning. **COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE CANTRELL MOVE. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR.**

Attorney Gaujot requested permission to move forward on Artel Property Agreements, COUNCIL APPROVED THIS REQUEST.

Various comments by individual Councilman regarding present and future actions by Council and/or City Government.

There being no further business, the meeting was adjourned at 8:45 p.m.

RUSTY CASTO, MAYOR

RECORDER HERBERT SIBLEY

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12/10/96 True and exact copy
Herbert S. Sibley
Recorder

CITY OF NITRO COUNCIL MEETING MINUTES

AUGUST 06, 1996

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. Others attending: City Attorney Phillip Gaujot, City Recorder/Treasurer Herbert Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Steve West, Councilmen Robert Young, David Miller, & Frank Grover, Jr. Absent due to illness Councilman George Atkins.

AGENDA ITEM NO. 1 - INVOCATION: Given by Councilman at Large Robert Mattox.

AGENDA ITEM NO. 2 - CONGRATULATIONS: Mayor Casto extended congratulations to Councilman and Mrs. David Miller on the birth of their son, Luke Isaac, 7lbs & 11 oz.

PINNING OF BADGES CITY OF NITRO POLICE DEPT:

Mayor Casto said it is with great pride that I swear in our new Chief and two new Sergeants for the City of Nitro Police Department. Chief Gregory D. Winter's badge was pinned by his wife Melanie. Sergeant Michael Chatterton's badge pinned by Mayor Rusty Casto. Sergeant Jack A. Jordan's badge was pinned by his son Charlton. Mayor Casto stated he was proud of the Police Department and planned to work closely with them the next four years.

AGENDA ITEM NO. 3- CITIZEN OF THE MONTH: Mayor Casto announced Yolanda Perkins as **Citizen of the Month** presented by her nephew Max Lemma.. Mayor Casto said Mrs. Perkins donated the flag that is now flying over City Hall. Also he said she had been an upstanding citizen for many years. Mrs. Perkins said it was just wonderful being here and in all the years I have lived here this is the first time I have been invited to Council. I think it is a great honor.

AGENDA ITEM NO. 4 - APPROVAL OF JULY 16, 1996 MINUTES: COUNCILMAN AT LARGE BOB MATTOX MOVED TO APPROVE THE JULY 16, 1996 MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED.

AGENDA ITEM NO. 5 -MEETING EPA/SHELL OIL: Mayor Casto informed Council that Shell Oil has requested use of Council Chambers for a meeting with EPA regarding the Fike Artel Site August 29, at 7:00 p.m. This is an open public meeting. There were no objections.

AGENDA ITEM NO. 6 - NITRO DEVELOPMENT AUTHORITY: Mayor Casto explained briefly a concern of the Nitro Development Authority. Some board members have asked to be relieved of the responsibility of managing the building. Counselor Gaujot said the Nitro Development Authority is responsible for the management of the building. The NDA is an arm of the City and as that department was formed by the City, it can also be dissolved by the City. After much discussion, COUNCILMAN AT LARGE STEVE WEST MOVED MAYOR CASTO APPOINT AN ADVISORY COMMITTEE BETWEEN NITRO DEVELOPMENT AUTHORITY AND THE CITY OF NITRO. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR. AND WAS CARRIED.

AGENDA ITEM NO. 7 - LIGHTS CITY PARK BASKETBALL CT. Mayor Casto stated that for some time the basketball court lights have been out at the park and he said he felt they need to be replaced for the youth of the City to be able to participate in various ball leagues. Mayor Casto yielded the floor to Rec/Treas Herb Sibley regarding funding for this expenditure. Mr. Sibley stated that Recreation Director Jay Long has acquired a few verbal bids. These bids were \$6500, \$7500, \$7150 and \$8550. Mr. Sibley stated he has permission to use interest from Community Service money that we have in a separate account. This is being reinvested to increase interest return. Some of this money was appropriated for the Memorial Park. COUNCILMAN FRANK GROVER, JR., MOVED TO ADVERTISE FOR BIDS FOR CITY PARK LIGHTS WITH THE OPTION TO ACCEPT OR REJECT ANY OR ALL BIDS. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

AGENDA ITEM NO. 8- GREATER KAN CO FOUNDATION /FD: Mayor Casto explained to Council that approximately 10 years ago, he had raised \$5000 and put in a fund to let earnings help local good causes. Over the years some of the interest earned was donated to different purposes. The balance including interest \$5,085.87 was deposited in the Greater Kan Foundation FD. July 22, 1996. Interest on this money will be spent as follows, 25 percent to the Nitro Woman's Club, 12.5 percent to the Nitro Elementary School, 12.5 to Rock Branch Elementary School, 25 percent to Nitro Public Library and 25 percent to support charitable or educational projects to be determined by the Mayor of Nitro. Money can be contributed to the Nitro Fund in care of the Greater Kanawha Valley Foundations. A question and answer session followed.

AGENDA ITEM NO. 9 - CAT ORDINANCE COMM REPORT: Mayor Casto yielded the floor to Councilman Frank Grover, Jr., Councilman Grover stated the committee met prior to the Council Meeting and he said the ordinance we presently have will need to be changed so it will legally apply to cats and other animals. The committee will meet with the City Attorney on this issue.

AGENDA ITEM NO. 10 - 2ND READING OF SANITARY BD ORD 96-07: An Ordinance regarding issuing a bond issue of \$4,900,000 to repair and upgrade Sanitary Sewers/Treatment Plant. Mayor Casto yielded the floor to Attorney Jim Withrow to

explain the ordinance. A question and answer session followed. **COUNCILMAN AT LARGE STEVE WEST MOVED MAYOR CASTO READ TITLE ONLY AND ADOPT ORD. 96-07 ON SECOND READING. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND CARRIED.** Copy attached.

COUNCILMAN STEVE WEST MOVED TO HOLD A PUBLIC HEARING AUGUST 20TH, 1996 AT 7:00 P.M. REGARDING ORD. 96-07. THE MOTION WAS SECONDED AND WAS CARRIED.

AGENDA ITEM NO. 11 - CARRIAGE WAY STREETS: Mayor Casto stated Carriage Way has requested the City of Nitro take ownership of the streets. After some discussion regarding ownership and condition of roads **COUNCILMAN ROBERT YOUNG MOVED MAYOR CASTO APPOINT COMMITTEE TO MAKE RECOMMENDATIONS REGARDING THIS ISSUE. THE MOTION WAS SECONDED BY COUNCILMAN RICHARD SAVILLA AND WAS CARRIED.**

AGENDA ITEM NO. 12- BUSINESS & PROFESSIONAL ASSC. Mayor Casto yielded the floor to Spokesman Dean Miller. Mr. Miller reported the Association would like to work closely with the City. Also Mr. Miller commended Mayor Casto on the improvement of the upkeep of 21st Street. The Association will be sponsoring a free pool party, August 19, 1996 6-8 p.m., no age limit. The Christmas Parade, is scheduled for December 07, 1996 at 6:00 p.m. Mr. Miller said there has been some discussion regarding the Nitro Bungalow on Library Lot. Maybe a fund drive to restore this building or abandon project.

AGENDA ITEM NO. 13 - FINANCE REPORT: Mayor Casto yielded the floor to City Recorder/Treasurer Herbert Sibley. Mr. Sibley stated all council has a copy of the July statement, which is the first month of the fiscal year. Recorder Sibley said he had not had time to analyze the statement and would announce a Finance Meeting soon and go over the statement. The B & O taxes in July have been slow coming in, but in August the first four days the collections were up and quarterly estimate met. For some reason, the State Department turned our budget adjustments down. Mr. Sibley has an appointment with Ms. Stanley to resolve this.

Recorder/Treasurer Herb Sibley stated funds are now available to lease purchase the snow plow. Bid specs have been obtained and purchase advertising will be made immediately.

CITY RECORDER SIBLEY MOVED TO ADVERTISE FOR BIDS FOR SNOW REMOVAL EQUIPMENT. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

Mr. Sibley stated we have not received any bids regarding the Memorial Park. Also, Mr. Sibley said the Military leave of all employees needs to be researched and recommendation made regarding this issue. Councilman at Large West commended Chief Winter in scheduling the duty shifts to allow officers to do Military duty on their days off.

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This saves the City a lot of money. Chief Winter said he checked with State Labor Board and they advised they had no regulations. They referred Chief Winter to the Veterans Affairs at the Capitol. They said it was an option of City whether to make up the difference in pay. Chief Winter stated he was working on the overtime involved and had contacted the local Federal Labor Board, who will furnish an explanation of the law, at our request. A three day drill, it does create overtime. Another problem is the officers will sometime volunteer for a week or so of duty. Some discussion followed.

Mr. Sibley stated he wanted to make Council aware that due to the absence of an employee in a key position for an extended time (due to terminal illness of family member) he has hired an employee to work as a floater and as his assistant. The cost will be absorbed in reductions in other payroll line items.

The second thing in regard to the Communication Department, in a Finance Meeting, Chief Blankenship requested the minimum wage be increased to \$6.50/hr. However, a 5 percent across the board was approved by Council for all employees. The intent was not to give across the board increases to that particular department, just raise starting salary to attract qualified individuals.

COUNCILMAN AT LARGE STEVE WEST MOVED TO ENTER IN EXECUTIVE SESSION AT THE END OF REGULAR COUNCIL MEETING. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

AGENDA ITEM NO. 14 - CANTRELL UPDATE: Mayor Casto thanked Council for allowing the trailer to be moved in, which will give the Cantrells a better place to live and also made most of the neighbors happy. The donations are approximately \$1800.00. Counselor Gaujot commended Mayor Casto for moving so quickly in cleaning up the Cantrell property.

AGENDA ITEM NO. 15. MAYOR'S REPORT: Mayor Casto announced that he and Recorder Sibley will be attending a Municipal League Conference in Wheeling August 8 and 9th, 1996.

Also Mayor Casto said he had invited a landscaper down to look at four different areas of the City that need to be spruced up. He will be looking at the Memorial Site.

Mayor Casto mentioned if the City is going to keep the City Pool going, the Council is going have to make some serious decisions.

Mayor Casto apologized for the lengthy agenda but felt Council needed to be aware of all items.

AGENDA ITEM NO. 16 - COUNCILMEN'S COMMENTS:

Councilman Frank Grover, stated we need to explain to the citizens what is going on with the Sanitary Board . There will be many ditches dug and possibly some inconvenience. A news release was suggested.

Councilman David Miller, stated there is property on 11th street that needs to be either cleaned up or condemned. Since this in my ward, I want to see that it is done. Also the drainage problem up in that area is still there. It needs to be taken care of immediately. It is affecting Third Avenue.

Councilman Bob Young, requested a new sign at Brookhaven. Also there is a blocked drain pipe in the area. It must be cleaned out.

Councilman at Large Steve West, suggested a sign at newly annexed area. Also Councilman West stated Counselor Gaujot just gave him the orders of annexation he received from County Commission finalizing the plans of annexation from Fike Artel and THF Realty. **COUNCILMAN AT LARGE STEVE WEST MOVED TO MAKE THESE A PART OF THE MINUTES. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.** (Copy attached).

Councilman Robert Mattox, stated there is a problem area behind privacy fence located at the corner of Beech. This needs to be addressed.

Meeting adjourned at 9:30 p.m.

RUSTY CASTO, MAYOR

HERBERT SIBLEY, RECORDER

August 20, 1996

PUBLIC HEARING

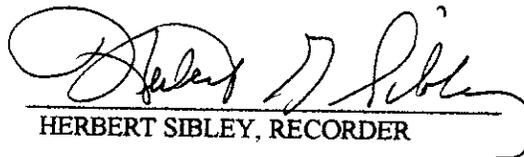
ORDINANCE 96-07

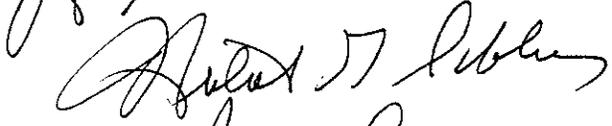
A public hearing was held August 20, 1996 at 7:00 p.m. in the Conference Room at City Hall. Present were; Herbert Sibley, City Recorder, Jim Withrow, Attorney, Robert Mattox, Councilman at Large, David Miller, Councilman, Connie Stephens, General Manager Sanitary Board, Representative from Dunn Engineers, and Frank Grover, Jr. Councilman.

Meeting convened at 7:00 p.m. for explanation of project by Jim Withrow, Attorney for the Nitro Sanitary Board and Connie Stephens, General Manager.

Questions by Councilmen George Atkins and Frank Grover, Jr.

There being no objections, the meeting was adjourned at 7:30 p.m.


HERBERT SIBLEY, RECORDER

12/10/96 A true & exact copy

Recorder

12/10/96

True & Exact Copy 333
Herbert D. Sibley
Recorder

CITY OF NITRO COUNCIL MEETING MINUTES

AUGUST 20, 1996

Mayor Rusty Casto declared a quorum and called the meeting to order at 7:30 p.m. Others attending were City Attorney Phillip Gaujot, City Recorder Herbert Sibley, Councilmen at Large Robert Mattox, Richard Savilla, Steve West, Councilmen Robert Young, David Miller, George Atkins and Frank Grover, Jr.

Pinning of Badge- Fire Department

Mayor Casto presented Captain Ron King with his Captain Badge. Captain King was promoted to Captain for the Nitro Fire Department, February 1996.

AGENDA ITEM NO. 1 INVOCATION: Given by Councilman at Large Robert Mattox.

AGENDA ITEM NO. 2- APPROVAL OF AUG 06. COUNCIL MINUTES:

COUNCILMAN AT LARGE STEVE WEST MOVED THE AUG 06 MINUTES BE APPROVED WITH TWO CORRECTIONS Agenda Item No. 6 motion should read Mayor Casto to appoint a committee to investigate relationship between the Nitro Development Authority and the City of Nitro. Second correction, Agenda Item No. 13. Entered in Executive Session at approximately 9:00 p.m. to discuss various personnel matters. Council reconvened at 9:20 p.m. COUNCILMAN RICHARD SAVILLA MOVED TO GIVE ROBIN SMITH A MERIT RAISE TO INCREASE SALARY TO \$7.70 PER HR. THE MOTION WAS SECONDED BY COUNCILMAN DAVID MILLER AND WAS CARRIED.

AGENDA ITEM NO. 2A: SANITARY BD AGREEMENT/CITY OF NITRO:

Connie Stephens Manger of Nitro Sanitary Board requested that an agreement be entered into with City of Nitro and the Sanitary Board. This agreement in reference to a National Pollution Discharge Elimination System Permit Number WV0023299. COUNCILMAN DAVID MILLER MOVED TO ACCEPT AS PRESENTED BY MANAGER STEPHENS THE EXPLANATIONS OF THIS AGREEMENT. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

COUNCILMAN BOB YOUNG MOVED TO APPROVE THE SANITARY BOARD AGREEMENT. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED.

AGENDA ITEM NO. 3. WESTSIDE PARKING:

Councilman Atkins stated several citizens in the audience are concerned about Park Avenue parking. He indicated we need to discuss the matter. However, it was brought out a committee had already been formed and it should be resolved in that committee. Mayor Casto requested that Chairman Atkins schedule a meeting as soon as possible. After discussion matter was referred to committee.

AGENDA ITEM NO. 4 - RDA NOMINATION:

Mayor Casto requested a volunteer to accept nomination. Receiving no volunteer, Mayor Casto agreed to serve for a period of time.

AGENDA ITEM NO. 5 - WV DEVELOPMENT ENDORSEMENT:

Mayor Casto reminded Council there was a grant approved by the WV Development Authority authorizing expenditure of as much as \$7000 to furnish handicapped entrance to City Hall. After some discussion it was decided to table.

AGENDA ITEM NO. 6 - CAT ORDINANCE REPORT:

Councilman Grover made brief report regarding cat ordinance and indicated after an additional committee meeting some recommendation will be made. A meeting is scheduled at 6:00 p.m. September 3, 1996 in Conference room.

AGENDA ITEM NO. 7 - SNOW PLOW BIDS:

Recorder Treasurer Sibley reported proper notice had been made to Charleston Newspapers requesting bids for a snow plow truck and accessories. Bids will be received until August 29th 1996 at 3:00 p.m. and will be opened at council meeting September 3, 1996.

AGENDA ITEM NO. 8 - PAR INDUSTRIAL PK (PHIL GAUJOT)

Counselor Phillip Gaujot stated he will file a motion in federal bankruptcy court next week to force Par Industrial Corp to pay \$1.29 million it owes to the city as well as approximately \$600,000 in interest. The debt stems from loans provided to Par Ind. from 1983 to 1987 for an industrial park it was building in the city. The company declared bankruptcy in October 1992. Since then, Attorney Gaujot said he has tried to renegotiate the terms of the loan numerous times but failed, several months ago we thought we had an agreement, but they rescinded. Counselor Gaujot said the main issue seems to be the amount of interest.

Counselor Gaujot said the court motion will seek to have Par Industrial's bankruptcy status changed from Chapter 11 to Chapter 7. If the court rules in Nitro's favor, the company's assets will be sold to pay its debts.

AGENDA ITEM NO. 9 - CARRIAGE WAY STREETS:

Mayor Casto yielded the floor to City Attorney Phillip Gaujot. Counselor Gaujot stated his recommendations for Carriage Way Residents to file a petition with the City of Nitro requesting the City to accept the streets. The City should check the condition of the streets and how much this will affect the insurance premium. After this an ordinance must be prepared and a public hearing held.

MAYOR CASTO ENTERTAINED A MOTION TO SEND ISSUE OF CARRIAGE STREETS TO COMMITTEE WITH COUNCILMAN ROBERT YOUNG AS CHAIRMAN, ALONG WITH COUNCILMAN AT LARGE STEVE WEST AND BUILDING OFFICIAL BOB SERGENT. THE MOTION WAS SECONDED BY REC/TREAS HERBERT SIBLEY AND WAS CARRIED. A Traffic Committee meeting is scheduled for Tuesday at 7:00 p.m.

AGENDA ITEM NO. 10- NITRO BUSINESS & PROF ASSOC:

Mayor Casto commended Dean Miller and Lawrence Hill for their work at the pool party and yielded the floor to Dean Miller, Spokesman for the Business & Professional Association. Mr. Miller thanked the City for their cooperation regarding the pool party and he said hopefully they could have more of them next year. Also, Mr. Miller announced the Christmas Parade December 7 at 6:00 p.m. Parade route will be from Plant Road down 21st Street at Community Center. Mr. Miller stated that once again the bungalow was discussed, he said it would take approximately \$2000 to restore the bungalow. Mayor Casto asked Council's opinion regarding restoration of the bungalow and providing the \$2000 from Community Improvement Funds. **COUNCILMAN ROBERT YOUNG MOVED TO PRESERVE THE BUNGALOW. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.**

COUNCILMAN AT LARGE ROBERT MATTOX MOVED TO GRANT REQUEST FOR CHRISTMAS PARADE DECEMBER 7, AT 6:00 P.M. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

AGENDA ITEM NO. 11- BASKETBALL LIGHTS:

Mayor Casto stated he did not have a bid from the contractor at this time, but he is going to be able to do it for less than the first estimates. We will be starting our leagues after school starts.

AGENDA ITEM NO. 12 MAYOR'S REPORT:

Mayor Casto stated most of you know we have a problem with the City Pool. Mayor Casto said we need a new deck, which will be between \$55,000 and \$65,000 maybe a liner, pump house, a lot of work needs to be done if the pool is to be kept open. There are three options, number one; stay in the business and fix it up, number two; do as Cross Lanes and turn it over to a private agency and City stay completely out of it or number three; fill it up with dirt and get out of the business. Mayor Casto asked Council to talk to the citizens to get their feeling on the pool.

Also Mayor Casto noted a Public Hearing was held at 7:00 p.m. August 20, 1996 prior to Council meeting regarding Ordinance 96-7, an ordinance regarding repair and upgrading of the Nitro Sewer and Treatment Plant. Attorney Jim Withrow was present to answer questions.

COUNCILMEN'S COMMENTS:

Councilman Frank Grover, Jr. stated he and Public Works Director, Gene Williams have been out looking at some of the storm drain problems and have found more drains than we thought were there, there are three drains. We are working on some plans to relieve some of the storm drainage problems. One of the biggest problem areas is behind the Twin City Church. Councilman Grover stated it will take a long time and cost a lot of money. Also he said, there are a lot of parking problems, some of the streets are narrow and we need to blacktop some of the streets that have been taken in to the area. On street parking creates problems for everybody. Councilman Grover commented we are one step closer to recycling. Sally Shepherd will be bringing down two containers at the City Garage, and when this happens I will setup a schedule. This will help us decide if this is beneficial to the City.

Councilman David Miller stated there are several houses in his ward that need more attention even after they have mowed. He said he feels someone needs to go door to door and contact land owners to clean up property. Also Councilman Miller said the Police and Fire Dept need some group health insurance after they retire. Some discussion followed.

Councilman at Large Steve West stated we need to have a committee meeting to discuss responsibilities, and duties but since there is already two committee meetings scheduled we will do it later.

Councilman George Atkins stated he would like to meet with Councilman at Large Robert Mattox and anyone else interested and go to the City Garage and clean out all of the junk accumulated.

Councilman at Large Richard Savilla commented he would like to move on with the 31st bridge as soon as possible. Also he said had contacted Dunn Eng. regarding the bridge. Mayor Casto stated he had already contacted Dunn Eng. and has a file on the bridge in his office.

Councilman at Large Robert Mattox requested outcome of the City budget adjustments for 1995/1996 not being approved by the State. What has been done? City Recorder Herb Sibley said there has been no action on the budget and he has been waiting since June for the State Auditor. Recorder Sibley said the minutes that were done by outside, Court Recorder on June 18, 1996 did not reach the City in time to be presented to the State with 1995/96 adjustments.. Councilman at Large Robert Mattox asked City Recorder Sibley if he had met with Ms. Stanley. City Recorder Sibley stated he did not have an appointment with Ms. Stanley but he would contact.

Mayor Casto stated he is expanding and restructuring the city police force. The police force will now consist of: **Chief, Captain, Lieutenant and five Sergeants**. Mayor Casto said two weeks ago Greg Winter, a ten year veteran was promoted to Chief and Officers Mike Chatterton and Jack Jordan were promoted to Sergeants. Mayor Casto said the two new sergeants will received two years back pay because they should have been promoted earlier. Also Mayor Casto said he has great respect for the Police Department and we will be hiring two new officers.

There being no further business, the meeting was adjourned at 9:05 p.m.

RUSTY CASTO, MAYOR

HERBERT SIBLEY, REC.

THE CITY OF NITRO
SUPPLEMENTAL RESOLUTION

Supplemental Resolution providing for the dates, maturities, interest rates, principal payment schedules, sale prices and other terms of the Sewerage System Revenue Bonds, Series 1996 A, designating a registrar, paying agent and depository bank, approving the sale of the Sewerage System Revenue Bonds, Series 1996 A pursuant to a Loan Agreement and making other provisions as to such Bonds.

WHEREAS, the City Council of The City of Nitro (the "Issuer"), on August 6, 1996, enacted an Ordinance, all as more fully set out therein; (said Ordinance is hereinafter referred to as the "Ordinance"); and

WHEREAS, the Ordinance provides for the issuance of Sewerage System Revenue Bonds, Series 1996 A (the "Series 1996 A Bonds"), of the Issuer in aggregate principal amounts not to exceed \$4,900,000, all in accordance with Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and further provides that the dates, interest rates, maturities, sale prices and other terms of and matters relating to the Series 1996 A Bonds should be established by supplemental resolution; and

WHEREAS, the Series 1996 A Bonds are proposed to be sold to the West Virginia Water Development Authority pursuant to a Loan Agreement (the "Loan Agreement"); and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Ordinance; and

WHEREAS, the Governing Body of the Issuer deems it essential and desirable that this resolution (the "Supplemental Resolution"), be adopted and that the prices, the maturity dates, the redemption provisions, the interest rates, and the interest and principal payment dates of the Series 1996 A Bonds be fixed hereby in the manner stated herein, that the Loan Agreement be ratified and approved and that other matters relating to the Bonds be herein provided for.

NOW THEREFORE, be it resolved by the City Council of The City of Nitro as follows:

Section 1. Pursuant to the Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewerage System Revenue Bonds, Series 1996 A, in the aggregate principal amount of \$4,575,502 (the "Series 1996 A Bonds"), all in the form set forth in the Ordinance.

(A) The Series 1996 A Bonds of the Issuer shall be originally issued in the form of a single bond payable to the Authority, numbered consecutively AR-1, shall be in the principal amount of \$4,575,502. The Series 1996 A Bonds shall be dated as of December 10, 1996, or as of the date of closing and shall mature on June 1, 2018. The Series 1996 A Bonds shall bear interest at

the rate of 2% per annum, together with a 1% annual administrative fee, from June 1, 1998, until paid. Beginning September 1, 1998, the principal of and interest on the Series 1996 A Bonds shall be payable quarterly on September 1, December 1, March 1 and June 1 of each year, all as set forth on Schedule Y attached hereto.

(B) The sale of the Series 1996 A Bonds to the Authority, which is hereby designated as the Original Purchaser of the Series 1996 A Bonds, and the Loan Agreement dated October 10, 1996, in the form attached to this Resolution as Exhibit A is hereby ratified and approved. The Mayor is authorized and directed to execute and deliver the Loan Agreement with such changes and insertions as he may approve. The Mayor's signature on such Agreement shall be conclusive evidence of such approval.

Section 2. Except as herein provided, all other provisions relating to the Series 1996 A Bonds shall be as provided in the Ordinance, and the Series 1996 A Bonds shall be in substantially the form provided in the Ordinance with such changes, insertions and omissions as may be approved by the Mayor of the Issuer. The execution of the Series 1996 A Bonds by the Mayor shall be conclusive evidence of such approval.

Section 3. The Issuer hereby determines that the bank currently serving as the Depository Bank for the Sewer System Revenue Fund, Huntington National Bank, West Virginia, shall continue in that capacity.

Section 4. The Issuer hereby appoints and designates One Valley Bank, National Association, Charleston, West Virginia, as Registrar for the Bonds.

Section 5. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, as Paying Agent for the Bonds.

Section 6. The Mayor and the Recorder of the Issuer are hereby authorized and directed to execute and deliver such other documents and certificates, including the Registrar's Agreement and Tax Regulatory Agreement, required or desirable in connection with the Series 1996 A Bonds in order for the Series 1996 A Bonds to be delivered to the Original Purchaser pursuant to the Loan Agreement.

Section 7. The Issuer shall not permit at any time or times any of the proceeds of the Series 1996 A Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code, by reason of the classification of the Series 1996 A Bonds as "private activity bonds" within the meaning of the Code. It will take all actions necessary to comply with the Code, including the Treasury Regulations to be promulgated thereunder.

Section 8. In accordance with Section 148(f)(4)(C) of the Internal Revenue Code of 1986, as amended, the Issuer covenants that it is a governmental unit with general taxing powers; that the Bonds are not private activity bonds as defined in Section 141 of the Code; that 95% or more of the Net Proceeds of the Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and that the aggregate face amount of all the tax-exempt obligations (other than private activity bonds as

defined in Section 141 of the Code) issued by the Issuer during the calendar year in which the Bonds are issued will not exceed \$5,000,000, determined in accordance with Section 148(f)(4)(C) of the Code and the Regulations promulgated thereunder.

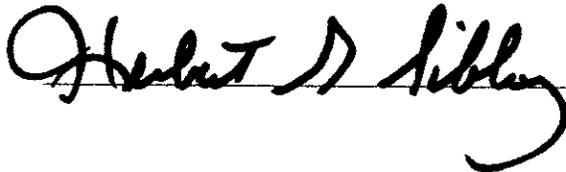
Section 9. The Issuer hereby authorizes and directs the repayment, from the first disbursement made under the Loan Agreement, of the City's 1991 Construction Loan, outstanding in the approximate amount of \$100,000, and the City's Series 1995 B Bonds in the approximate amount of \$60,000, both of which obligations are owed to Huntington National Bank, West Virginia.

Section 10. This Supplemental Resolution shall be effective immediately upon adoption.

Adopted this 12th day of November, 1996.



Mayor



Recorder

12/10/96 True & exact Copy
Herb D. Sibley
Recorder

CITY OF NITRO COUNCIL MEETING MINUTES

NOVEMBER 12, 1996

Mayor Casto declared a quorum and called the meeting to order at 7:30 p.m. in Council Chambers at City Hall. Others present, City Recorder Herbert Sibley, Councilmen at Large, Robert Mattox, Richard Savilla, Steve West. Councilmen Robert Young, David Miller, George Atkins and Frank Grover, Jr. Also present, City Attorney Phillip Gaujot.

AGENDA ITEM NO. 1 INVOCATION: Councilman at Large Robert Mattox.

CITIZEN OF THE MONTH

Recreation Director introduced Ms. Sharon Fridley to Council and presented her with a document written in braille. Ms. Fridley read the document that named her as Citizen of the month. Recreation Director, Jay Long congratulated Sharon and presented her with a stuffed animal (rabbit). Mayor Casto welcomed Sharon to the Council Meeting and congratulated her for her very important work with the Lion's Club.

AGENDA ITEM NO. 2 APPROVAL OF 10/15/96 CO MINUTES: COUNCILMAN AT LARGE STEVE WEST MOVED TO APPROVE THE MINUTES AS DISTRIBUTED. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED.

Mayor Casto introduced Coach Burdette from Nitro High School. Coach Burdette presented Mayor Casto and Council with an autographed football. COUNCILMAN DAVID MILLER MOVED FOR A WILDCAT VICTORY SATURDAY. THE MOTION WAS SECONDED BY COUNCILMAN-ROBERT MATTOX AND WAS CARRIED.

Mayor Casto introduced Coach Lemley from Poca High School. COUNCILMAN AT LARGE RICHARD SAVILLA MOVED FOR A POCA DOT VICTORY SATURDAY. THE MOTION WAS SECONDED BY COUNCILMAN FRANK GROVER, JR. AND WAS CARRIED. Coach Lemley also presented Mayor Casto with a football.

Mayor Casto congratulated both teams for making it to the play-offs and wished them luck.

AGENDA ITEM NO. 3 FIRE DEPARTMENT FUND RAISERS: Mayor Casto yielded the floor to Mr. Jim Riffle. Mr. Riffle explained the fund raiser projects to Council. COUNCILMAN ROBERT YOUNG MOVED TO GRANT THE FIRE DEPARTMENT FUND RAISER REQUEST. THE MOTION WAS SECONDED BY COUNCILMAN GEORGE ATKINS AND WAS CARRIED.

AGENDA ITEM NO. 4 BEAUTIFICATION: Mayor Casto stated he was moving ahead with the beautification league. Mayor Casto requested councilmen attend the meetings or send a representative who can vote in your behalf. Mayor Casto announced Dean Miller will chair the Beautification League in Mayor Casto's behalf. Chairman Miller announced a meeting for Monday, November 18 at 7:00 p.m. in council chambers.

Mayor Casto stated since the last meeting, owners have signed for three houses to be torn down. One on 40th Street and Second Avenue, one at 31st Street and Second Avenue and one at 26th Street and Second Avenue. There are other houses being looked at.

City Attorney, Phillip Gaujot stated regarding the auction of obsolete equipment, the items less than \$1000 do not have to be sold by public auctioned but if the value is over \$1000 they must be sold by public auction. COUNCILMAN AT LARGE STEVE WEST MOVED THE CITY ATTORNEY PREPARE THE NECESSARY ORDINANCE FOR THE SALE OF CITY PERSONAL PROPERTY IN EXCESS WITH VALUE IN EXCESS OF \$1000 AND ALSO AN ORDINANCE FOR THOSE ITEMS CONSIDERED WORTH LESS THAN \$1000. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE ROBERT MATTOX AND WAS CARRIED.

Mayor Casto yielded the floor to Councilman George Atkins to comment on the street sweeper. Councilman Atkins stated he and Mayor Casto drove and worked with the street sweeper for about an hour and he said I feel this will be very beneficial to the City. Councilman Atkins yielded the floor to Mr. Scott Wooden, representative of State Equipment Company. Mr. Wooden spoke to Council giving background of their experience. Also Mr. Wooden showed Council a video of the street sweeper "Air Boss Mobile Sweeper." A question and answer session followed.

AGENDA ITEM NO. 5 TRASH COLLECTION: Mayor Casto yielded the floor to Councilman Frank Grover. Councilman Grover stated he would like to at least thank the kids in his area for their good conduct used during Halloween Trick or Treat night.

Councilman Grover stated beginning January 1st, 1997 the landfill will no longer accept yard waste. The State will require that these items be composted. The City must decide how to transport composting items and where they will go. Also there is a problem of getting rid of other appliances and large items. Councilman Grover will report on this matter at the next scheduled Council Meeting.

AGENDA ITEM NO. 6 BUSINESS & PROFESSIONAL ASSOC REPORT: Mayor Casto yielded the floor to Dean Miller, Spokesman. Mr. Miller announced the "Pot of Gold", and the Christmas Parade, December 7, 1996 at 6:00 p.m. Also Mr. Miller stated they are making some progress on the bungalow, but they need more help and he said, they need a truck. Mr. Miller said regarding the "Christmas Decoration Contest" an award will be given to the best decorated house and also the best decorated business.

AGENDA ITEM NO. 7 FINANCE REPORT: Mayor Casto yielded the floor to City Recorder, Herb Sibley. Mr. Sibley stated the revenue is \$86,000 over estimated budget and revenue over expense is \$51,584. Mr. Sibley said a Finance meeting will be announced soon.

Recorder Sibley read Resolution 96-16, A RESOLUTION AUTHORIZING LEASE WITH OPTION TO PURCHASE AGREEMENT, in its entirety to Council. CITY RECORDER/TREASURER MOVED TO ADOPT RESOLUTION 96-16. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE STEVE WEST AND WAS CARRIED. (COPY ATTACHED)

City Attorney Phillip Gaujot read Resolution 96-15 A RESOLUTION AUTHORIZING RUSTY CASTO, MAYOR OF THE CITY OF NITRO TO SIGN THE NECESSARY PARTNERSHIP GRANT APPLICATION FOR THE POCA RIVER SEWER EXTENSION PROJECT. COUNCILMAN GEORGE ATKINS MOVED TO ADOPT RESOLUTION 96-15. THE MOTION WAS SECONDED BY COUNCILMAN ROBERT YOUNG AND WAS CARRIED. (COPY ATTACHED)

Mr. Sibley commented an engineering firm, Chester Engineers, a Huntington firm is looking at the 31st Street bridge and will be making recommendations. This estimate calls for \$10,000 labor, 12ft steel stand, \$33,035 un-assembled, \$10,000 labor, \$15,000 concrete pads on both sides.

The second was a two-lane 24 ft span, \$50,000 un-assembled, and \$10,000 labor. Also we must obtain permits. These are ballpark figures.

Recorder Sibley stated he had advertised for the computer system, and he said we do not have money for this project at the present time. The only way we can do this, is to give good specs and then request bids.

Councilman at Large Steve West commented the specs that Mr. Rowsy submitted would be as good as any. A discussion followed.

AGENDA ITEM NO. 8 RIVERVIEW APT: Mayor Casto stated a letter had been received from Greg Lord, Attorney for Riverview Apts. Mayor Casto explained to Council, a few years ago Riverview Apts entered into an agreement with the City of Nitro. Mayor Casto gave this matter to the City Attorney. Counselor Gaujot will report on this matter at the next scheduled Council meeting. (Copy attached)

AGENDA ITEM NO. 9 PLANNING COMMISSION: Mayor Casto stated he has received a request from the Planning Commission for an ordinance regarding changes in property, letters to be written to chairperson of planning commission, names of property owners within 300 ft of any property involved in changes, a fee of \$100.00 payable to the City of Nitro to cover cost of legal ads and notices to property owners. This fee is non-refundable. **COUNCILMAN DAVID MILLER MOVED THE CITY ATTORNEY PREPARE AN ORDINANCE TO COVER ANY PROPERTY CHANGES AND EXPENSES. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED**

AGENDA ITEM NO. 10 NITRO DEVELOPMENT AUTHORITY: Mayor Casto stated he contacted several people who would be willing to serve on the board of the Nitro Development Authority and he would like for Council to consider them for appointment. The list is as follows: Dean Miller, Brenda Tyler, Jim Westlund, Ken Kniceley, Mary Trout, Tim Sizemore, Dave Perry and Carmen Kostelansky. **COUNCILMAN DAVID MILLER MOVED TO APPROVE THE APPOINTMENT OF THE ABOVE LIST AS MEMBERS OF THE NITRO DEVELOPMENT AUTHORITY. THE MOTION WAS SECONDED BY COUNCILMAN AT LARGE RICHARD SAVILLA AND WAS CARRIED.**

AGENDA ITEM NO. 11 TENNIS COURTS: Mayor Casto stated the tennis courts can probably be obtained by using a users fee, and be of no cost to the taxpayer. The cost will be approximately \$40,000/50,000. The payment per month would be approximately \$600/mo for ten years. One month payment each year would come from the Nitro High Boosters Club, and then the City would give the school time on the courts. We have also contacted other area schools to participate. This money could most likely be raised by selling joint pool and tennis court passes and money from other areas to pay for them. Mayor Casto said he will report on cost and payment plans regarding this project at the next council meeting.

AGENDA ITEM NO. 12 U-DAG: Mayor Casto yielded the floor to Counselor Gaujot. Counselor Gaujot stated, as you recall, we filed a motion to convert the bankruptcy to chapter 7. That got Par busy filing their plan. This plan calls for paying the City of Nitro up to the time of filing only. After some negotiation, Mayor Casto, Herb Sibley and I feel we have a good deal for the City. We are waiting on some figures from Ralph Allison. Hopefully, we will have something to present to Council at the next meeting. Mayor Casto asked Counselor Gaujot how long have we waited on payment from Par. Counselor Gaujot commented they filed bankruptcy in 1993. They should have started paying in 1992 and when they didn't, we filed suit and they filed bankruptcy.

In regard to the annexation of twelve more acres. THF is coming back for consideration of amendments to the agreement. I have prepared the necessary papers for County Commission. I will report on this matter at the next meeting.

AGENDA ITEM NO. 13 JEFF WOODS JUDGE: This Agenda Item postponed until next meeting.

AGENDA ITEM NO. 14 MAYOR'S COMMENTS: Mayor Casto announced the 42nd Street Railroad Crossing will be closed from December 9th through the 19th. There will be another crossing close by to get through.

Councilmen Comments

Council at Large Dave Miller stated the Fire Department has requested to take money from their training budget to become a member of the Fire Emergency T. V. Network. The Association is going to put up \$268.00, which is one months deposit. The City would be making the monthly payment approximately \$150.00. It is an on going subscription to be deducted from Fire Training budget. Also Councilman Miller stated he had two complaints from residents in his ward regarding commercial vehicles parked on their streets, blocking views.

Councilman at Large Steve West commented the Employee Relations Committee met but he had to leave so another meeting will be scheduled.

Councilman at Large Robert Mattox: Announced next week at the Council Meeting a representative will be here to present information and ideas on "Main Street USA". Also Councilman Mattox asked status of the sewer project scheduled for the 1st of November. Mayor Casto stated this project has been postponed until March.

There being no further business the meeting was adjourned.

RUSTY CASTO, MAYOR

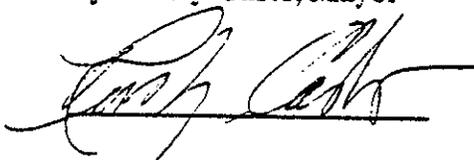
HERBERT SIBLEY, RECORDER

AUTHORIZING RESOLUTION

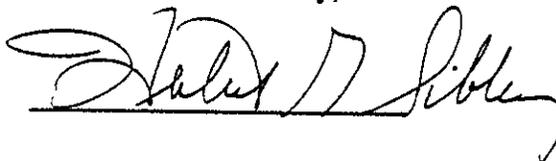
At the regularly scheduled meeting of the Council for the City of Nitro, held on November 19, 1996, RUSTY CASTO, Mayor, City of Nitro, was duly authorized to sign the necessary Partnership Grant Application for the Poca River Sewer Extension Project. The Partnership Grant application will seek \$50,000.00 in funds through the Governor's Community Partnership Grant Program.

This motion being duly present and seconded has been adopted by a quorum vote and therefore RUSTY CASTO may enact all such documents relative to the application for funds through the Governor's Community Partnership Grant Program.

By: Rusty Casto, Mayor

A handwritten signature in black ink, appearing to read "Rusty Casto", written over a horizontal line.

By: Herbert G. Sibley, Recorder

A handwritten signature in black ink, appearing to read "Herbert G. Sibley", written over a horizontal line.

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 Department of Commerce, Labor and Environmental Resources (the "DEP"), and the local government designated below (the "Local Government").

CITY OF NITRO
(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 construction, acquisition and 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 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 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 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 a copy of each Form to DEP in compliance with the Local Government's construction schedule.

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

(a) The Local Government shall have delivered to the Authority a report listing the specific purposes for which the proceeds of the Loan will be expended and the procedures as to the disbursement of loan proceeds, including an estimated monthly draw schedule;

(b) The Local Government shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this Loan Agreement;

(c) The Local Government shall have authorized the issuance of and delivery to the Authority of the Local Bonds described in this Article III and in Article IV hereof;

(d) The Local Government shall either have received bids or entered into contracts for the construction of the Project, which are in an amount and otherwise compatible with the plan of financing described in the Application; provided, that, if the Loan will refund an interim financing of construction, the Local Government must either be constructing or have constructed its Project for a cost and as otherwise compatible with the plan of financing described in the Application; and, in either case, the Authority and DEP shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit D;

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

(f) The Local Government shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the construction of the Project and operation of the System, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local

Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

(g) The Local Government shall have obtained any and all approvals for the issuance of the Local Bonds required by State law, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

(h) The Local Government shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project) with all requisite appeal periods having expired, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

(i) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsection 4.1(b)(ii) hereof, and the Authority and DEP shall have received a certificate of the accountants for the Local Government, or such other person or firm experienced in the finances of local governments and satisfactory to the Authority and DEP, to such effect; and

(j) The net proceeds of the Local Bonds, together with all moneys on deposit or to be simultaneously deposited (or, with respect to proceeds of grant anticipation notes or other indebtedness for which a binding purchase contract has been entered, to be deposited on a date certain) and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, shall be sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and the Authority and DEP shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of wastewater treatment projects and satisfactory to the Authority and DEP, to such effect, such certificate to be in form and substance satisfactory to the Authority and DEP, and evidence satisfactory to the Authority and DEP of such irrevocably committed grants.

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the Authority and DEP, including the SRF Regulations, or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall make the Loan to the Local Government and the Local Government shall accept the Loan from the

Authority, and in furtherance thereof it is agreed that the Local Government shall sell to the Authority and the Authority shall make the Loan by purchasing the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

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

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Local Government by written notice to the Authority, which written notice shall be given not less than ten (10) business days prior to the date designated; provided, however, that if the Authority is unable to accept delivery on the date designated, the Local Bonds shall be delivered to the Authority on a date as close as possible to the designated date and mutually agreeable to the Authority, DEP and the Local Government. The date of delivery so designated or agreed upon is hereinafter referred to as the "Date of Loan Closing." Notwithstanding the foregoing, the Date of Loan Closing shall in no event occur more than ninety (90) days after the date set forth in Exhibit E hereto.

3.5 The Local Government understands and acknowledges that it is one of several local governments which have applied to the Authority and DEP for loans to finance wastewater treatment projects and that the obligation of the Authority to make any such loan is subject to the Local Government's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing and to the requirements of the Program. The Local Government specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Fund to purchase all the Local Bonds and that, prior to such purchase, the Authority may purchase the bonds of other local governments set out in the State Project Priority List, as defined in the SRF Regulations. The Local Government further specifically recognizes that all loans will be originated in conjunction with the SRF Regulations and with the approval of DEP.

3.6 The Local Government shall provide DEP with the appropriate documentation to comply with the special conditions established by federal and state regulations as set forth in Exhibit E hereto at such times as are set forth in Exhibit E.

ARTICLE IV

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

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

(a) That the gross revenues of the System shall always be used for purposes of the System. The revenues generated from the operation of the System will be used monthly, in the order of priority listed below:

(i) to pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document and beginning on the date set forth in Schedule X to provide debt service on the Local Bonds by depositing in a sinking fund one-third (1/3) of the interest payment next coming due on the Local Bonds and one-third (1/3) of the principal payment next coming due on the Local Bonds and, beginning three (3) months prior to the first date of payment of principal of the Local Bonds, if the reserve account for the Local Bonds (the "Reserve Account") was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof in an amount equal to an amount at least equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

(iii) to create a renewal and replacement, or similar, fund in an amount equal to two and one-half percent (2-1/2%) of the gross revenues from the System, exclusive of any payments into the Reserve Account, for the purpose of improving or making emergency repairs or replacements to the System or eliminating any deficiencies in the Reserve Account; and

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

Provided that if the Local Government has existing outstanding indebtedness which has greater coverage or renewal and replacement fund requirements, then the greater requirements will prevail until said existing indebtedness is paid in full.

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by the net revenues from the System;

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

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

(iv) That, except as otherwise required by State law or the Regulations, the System may be sold, mortgaged, leased or otherwise disposed of as a whole or substantially as a whole provided that the net proceeds to be realized from such sale, mortgage, lease or other disposition shall be sufficient to fully pay all of the local bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of such System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

(v) That the Local Government shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by

a lien on or payable from the revenues of the System prior to the Local Bonds and with the written consent of the Authority and DEP; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

(vii) That the Local Government will not render any free services of the System;

(viii) That any Local Bond owner may, by proper legal action, compel the performance of the duties of the Local Government under the Local Act, including the making and collection of sufficient rates or charges for services rendered by the System, and shall also have, in the event of a default in payment of principal or 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 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

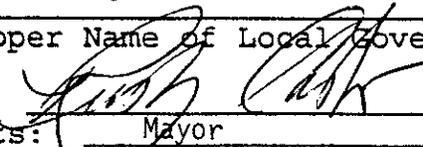
(iii) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Local Government to the Authority or DEP; provided that the amount of the Loan made under this Loan Agreement in any succeeding fiscal year is contingent upon funds being appropriated by the legislature 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 Nitro

[Proper Name of Local Government]

(SEAL)

By: 
Its: _____
Mayor

Attest:

Date: 10/24/96

[Signature]
Its Recorder

WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION

By: [Signature]
Its: Chief, Office of Water Resources

Date: 10/25/96

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: [Signature]
Its: Director

Date: October 10, 1996

Attest:

[Signature]
Secretary-Treasurer

APPROVED AS TO FORM PRIOR TO ACKNOWLEDGEMENT THEREOF, THIS 25th day of August, 1992.

Attorney General
BY: [Signature]
DEPUTY ATTORNEY GENERAL

EXHIBIT A

Certificate of Performance
for
Publicly Owned Treatment Works

I. As required by the Clean Water Act under Title VI, Section 602(b)(6), and the Loan Agreement, the Local Government does hereby certify that it has :

- a. Provided to the WV DEP written notification of the actual date of initiation of operation. This date of initiation was on the _____ day of _____, 19__.
- b. Utilized the services of _____,
our prime engineer who either:
_____ Supervised our project construction; and/or
_____ Provided architectural and engineering services during construction.

For a period of twelve (12) months following the initiation of operations, the prime engineer provided the following services:

- 1) Directed project operation and maintenance; and
- 2) Trained operating personnel and prepared the required curricula and training materials, and revised the operation and maintenance manual(s); and
- 3) Advised the Local Government on the status of the project meeting performance standards.

II. The Local Government, having access to and control of all the necessary data, and having monitored the construction of this project, hereby certifies that the project built under this Loan Agreement meets:

- a. The specifications for which the project was planned, designed, and built.
- b. The effluent limitations contained in its NPDES permit, if applicable.

Local Government Name

Local Government Representative's Name and Title

Date

EXHIBIT B

[Form of Monthly Financial Report]

[Name of Local Government]

[Name of Bond Issue]

Fiscal Year - _____

Report Month: _____

<u>ITEM</u>	<u>CURRENT MONTH</u>	<u>YEAR TO DATE</u>	<u>BUDGET YEAR TO DATE</u>	<u>DIFFERENCE</u>
1. Gross Revenues Collected				
2. Operation and Maintenance Expense				
3. Other Bond Debt Payments (including Reserve Fund deposits)				
. 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 _____, 19__.

[Name of Local Government]

By: _____
Authorized Officer

EXHIBIT C

PAYMENT REQUISITION FORM

(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]

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.

Receipt of the following prior to bond closing:

- 1) Final PSC Certificate of Convenience & Necessity
- 2) NPDES Permit

EXHIBIT F

[Monthly Payment Form]

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

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
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Gentlemen:

We are bond counsel to _____
(the "Local Government"), a _____.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated _____, 19____, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Local Government and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Local Government, dated _____, 19__ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of \$_____, issued in the form of one bond registered as to principal and interest to the Authority, with interest payable _____ 1, _____ 1, _____ 1, and _____ 1 of each year, beginning _____ 1, 19__, at the respective rate or rates and with principal payable in installments on _____ 1 in each of the years, all as follows:

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

The Local Bonds are issued for the purpose of _____
_____ and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of _____
_____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly enacted by the Local Government on _____ (the "Local

Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

1. The Loan Agreement has been duly authorized by and executed on behalf of the Local Government and is a valid and binding special obligation of the Local Government enforceable in accordance with the terms thereof.

2. The Loan Agreement inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Local Government without the consent of the Authority.

3. The Local Government is a duly organized and presently existing _____, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Government has legally and effectively enacted the Local Act and all other necessary _____ in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

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

6. The Local Bonds are, by statute, exempt _____, and under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Local Bonds is excludable from the gross income of the recipients thereof for federal income tax purposes.

No opinion is given herein as to the effect upon enforceability of the Local Bonds of bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights or in the exercise of judicial discretion in appropriate cases.

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

Very truly yours,

SCHEDULE X

DESCRIPTION OF BONDS

Principal Amount of Bonds	\$ 4,575,502
Purchase Price of Bonds	\$ 4,575,502

Interest on the Bonds shall be zero percent from the date of delivery to and including May 31, 1998. Principal and interest on the Bonds is payable quarterly, commencing September 1, 1998, at a rate of 2 % 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 [no other obligations outstanding which have a lien as to the source of and security for payment equal to or superior to the lien being granted by the Bonds]-or-[provide-list of outstanding debt]. *

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

The Bonds will be fully registered in the name of the West Virginia Water Development Authority as to principal and interest and such Bonds shall grant the Authority a first lien on the net revenues of the Local Government's system.

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

*Water Development Authority - \$373,000 Sewerage System Revenue Bond, Series 1995A (SRF Program).

SCHEDULE Y

City of Nitro
 \$4,575,502
 2% interest rate, 1% annual fee
 20 year loan
 DEBT SERVICE SCHEDULE

DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
6/01/1998	-	-	-	-
9/01/1998	46,656.56	2.00000%	22,877.51	69,534.07
12/01/1998	46,889.84	2.00000%	22,644.23	69,534.07
3/01/1999	47,124.29	2.00000%	22,409.78	69,534.07
6/01/1999	47,359.91	2.00000%	22,174.16	69,534.07
9/01/1999	47,596.71	2.00000%	21,937.36	69,534.07
12/01/1999	47,834.70	2.00000%	21,699.37	69,534.07
3/01/2000	48,073.87	2.00000%	21,460.20	69,534.07
6/01/2000	48,314.24	2.00000%	21,219.83	69,534.07
9/01/2000	48,555.81	2.00000%	20,978.26	69,534.07
12/01/2000	48,798.59	2.00000%	20,735.48	69,534.07
3/01/2001	49,042.58	2.00000%	20,491.49	69,534.07
6/01/2001	49,287.79	2.00000%	20,246.27	69,534.06
9/01/2001	49,534.23	2.00000%	19,999.84	69,534.07
12/01/2001	49,781.90	2.00000%	19,752.16	69,534.06
3/01/2002	50,030.81	2.00000%	19,503.25	69,534.06
6/01/2002	50,280.97	2.00000%	19,253.10	69,534.07
9/01/2002	50,532.37	2.00000%	19,001.70	69,534.07
12/01/2002	50,785.03	2.00000%	18,749.03	69,534.06
3/01/2003	51,038.96	2.00000%	18,495.11	69,534.07
6/01/2003	51,294.15	2.00000%	18,239.91	69,534.06
9/01/2003	51,550.63	2.00000%	17,983.44	69,534.07
12/01/2003	51,808.38	2.00000%	17,725.69	69,534.07
3/01/2004	52,067.42	2.00000%	17,466.65	69,534.07
6/01/2004	52,327.76	2.00000%	17,206.31	69,534.07
9/01/2004	52,589.40	2.00000%	16,944.67	69,534.07
12/01/2004	52,852.34	2.00000%	16,681.73	69,534.07
3/01/2005	53,116.60	2.00000%	16,417.46	69,534.06
6/01/2005	53,382.19	2.00000%	16,151.88	69,534.07
9/01/2005	53,649.10	2.00000%	15,884.97	69,534.07
12/01/2005	53,917.34	2.00000%	15,616.72	69,534.06
3/01/2006	54,186.93	2.00000%	15,347.14	69,534.07
6/01/2006	54,457.87	2.00000%	15,076.20	69,534.07
9/01/2006	54,730.15	2.00000%	14,803.91	69,534.06
12/01/2006	55,003.81	2.00000%	14,530.26	69,534.07
3/01/2007	55,278.82	2.00000%	14,255.24	69,534.06
6/01/2007	55,555.22	2.00000%	13,978.85	69,534.07
9/01/2007	55,832.99	2.00000%	13,701.07	69,534.06
12/01/2007	56,112.16	2.00000%	13,421.91	69,534.07
3/01/2008	56,392.72	2.00000%	13,141.35	69,534.07
6/01/2008	56,674.68	2.00000%	12,859.38	69,534.06
9/01/2008	56,958.06	2.00000%	12,576.01	69,534.07
12/01/2008	57,242.85	2.00000%	12,291.22	69,534.07
3/01/2009	57,529.06	2.00000%	12,005.01	69,534.07
6/01/2009	57,816.71	2.00000%	11,717.36	69,534.07
9/01/2009	58,105.79	2.00000%	11,428.28	69,534.07
12/01/2009	58,396.32	2.00000%	11,137.75	69,534.07
3/01/2010	58,688.30	2.00000%	10,845.77	69,534.07
6/01/2010	58,981.74	2.00000%	10,552.33	69,534.07
9/01/2010	59,276.65	2.00000%	10,257.42	69,534.07
12/01/2010	59,573.03	2.00000%	9,961.03	69,534.06

City of Nitro				
2% interest rate, 1% annual fee				
20 year loan				
DEBT SERVICE SCHEDULE				
DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
3/01/2011	59,870.90	2.00000%	9,663.17	69,534.07
6/01/2011	60,170.25	2.00000%	9,363.81	69,534.06
9/01/2011	60,471.11	2.00000%	9,062.96	69,534.07
12/01/2011	60,773.46	2.00000%	8,760.61	69,534.07
3/01/2012	61,077.33	2.00000%	8,456.74	69,534.07
6/01/2012	61,382.72	2.00000%	8,151.35	69,534.07
9/01/2012	61,689.63	2.00000%	7,844.44	69,534.07
12/01/2012	61,998.08	2.00000%	7,535.99	69,534.07
3/01/2013	62,308.07	2.00000%	7,226.00	69,534.07
6/01/2013	62,619.61	2.00000%	6,914.46	69,534.07
9/01/2013	62,932.71	2.00000%	6,601.36	69,534.07
12/01/2013	63,247.37	2.00000%	6,286.70	69,534.07
3/01/2014	63,563.61	2.00000%	5,970.46	69,534.07
6/01/2014	63,881.42	2.00000%	5,652.64	69,534.06
9/01/2014	64,200.83	2.00000%	5,333.24	69,534.07
12/01/2014	64,521.84	2.00000%	5,012.23	69,534.07
3/01/2015	64,844.44	2.00000%	4,689.62	69,534.06
6/01/2015	65,168.67	2.00000%	4,365.40	69,534.07
9/01/2015	65,494.51	2.00000%	4,039.56	69,534.07
12/01/2015	65,821.98	2.00000%	3,712.09	69,534.07
3/01/2016	66,151.09	2.00000%	3,382.98	69,534.07
6/01/2016	66,481.85	2.00000%	3,052.22	69,534.07
9/01/2016	66,814.26	2.00000%	2,719.81	69,534.07
12/01/2016	67,148.33	2.00000%	2,385.74	69,534.07
3/01/2017	67,484.07	2.00000%	2,050.00	69,534.07
6/01/2017	67,821.49	2.00000%	1,712.58	69,534.07
9/01/2017	68,160.60	2.00000%	1,373.47	69,534.07
12/01/2017	68,501.40	2.00000%	1,032.67	69,534.07
3/01/2018	68,843.91	2.00000%	690.16	69,534.07
6/01/2018	69,188.13	2.00000%	345.94	69,534.07
TOTAL	4,575,502.00	-	987,223.45	5,562,725.45

*Plus a one-percent annual administrative fee paid quarterly in the amount of \$6,170.15. The total administrative fee over the life of the loan is \$493,612.

YIELD STATISTICS

Accrued Interest from 06/01/1998 to 06/01/1998...	-
Average Life.....	10.788 YEARS
Bond Years.....	49,361.17
Average Coupon.....	2.0000000%
Net Interest Cost (NIC).....	2.0000000%
Bond Yield for Arbitrage Purposes.....	3.0112500%
True Interest Cost (TIC).....	2.0050000%
Effective Interest Cost (EIC).....	3.0112500%

WV MUNICIPAL BOND COMMISSION
 Suite 337 Building 3
 1800 Washington St. E
 State Capitol Complex
 Charleston, WV 25305
 (304) 348-3971

NEW ISSUE REPORT FORM

Date of Report: _____

(See Reverse for Instructions)

ISSUER & ISSUE: <u>The City of Nitro Sewer System Revenue Bond Series 1996A</u>	
ADDRESS: <u>20th Street & 2nd Avenue Nitro</u>	COUNTY: <u>Kanawha</u>
PURPOSE: <u>New Money <input checked="" type="checkbox"/></u>	
OF ISSUE: <u>Refunding</u> Refunds issue(s) dated: _____	
ISSUE DATE: <u>12-10-96</u>	CLOSING DATE: <u>12-10-96</u>
ISSUE AMOUNT: \$ <u>4,575,502</u>	RATE: <u>2% + 1% administrative fee</u>
1st DEBT SERVICE DUE: <u>9-1-98</u>	1st PRINCIPAL DUE: <u>9-1-98</u>
1st DEBT SERVICE AMOUNT: <u>69,554.07</u>	PAYING AGENT: <u>MBC</u>
ISSUERS BOND COUNSEL: <u>Vaughan & Withrow</u>	UNDERWRITERS BOND COUNSEL: _____
Contact Person: <u>Jim Withrow</u>	Contact Person: _____
Phone: <u>342-3900</u>	Phone: _____
CLOSING BANK: <u>One Valley Bank</u>	ESCROW TRUSTEE: _____
Contact Person: <u>Charlotte Morgan</u>	Contact Person: _____
Phone: _____	Phone: _____
KNOWLEDGEABLE ISSUER CONTACT	OTHER: _____
Contact Person: <u>Connie Stephens</u>	Contact Person: _____
Position: <u>Sanitary Board Manager</u>	Function: _____
Phone: <u>755-3669</u>	Phone: _____
DEPOSITS TO MBC AT CLOSE: Accrued Interest: _____ Days \$ _____	
By <input type="checkbox"/> Wire	Capitalized Interest: \$ _____
<input type="checkbox"/> Check	Reserve Account: \$ _____
<input type="checkbox"/> IGT	Other: \$ _____
REFUNDS & TRANSFERS BY MBC AT CLOSE:	
By <input type="checkbox"/> Wire	To Escrow Trustee: \$ _____
<input type="checkbox"/> Check	To Issuer: \$ _____
<input type="checkbox"/> IGT	To CIF-State Treasury \$ _____
	To Other: \$ _____
NOTES: _____	
FOR MUNICIPAL BOND COMMISSION USE ONLY:	
DOCUMENTS	
REQUIRED: _____	
TRANSFERS	
REQUIRED: _____	

\$4,575,502
THE CITY OF NITRO, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1996 A

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

The undersigned, DANIEL B. YONKOSKY, Director of the West Virginia Water Development Authority (the "Authority"), and RUSTY CASTO, Mayor of The City of Nitro (the "Issuer"), hereby certify as follows:

1. On the 10th day of December, 1996, at 1201 Dunbar Avenue, Dunbar, West Virginia, the Authority received the entire original issue of \$4,575,502 in aggregate principal amount of The City of Nitro, West Virginia, Sewerage System Revenue Bonds, Series 1996 A (the "Series 1996 A Bonds"). The Series 1996 A Bonds, as so received on original issuance, are dated December 10, 1996.

2. At the time of such receipt of the Series 1996 A Bonds, the Series 1996 A Bond AR-1 had been executed by Rusty Casto, as Mayor, by his manual signature and attested by Herb Sibley, as City Recorder, by his manual signature, and the official seal of the Issuer had been impressed upon the Series 1996 A Bond, and had been authenticated by One Valley Bank, National Association, as Registrar.

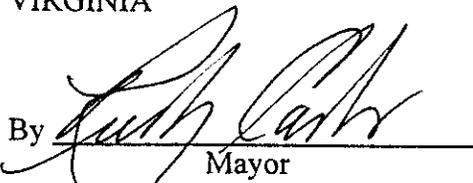
3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series 1996 A Bonds, the sum of \$398,008, as the initial disbursement of the proceeds of the Series 1996 A Bonds. The balance of such proceeds shall be disbursed in accordance with the terms of the Loan Agreement.

In Witness Whereof, each of the parties has caused this instrument to be executed as of the 10th day of December, 1996.

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

By 
Director

THE CITY OF NITRO, WEST
VIRGINIA

By 
Mayor

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL

Entered: November 22, 1996

12-12-96

CASE NO. 96-0652-S-CN

NITRO SANITARY BOARD

Application for a certificate of convenience and necessity to acquire, construct, improve and equip certain public service properties in and near the City of Nitro, in both Kanawha and Putnam Counties for the furnishing of sanitary sewer service.

RECOMMENDED DECISION

On June 10, 1996, the Nitro Sanitary Board (Board), by counsel James W. Withrow, filed with the Public Service Commission (Commission), pursuant to West Virginia Code §24-2-11, a duly certified application for a certificate of convenience and necessity to acquire, construct, improve, and equip certain public service properties in and near the City of Nitro, in both Kanawha and Putnam Counties, for the furnishing of sanitary sewer service. Estimating that the project would cost approximately \$5,230,900.00, the Board also requested approval of financing, consisting of a \$373,000 State Revolving Fund (SRF) design loan and a \$4,857,900.00 SRF construction loan. The rates that will be charged became effective May 5, 1995.

On June 11, 1996, the Commission directed the Board to publish the Notice of Filing in a newspaper duly qualified by the Secretary of State, published and of general circulation in Kanawha County. The Notice of Filing provided that, if no substantial protests to the application were filed within thirty (30) days after the date of publication, the Commission might waive formal hearing and grant the application based upon its review of the evidence submitted with the application.

On June 28, 1996, Staff Attorney Keith George filed the Initial Joint Staff Memorandum. He clarified that the project will consist of replacing approximately 4,400 lineal feet of gravity sewer line, upgrading two pump stations, installing a new pump station, and upgrading a treatment plant by installing a 625,000 g.p.d. treatment unit, and making other upgrades. He stated that Commission Staff was starting its review of the application.

On July 1, 1996, the Board filed an affidavit of publication establishing that the Notice of Filing had been published in The Charleston Gazette and The Daily Mail on June 21, 1996.

On July 8, 1996, the Commission Referral Order was entered in this proceeding, referring this matter to the Division of Administrative Law Judges (ALJ Division) for decision on or before January 6, 1997.

On July 18, 1996, the undersigned ALJ issued a Procedural Order scheduling this matter for hearing on September 23, 1996.

On September 20, 1996, Mr. George filed a Final Joint Staff Memorandum, recommending that the hearing be canceled. He explained that the Board had submitted information that day that indicated that the debt service needed to fund the project as then planned exceeded the amount of revenue that the City of Nitro had available, and that, while the City had also indicated that the project could be scaled back to remedy the problem, such scaling back would require some additional time. Staff also would need time to review the changes.

On October 18, 1996, the Board filed an amended application, scaling back the project and, accordingly, reducing the estimated project costs to \$4,984,502. The amended application also stated that the construction costs would be met by the unchanged \$373,000 SRF design loan and a \$4,575,502 SRF construction loan.

On October 22, 1996, Mr. George filed a Further Final Joint Staff Memorandum, with an attached memorandum from Cleo McGraw, Chief Utilities Manager, and James Spurlock, Technical Analyst, of the Water and Sewer Section of the Utilities Division of the Commission. Technical Staff stated that, with the reduction of construction costs and concomitant reduction in the financing, there will be adequate revenue under the current rate structure of the City of Nitro for the City to cover its debt service. Staff stated that the commitment letter for the construction loan was for \$4,857,900, payable at 3% for 20 years. Staff recommended that the certificate be granted, contingent upon receipt of an NPDES permit from the Division of Environmental Protection.

On November 6, 1996, Mr. George filed a Further Final Joint Staff Memorandum, with attached memorandum from Mr. McGraw and a signed agreement from the SRF program providing a construction loan at the lowered amount of \$4,575,502, payable at 2% for 20 years. Staff urged the undersigned ALJ to promptly approve the Board's revised application.

FINDINGS OF FACT

1. On June 10, 1996, the Nitro Sanitary Board filed with the Public Commission a duly certified application for a certificate of convenience and necessity to replace approximately 4,400 lineal feet of gravity sewer line, upgrade two pump stations and a treatment plant, install a new pump station, and make other upgrades in sanitary sewer service in and near the City of Nitro, in both Kanawha and Putnam Counties. Estimating that the project will cost approximately \$5,230,900.00, the Board also requested approval of financing, consisting of a \$373,000 State Revolving Fund (SRF) design loan and a \$4,857,900.00 SRF construction loan. The rates that will be charged became effective May 5, 1995. (See application; Initial Joint Staff Memorandum filed June 28, 1996).

2. No protests were filed in response to the Notice of Filing published in The Charleston Gazette and The Daily Mail on June 21, 1996. (See affidavit of publication filed July 1, 1996; case file generally).

3. Upon Commission Staff's opining that the rate structure of the City of Nitro would not provide adequate revenue to cover the debt service for such funding, the Board filed a revised application that scaled back the project and, consistently therewith, lowered the estimated construction costs to \$4,947,502. Regarding the funding for the project, while the design loan remained unchanged under the revised application, the construction loan was revised to \$4,575,502, payable at 2% for 20 years. Upon review of the revised application, Commission Staff opined that the revenue of the City of Nitro would be adequate to cover its debt service. (See Final Joint Staff Memorandums filed September 20 and October 22, 1996).

4. Commission Staff recommended approval of the revised application for a certificate of convenience and necessity, contingent upon the Board receiving an NPDES permit from the Division of Environmental Protection, and approval of the revised funding for the project. (See Final Joint Staff Memorandums filed September 20 and October 22, 1996).

CONCLUSION OF LAW

It is appropriate to grant the revised application for a certificate of convenience and necessity, pursuant to W.Va. Code §24-2-11, contingent upon the Board receiving an NPDES permit from the Division of Environmental Protection, and to approve the revised funding for the project.

ORDER

IT IS, THEREFORE, ORDERED that the application for a certificate of convenience and necessity filed by the Nitro Sanitary Board on June 10, 1996, and revised by filing of October 18, 1996, be granted, contingent upon the Board receiving an NPDES permit from the Division of Environmental Protection for the project, and that the Board not begin construction on the project until the permit is received.

IT IS FURTHER ORDERED that the funding, consisting of a \$373,000 State Revolving Fund design loan and a \$4,575,502 State Revolving Fund construction loan, for coverage of the total project cost of \$4,984,502, be approved.

IT IS FURTHER ORDERED that, if there is a change in any of the terms, conditions, scheduling or financing of the project, the Nitro Sanitary Board notify the Public Service Commission and file for Commission approval of any revised project and financing.

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

IT IS FURTHER ORDERED that the Executive Secretary serve a copy of his 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 exception 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 Executive 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.



Sunya Anderson
Administrative Law Judge

SA:s



DIVISION OF ENVIRONMENTAL PROTECTION

GASTON CAPERTON
GOVERNOR

1201 Greenbrier Street
Charleston, WV 25311-1088

LAIDLEY ELI McCOY, Ph.D.
DIRECTOR

November 27, 1996

Constance J. Stephens, General Manager
City of Nitro, Sanitary Board
P. O. Box 607
Nitro, WV 25143

CERTIFIED RETURN RECEIPT REQUESTED

Re: WV/NPDES Permit No. WV0023299
Modification No. 3

Dear Ms. Stephens:

This letter serves as Modification No. 3 of your existing WV/NPDES Water Pollution Control Permit No. WV0023299, issued the 30th day of October 1995.

After review and consideration of the information submitted on, and with, Permit Modification Application No. WV0023299-C, dated the 4th day of September 1996, the plans and specifications, and other relevant information, the subject Permit is hereby modified to effectuate, and incorporate, the following changes.

To acquire, construct, install, operate and maintain an upgrade to the existing wastewater treatment plant to be comprised of a mechanical bar screen, grit removal facilities renovations, a 0.625 million gallons per day contact stabilization treatment unit having a contact chamber with a volume of 78,100 gallons, a clarifier with a volume of 106,400 gallons and a surface area of 1,075 square feet, a stabilization chamber with a volume of 156,300 gallons, a chlorine contact chamber with a volume of 16,600 gallons, and an aerobic digester with a volume of 140,300 gallons, chlorination facilities renovations, electrical system renovations, wash water facilities renovations, three(3) flow meters, an aerobic digester with a volume of 145,900 gallons, a 1.2 meter belt press sludge dewatering unit, a post lime sludge stabilization unit, and all requisite appurtenances.

Constance J. Stephens, General Manager
City of Nitro, Sanitary Board
Page 2
November 27, 1996

Upon completion of the wastewater treatment plant improvements, the plant will be a 1.875 MGD contact stabilization wastewater treatment plant comprised of grit removal facilities, a mechanical bar screen, two(2) bar screens, two(2) equalization tanks with a volume of 300,000 gallons each, chlorination facilities for the equalization tanks, two(2) 0.625 million gallons per day treatment units with each unit having a contact chamber with a volume of 80,500 gallons, a clarifier with a volume of 104,600 gallons and a surface area of 1,075 square feet, a chlorine contact chamber with a volume of 17,500 gallons, and an aerobic digester with a volume of 142,000 gallons, a 0.625 million gallons per day treatment unit having a contact chamber with a volume of 78,100 gallons, a clarifier with a volume of 106,400 gallons and a surface area of 1,075 square feet, a stabilization chamber with a volume of 156,300 gallons, a chlorine contact chamber with a volume of 16,600 gallons, and an aerobic digester with a volume of 140,300 gallons, an aerobic digester with a volume of 145,900 gallons, a 1.2 meter belt press sludge dewatering unit, post lime sludge stabilization facilities, a vacuum assisted sludge drying bed with a surface area of 1,332 square feet, dewatered sludge processing facilities, and all requisite appurtenances.

The wastewater treatment facilities are to serve a population equivalent of approximately 15,600 persons in the City of Nitro, the Rock Branch service area, and environs and discharge treated wastewater to the Kanawha River at Mile Point 41.0.

To acquire, construct, install, operate and maintain improvements to the existing wastewater collection system to be comprised of approximately 350 linear feet of six(6) inch diameter gravity sewer service line, 50 linear feet of eight(8) inch diameter gravity sewer service line, 2,000 linear feet of eight(8) inch diameter gravity sewer line, 1,100 linear feet of eight(8) inch diameter gravity sewer line slip lining, 4,100 linear feet of 12 inch diameter gravity sewer line, 600 linear feet of 15 inch diameter gravity sewer line, 47 manholes, five(5) regulator manholes, two(2) cleanouts, one(1) lift station, renovation of Lift Station No. 4, renovation of the Lock Street Lift Station, 2,200 linear feet of 12 inch diameter force main, associated storm sewer line work relative to the wastewater collection system separation, and all requisite appurtenances.

Constance J. Stephens, General Manager
City of Nitro, Sanitary Board
Page 3
November 27, 1996

The wastewater treatment plant upgrade and wastewater collection system improvements projects shall be constructed in accordance with the plans and specifications, approved the 31st day of July 1996, for Contract B, and the 12th day of August 1996, for Contract A, and subsequent approved addenda, thereto, prepared by Dunn Engineers, Inc.; 701 Virginia Street, West; Charleston, WV 25302, and entitled "City of Nitro; Sanitary Board; Kanawha County, West Virginia; Contract A - Wastewater Treatment Plant Upgrade; Contract B - Wastewater Collection System Improvements; SRF Project No. C-544051."

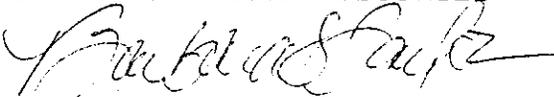
Enclosed are revised page 3 of 38, revised page 4 of 38, revised page 5 of 38, revised page 6 of 38, incorporated page 6A of 38, incorporated page 6B of 38, incorporated page 6C of 38, incorporated page 6D of 38, revised page 13 of 38, revised page 29 of 38, and incorporated page 29A of 38, along with Discharge Monitoring Reports. Section G.29, on revised page 29 of 38, has been incorporated to establish implementation procedures, for Title 46, Series 1 of the Legislative Rules, entitled "Requirements Governing Water Quality Standards", effective the 18th day of August 1995. Section G.30, on incorporated page 29A of 38, has been incorporated to establish requirements relative to the final effluent discharge limitation for Total Residual Chlorine. These documents shall supersede the ones currently in your possession and should be incorporated into your existing Permit.

The City's submission of the site registration application form, and acceptance, thereof, by this Office, as terms and conditions of this Permit Modification, expressly requires compliance, by the City, under WV/NPDES Storm Water General Water Pollution Control Permit No. WV0111457, issued the 8th day of June 1992, for these construction activities.

All other terms and conditions of the subject Permit shall remain in effect and unchanged.

Sincerely,

OFFICE OF WATER RESOURCES



Barbara S. Taylor
Chief

BST:jdm

Enclosures

A.1. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

a) Interim Limitations

(1) Summer Limitations during the period of May 1 through October 31.

During the period beginning August 1, 1996, and lasting through midnight, one(1) year from the issuance date of the Permit Modification, the permittee is authorized to discharge from outlet number(s) 001 - Discharge from the sewage treatment plant.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations			Monitoring Requirements	
	(Quantity) lbs/day	Other Units (Specify)	Measurement Frequency	Sample Type	
	Avg. Monthly	Max. Daily	Avg. Monthly	Max. Daily	
Flow	N/A	N/A	1.25 MGD	N/A	Continuous Measured
Biochemical Oxygen Demand (5 Day)	208.5	417.0	20.0 mg/l	40.0 mg/l	Once/Week 8 Hr. Composite
Total Suspended Solids	312.8	625.5	30.0 mg/l	60.0 mg/l	Once/Week 8 Hr. Composite
Ammonia Nitrogen	156.4	312.8	15.0 mg/l	30.0 mg/l	Once/Week 8 Hr. Composite
Fecal Coliform	N/A	N/A	200 counts/100 ml	400 counts/100 ml	Once/Week Grab
Total Residual Chlorine	N/A	N/A	Monitor mg/l Only	Monitor mg/l Only	Once/Week Grab
Cadmium, Total Recoverable*			0.045 mg/l	0.067 mg/l	Annually 8 Hr. Composite
Chromium, Hexavalent			0.51 mg/l	0.76 mg/l	Annually 8 Hr. Composite
Copper, Total Recoverable*			0.56 mg/l	0.84 mg/l	Annually 8 Hr. Composite
Lead, Total Recoverable*			0.11 mg/l	0.16 mg/l	Annually 8 Hr. Composite
Nickel, Total Recoverable*			6.1 mg/l	9.2 mg/l	Annually 8 Hr. Composite

*Refer to Section G.11 on page 20 of 38

(Continued on Page 4 of 38)

A.1. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

a) Interim Limitations

(1) Summer Limitations during the period of May 1 through October 31

During the period beginning August 1, 1996, and lasting through midnight, one(1) year from the issuance date of the Permit Modification, the permittee is authorized to discharge from outlet number(s) 001 - Discharge from the sewage treatment plant.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations		Monitoring Requirements	
	(Quantity)lbs/day Avg. Monthly Max. Daily	Other Units(Specify) Avg. Monthly Max. Daily	Measurement Frequency	Sample Type
Zinc, Total Recoverable*	3.8 mg/l	5.7 mg/l	Once/Quarter	8 Hr. Composite
Mercury, Total	0.010 mg/l	0.015 mg/l	Annually	8 Hr. Composite
Silver, Total Recoverable*	0.20 mg/l	0.30 mg/l	Annually	8 Hr. Composite
Cyanide, Amenable to Chlorination	0.25 mg/l	0.38 mg/l	Annually	Grab
Acute Toxicity, <u>Pimephales Promelas</u> , 48 Hour Static	N/A	2.5 TU _A	Annually	8 Hr. Composite
Acute Toxicity, <u>Daphnia Magna or Pulex</u> , 48 Hour Static	N/A	2.5 TU _A	Annually	8 Hr. Composite

*Refer to Section G.11 on page 20 of 38

The pH shall not be less than 6.0 standard units and not greater than 9.0 standard units and shall be monitored weekly by grab sampling.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): Effluent BOD₅ and Acute Toxicity samples shall be collected at a location immediately preceding disinfection. Other effluent samples shall be collected at, or as near as possible to, the point of discharge.

This discharge shall not cause violation of Title 46, Series 1, Section 3 of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

A.1. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

a) Interim Limitations

(2) Winter Limitations during the period of November 1 through April 30.

During the period beginning August 1, 1996, and lasting through midnight, one(1) year from the issuance date of the Permit Modification, the permittee is authorized to discharge from outlet number(s) 001 - Discharge from the sewage treatment plant.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations			Monitoring Requirements		
	(Quantity) lbs/day	Other Units (Specify)	Sample Type	Avg. Monthly	Max. Daily	Measurement Frequency
Flow	N/A	1.25 MGD	Measured	N/A	N/A	Continuous
Biochemical Oxygen Demand (5 Day)	312.8	30.0 mg/l	8 Hr. Composite	625.5	60.0 mg/l	Once/Week
Total Suspended Solids	312.8	30.0 mg/l	8 Hr. Composite	625.5	60.0 mg/l	Once/Week
Ammonia Nitrogen	156.4	15.0 mg/l	8 Hr. Composite	312.8	30.0 mg/l	Once/Week
Fecal Coliform	N/A	200 counts / 100 ml	Grab	N/A	400 counts / 100 ml	Once/Week
Total Residual Chlorine	N/A	Monitor mg/l Only	Grab	N/A	Monitor mg/l Only	Once/Week
Cadmium, Total Recoverable*		0.045 mg/l	8 Hr. Composite		0.067 mg/l	Annually
Chromium, Hexavalent		0.51 mg/l	8 Hr. Composite		0.76 mg/l	Annually
Copper, Total Recoverable*		0.56 mg/l	8 Hr. Composite		0.84 mg/l	Annually
Lead, Total Recoverable*		0.11 mg/l	8 Hr. Composite		0.16 mg/l	Annually
Nickel, Total Recoverable*		6.1 mg/l	8 Hr. Composite		9.2 mg/l	Annually

*Refer to Section G.11 on page 20 of 38

(Continued on Page 6 of 38)

A.1. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

a) Interim Limitations

(2) Winter Limitations during the period of November 1 through April 30

During the period beginning August 1, 1996, and lasting through midnight, one(1) year from the issuance date of the Permit Modification, the permittee is authorized to discharge from outlet number(s) 001 - Discharge from the sewage treatment plant.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations		Other Units(Specify)	Measurement Frequency	Sample Type
	Avg. Monthly	Max. Daily			
Zinc, Total Recoverable*	3.8 mg/l	5.7 mg/l	3.8 mg/l	Once/Quarter	8 Hr. Composite
Mercury, Total	0.010 mg/l	0.015 mg/l	0.010 mg/l	Annually	8 Hr. Composite
Silver, Total Recoverable*	0.20 mg/l	0.30 mg/l	0.20 mg/l	Annually	8 Hr. Composite
Cyanide, Amenable to Chlorination	0.25 mg/l	0.38 mg/l	0.25 mg/l	Annually	Grab
Acute Toxicity, <u>Pimephales Promelas</u> , 48 Hour Static	N/A	2.5 TU _A	N/A	Annually	8 Hr. Composite
Acute Toxicity, <u>Daphnia Magna</u> or <u>Pulex</u> , 48 Hour Static	N/A	2.5 TU _A	N/A	Annually	8 Hr. Composite

*Refer to Section G.11 on page 20 of 38

The pH shall not be less than 6.0 standard units and not greater than 9.0 standard units and shall be monitored weekly by grab sampling.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): Effluent BOD₅ and Acute Toxicity samples shall be collected at a location immediately preceding disinfection. Other effluent samples shall be collected at, or as near as possible to, the point of discharge.

This discharge shall not cause violation of Title 46, Series 1, Section 3 of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

A.1. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

b) Final Limitations

(1) Summer Limitations during the period of May 1 through October 31.

During the period beginning one(1) year from the issuance date of the Permit Modification, and lasting through midnight, October 29, 2000, the permittee is authorized to discharge from outlet number(s) 001 - Discharge from the sewage treatment plant.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations			Monitoring Requirements		
	Avg. Monthly	(Quantity) lbs/day Max. Daily	Other Units(Specify) Avg. Monthly Max. Daily	Measurement Frequency	Sample Type	
Flow	N/A	N/A	1.875 MGD N/A	Continuous	Measured	
Biochemical Oxygen Demand (5 Day)	312.8	625.5	20.0 mg/l	40.0 mg/l	Once/Week	8 Hr. Composite
Total Suspended Solids	469.1	938.2	30.0 mg/l	60.0 mg/l	Once/Week	8 Hr. Composite
Ammonia Nitrogen	234.6	469.1	15.0 mg/l	30.0 mg/l	Once/Week	8 Hr. Composite
Fecal Coliform	N/A	N/A	200 counts 100 ml	400 counts 100 ml	Once/Week	Grab
Total Residual Chlorine	N/A	N/A	N/A	0.010 mg/l	Once/Week	Grab
Cadmium, Total Recoverable*			0.030 mg/l	0.045 mg/l	Annually	8 Hr. Composite
Chromium, Hexavalent			0.34 mg/l	0.51 mg/l	Annually	8 Hr. Composite
Copper, Total Recoverable*			0.37 mg/l	0.56 mg/l	Annually	8 Hr. Composite
Lead, Total Recoverable*			0.072 mg/l	0.11 mg/l	Annually	8 Hr. Composite
Nickel, Total Recoverable*			4.1 mg/l	6.2 mg/l	Annually	8 Hr. Composite

*Refer to Section G.11 on page 20 of 38

A.1. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

b) Final Limitations

(1) Summer Limitations during the period of May 1 through October 31

During the period beginning one(1) year from the issuance date of the Permit Modification , and lasting through midnight, October 29, 2000, the permittee is authorized to discharge from outlet number(s) 001 - Discharge from the sewage treatment plant.

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>		<u>Monitoring Requirements</u>	
	<u>Avg. Monthly</u>	<u>(Quantity)lbs/day Max. Daily</u>	<u>Other Units(Specify) Max. Daily</u>	<u>Measurement Frequency</u> <u>Sample Type</u>
Zinc, Total Recoverable*		2.5 mg/l	3.8 mg/l	Once/Quarter 8 Hr. Composite
Mercury, Total		0.007 mg/l	0.010 mg/l	Annually 8 Hr. Composite
Silver, Total Recoverable*		0.14 mg/l	0.20 mg/l	Annually 8 Hr. Composite
Cyanide, Amenable to Chlorination		0.17 mg/l	0.25 mg/l	Annually Grab
Acute Toxicity, <u>Pimephales Promelas</u> , 48 Hour Static		N/A	2.5 TU _A	Annually 8 Hr. Composite
Acute Toxicity, <u>Daphnia Magna</u> or <u>Pulex</u> , 48 Hour Static		N/A	2.5 TU _A	Annually 8 Hr. Composite

*Refer to Section G.11 on page 20 of 38

The pH shall not be less than 6.0 standard units and not greater than 9.0 standard units and shall be monitored weekly by grab sampling.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): Effluent BOD₅ and Acute Toxicity samples shall be collected at a location immediately preceding disinfection. Other effluent samples shall be collected at, or as near as possible to, the point of discharge.

This discharge shall not cause violation of Title 46, Series 1, Section 3 of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

A.1. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

b) Final Limitations

(2) Winter Limitations during the period of November 1 through April 30.

During the period beginning one(1) year from the issuance date of the Permit Modification , and lasting through midnight, October 29, 2000, the permittee is authorized to discharge from outlet number(s) 001 - Discharge from the sewage treatment plant.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations			Monitoring Requirements		
	(Quantity)lbs/day Avg. Monthly	Max. Daily	Other Units(Specify) Avg. Monthly	Max. Daily	Measurement Frequency	Sample Type
Flow	N/A	N/A	1.875 MGD	N/A	Continuous	Measured
Biochemical Oxygen Demand (5 Day)	469.1	938.2	30.0 mg/l	60.0 mg/l	Once/Week	8 Hr. Composite
Total Suspended Solids	469.1	938.2	30.0 mg/l	60.0 mg/l	Once/Week	8 Hr. Composite
Ammonia Nitrogen	234.6	469.1	15.0 mg/l	30.0 mg/l	Once/Week	8 Hr. Composite
Fecal Coliform	N/A	N/A	200 counts 100 ml	400 counts 100 ml	Once/Week	Grab
Total Residual Chlorine	N/A	N/A	N/A	0.010 mg/l	Once/Week	Grab
Cadmium, Total Recoverable*			0.030 mg/l	0.045 mg/l	Annually	8 Hr. Composite
Chromium, Hexavalent			0.34 mg/l	0.51 mg/l	Annually	8 Hr. Composite
Copper, Total Recoverable*			0.37 mg/l	0.56 mg/l	Annually	8 Hr. Composite
Lead, Total Recoverable*			0.072 mg/l	0.11 mg/l	Annually	8 Hr. Composite
Nickel, Total Recoverable*			4.1 mg/l	6.2 mg/l	Annually	8 Hr. Composite

*Refer to Section G.11 on page 20 of 38

(Continued on Page 6D of 38)

A.1. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

b) Final Limitations

(2) Winter Limitations during the period of November 1 through April 30

During the period beginning one(1) year from the issuance date of the Permit Modification , and lasting through midnight, October 29, 2000, the permittee is authorized to discharge from outlet number(s) 001 - Discharge from the sewage treatment plant.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations		Monitoring Requirements			
	(Quantity)lbs/day Avg. Monthly	Max. Daily	Other Units(Specify) Avg. Monthly	Max. Daily	Measurement Frequency	Sample Type
Zinc, Total Recoverable*			2.5 mg/l	3.8 mg/l	Once/Quarter	8 Hr. Composite
Mercury, Total			0.007 mg/l	0.010 mg/l	Annually	8 Hr. Composite
Silver, Total Recoverable*			0.14 mg/l	0.20 mg/l	Annually	8 Hr. Composite
Cyanide, Amenable to Chlorination			0.17 mg/l	0.25 mg/l	Annually	Grab
Acute Toxicity, <u>Pimephales Promelas</u> , 48 Hour Static			N/A	2.5 TU _A	Annually	8 Hr. Composite
Acute Toxicity, <u>Daphnia Magna</u> or <u>Pulex</u> , 48 Hour Static			N/A	2.5 TU _A	Annually	8 Hr. Composite

*Refer to Section G.11 on page 20 of 38

The pH shall not be less than 6.0 standard units and not greater than 9.0 standard units and shall be monitored weekly by grab sampling.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): Effluent BOD₅ and Acute Toxicity samples shall be collected at a location immediately preceding disinfection. Other effluent samples shall be collected at, or as near as possible to, the point of discharge.

This discharge shall not cause violation of Title 46, Series 1, Section 3 of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

B. SCHEDULE OF COMPLIANCE

- a) The permittee shall achieve compliance with the provisions for waste treatment and the discharge limitations specified in this permit in accordance with the following schedule:

On or before
(Six(6) months from
the issuance date
of the Modification)

-Submit Progress Report on the Attainment
of Compliance with the Final Total
Residual Chlorine Effluent Discharge
Limitation.

On or before November 27,
1997

-Permittee Shall Have Installed the
Necessary Treatment Units Required to
Achieve Compliance with the Final Total
Residual Chlorine Effluent Discharge
Limitation, As Specified in Section G.30,
Other Requirements, on page 29A of 38.

- b) Reports of compliance or noncompliance with, and progress reports on the interim and final requirements contained in the above compliance schedule, shall be submitted no later than 14 days following each schedule date.

G. OTHER REQUIREMENTS (CONTINUED)

26. Approval of wastewater acceptance granted, by Sections G.13, G.14, G.15, G.16, G.17, G.18, and G.19 extends only to the types of wastewater specified therein. Acceptance of any other types of wastewater, without prior approval, is expressly prohibited.
27. The Chief reserves the right to disallow the continued acceptance of any of the subject nondomestic wastewaters, or to require installation of additional pretreatment facilities, should the wastewater violate specified limitations, cause interference with the Publicly Owned Treatment Works (POTW) operations, pass-through the POTW and result in effluent limitation violations or receiving stream degradation, or adversely impact POTW sludge disposal. Approval of the permittee's acceptance of the subject nondomestic wastewaters in no way relieves the permittee of its obligation to comply with all terms and conditions of its WV/NPDES Permit and shall not constitute an affirmative defense in any enforcement action brought against the permittee.
28. The permittee may accept, for subsequent treatment and disposal, domestic septage. Approval is subject to, and contingent upon, compliance with the following terms and conditions.
 - a) The septage hauler(s), from which the permittee accepts domestic septage, shall be registered to operate under the General Permit for septage handling and disposal.
 - b) Records shall be maintained which present the date(s), time(s), name(s) of the hauler(s), and volume(s) accepted .
 - c) The permittee shall report monthly, on the enclosed Sewage Sludge Management Report, the amount of domestic septage accepted during the reporting period.
 - d) The permittee shall assure that the acceptance, and processing, of the domestic septage does not result in effluent discharge limitation violations, or receiving stream degradation, or adversely impact sludge disposal. Approval of the permittee's acceptance of the domestic septage in no way relieves the permittee of its obligation to comply with all terms and conditions of its WV/NPDES Permit, and shall not constitute an affirmative defense in any enforcement action brought against the permittee.
29. Implementation procedures, for Title 46, Series 1 of the Legislative Rules, entitled "Requirements Governing Water Quality Standards", effective the 18th day of August 1995, have not been finalized. Whereupon the implementation procedures are finalized, the Chief reserves the right to reevaluate the current Permit effluent discharge limitations, and, if necessary, incorporate any revisions to the effluent discharge limitations, by modification of this Permit.

G. OTHER REQUIREMENTS (CONTINUED)

30. The permittee shall upgrade the wastewater treatment facilities in accordance with the following.
- a) Additional treatment units shall be installed to achieve compliance with the final Total Residual Chlorine effluent discharge limitation, as prescribed in Section A.1.b)(1) and Section A.1.b)(2).
 - b) The additional treatment units required above, which are necessary for the upgrading of the wastewater treatment plant, shall be installed and operational, on, or before, November 27, 1997.
 - c) Whereby, the acquisition, construction, and installation of the required additional treatment units are performed as an integral part of the wastewater treatment plant upgrade project, permitted under Modification No. 3, and the relevant approvals are obtained, the associated permitting procedures shall, hereby, serve to be fulfilled. Upon completion of the additional wastewater treatment units, under these terms and conditions, the operation and maintenance shall be incorporated, herein.
 - d) If the required additional wastewater treatment units are not installed in accordance with the provisions of Section G.30.c), the permittee shall secure approvals from the Bureau of Public Health and the Office of Water Resources prior to the installation.
 - e) The above required treatment unit will be waived by the Chief if the permittee can supply effluent test results documenting and proving that such additional treatment unit is not necessary to meet the final Total Residual Chlorine effluent discharge limitation prescribed in this Permit.

WRD 2A-82 STATE OF WEST VIRGINIA
 National Pollutant Discharge Elimination System
 Discharge Monitoring Report
 Permit Limitations (May 1 through October 31)

FACILITY NAME Nitro, City of; Sanitary Board
 LOCATION OF FACILITY Nitro, Kanawha/Putnam Counties
 PERMIT NUMBER WV0023299 OUTLET NO. 001
 WASTELOAD FOR MONTH OF 19

Parameter	Quantity			Other Units			Measurement Frequency	Sample Type					
	Minimum	Avg. Monthly	Max. Daily	Units	N.E.	Minimum			Avg. Monthly	Max. Daily	Units	N.E.	
Flow, in	Reported	*****	*****	*****	**	*****	*****						
Conduit or thru trmt.	Permit Limitation	N/A	N/A	N/A	**	N/A	N/A	MGD	**	**	Continuous	Measured	
BOD, 5 day (20 Deg. C)	Reported	*****	*****	*****	**	*****	*****	mg/l	**	**	Once/Week	8 Hour Composite	
00310	Permit Limitation	N/A	208.5	417.0	**	N/A	20.0	40.0	**	**	Once/Week	8 Hour Composite	
Solids, Total	Reported	*****	*****	*****	**	*****	*****	mg/l	**	**	Once/Week	8 Hour Composite	
00530	Permit Limitation	N/A	312.8	625.5	**	N/A	30.0	60.0	**	**	Once/Week	8 Hour Composite	
Nitrogen, Ammonia	Reported	*****	*****	*****	**	*****	*****	mg/l	**	**	Once/Week	8 Hour Composite	
00610	Permit Limitation	N/A	156.4	312.8	**	N/A	15.0	30.0	**	**	Once/Week	8 Hour Composite	
pH	Reported	*****	*****	*****	**	*****	*****	Std. Units	**	**	Daily	Grab	
00400	Permit Limitation	N/A	N/A	N/A	**	N/A	9.0	9.0	**	**	Daily	Grab	
Coliform, Fecal	Reported	MF	---	MPN	**	*****	*****	Count per 100ml	**	**	Once/Week	Grab	
74055	Permit Limitation	Circle	Method	Used	**	N/A	200	400	**	**	Once/Week	Grab	
Chlorine, Total	Reported	*****	*****	*****	**	*****	*****	mg/l	**	**	Once/Week	Grab	
Residual	Reported	*****	*****	*****	**	*****	*****	mg/l	**	**	Once/Week	Grab	
50060	Permit Limitation	N/A	N/A	N/A	**	N/A	Report Only	Report Only	**	**	Once/Week	Grab	
Name of Principal Executive Officer										Date Completed			
Title of Officer										Signature of Principal Executive Officer or Authorized Agent			
<p>I certify under penalty of law that this document and all attachments were prepared under my directions or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.</p>													

FACILITY NAME Nitro, City of; Sanitary Board COMMERCIAL LABORATORY NAME
 LOCATION OF FACILITY Nitro, Kanawha/Putnam Counties COMMERCIAL LABORATORY ADDRESS
 PERMIT NUMBER WV0023299 OUTLET NO. 001
 WASTELOAD FOR MONTH OF _____ 19_____
 INDIVIDUAL PERFORMING ANALYSES _____

Parameter	Quantity			Other Units			Measurement Frequency	Sample Type					
	Minimum	Avg. Monthly	Max. Daily	Units	N.E.	Minimum			Avg. Monthly	Max. Daily	Units	N.E.	
Flow, in	Reported	*****	*****	*****	**	*****							
Conduit or thru trmt.	Permit Limitation	N/A	N/A	N/A	**	N/A	1.25	N/A	MGD	**	Continuous	Measured	
BOD, 5 day (20 Deg. C)	Reported	*****			**	*****				**			
00310	Permit Limitation	N/A	625.5	lbs day	**	N/A	30.0	60.0	mg/l	**	Once/Week	8 Hour Composite	
Solids, Total	Reported	*****			**	*****				**			
Suspended	Permit Limitation	N/A	625.5	lbs day	**	N/A	30.0	60.0	mg/l	**	Once/Week	8 Hour Composite	
00530	Reported	*****			**	*****				**			
Nitrogen, Ammonia	Permit Limitation	N/A	312.8	lbs day	**	N/A	15.0	30.0	mg/l	**	Once/Week	8 Hour Composite	
00610	Reported	*****			**	*****				**			
pH	Permit Limitation	N/A	N/A		**	6.0	N/A	9.0	Units	**	Daily	Grab	
00400	Reported	*****	*****	*****	**	*****	*****	*****	Std.	**			
Coliform, Fecal	Reported	MF	MPN	MPN	**	*****			Count per 100ml	**	Once/Week	Grab	
General	Permit Limitation	Circle	Used	Used	**	N/A	200	400	Count per 100ml	**	Once/Week	Grab	
74055	Reported	*****	*****	*****	**	*****			mg/l	**			
Chlorine, Total	Permit Limitation	N/A	N/A	N/A	**	N/A	Report Only	Report Only	mg/l	**	Once/Week	Grab	
Residual	Permit Limitation	N/A	N/A	N/A	**	N/A	Report Only	Report Only	mg/l	**	Once/Week	Grab	
50060	Permit Limitation	N/A	N/A	N/A	**	N/A	Report Only	Report Only	mg/l	**	Once/Week	Grab	
Name of Principal Executive Officer										Date Completed			
I certify under penalty of law that this document and all attachments were prepared under my directions or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.										Signature of Principal Executive Officer or Authorized Agent			
Title of Officer													

FACILITY NAME Nitro, City of; Sanitary Board COMMERCIAL LABORATORY NAME
 LOCATION OF FACILITY Nitro, Kanawha/Putnam Counties COMMERCIAL LABORATORY ADDRESS
 PERMIT NUMBER WV0023299 OUTLET NO. 001
 WASTELOAD FOR MONTH OF 19
 INDIVIDUAL PERFORMING ANALYSES

Parameter	Quantity			Other Units			Measurement Frequency	Sample Type					
	Minimum	Avg. Monthly	Max. Daily	Units	N.E.	Minimum			Avg. Monthly	Max. Daily	Units	N.E.	
Cadmium, Total	*****	*****	*****	***	**	*****			mg/l	**	*****		
Recoverable 01113	N/A	N/A	N/A	***	**	N/A	0.067	0.067		**	*****	**	8 Hour Composite
Chromium, Hexavalent 01032	*****	*****	*****	***	**	*****			mg/l	**	*****	**	8 Hour Composite
Lead, Total	*****	*****	*****	***	**	*****			mg/l	**	*****	**	8 Hour Composite
Recoverable 01114	N/A	N/A	N/A	***	**	N/A	0.16	0.16		**	*****	**	8 Hour Composite
Mercury, Total 71900	*****	*****	*****	***	**	*****			mg/l	**	*****	**	8 Hour Composite
Cyanide, Amenable to Chlorina-tion 00722	*****	*****	*****	***	**	*****			mg/l	**	*****	**	8 Hour Composite
Copper, Total	*****	*****	*****	***	**	*****	0.38	0.38		**	*****	**	8 Hour Composite
Recoverable 01119	N/A	N/A	N/A	***	**	N/A	0.84	0.84		**	*****	**	8 Hour Composite
Nickel, Total	*****	*****	*****	***	**	*****			mg/l	**	*****	**	8 Hour Composite
Recoverable 01074	N/A	N/A	N/A	***	**	N/A	9.2	9.2		**	*****	**	8 Hour Composite

Name of Principal Executive Officer _____ Date Completed _____

I certify under penalty of law that this document and all attachments were prepared under my directions or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Title of Officer _____ Signature of Principal Executive Officer or Authorized Agent _____

WRD 2A-82
 Final Limitations (May 1 through October 31)
 STATE OF WEST VIRGINIA
 NATIONAL POLLUTANT DISCHARGE MONITORING REPORT
 RGE ELIMINATION SYSTEM
 FACILITY NAME Nitro, City of; Sanitary Board
 LOCATION OF FACILITY Nitro, Kanawha/Putnam Counties
 PERMIT NUMBER WV0023299 OUTLET NO. 001
 WASTELOAD FOR MONTH OF _____ 19____
 COMMERCIAL LABORATORY NAME
 COMMERCIAL LABORATORY ADDRESS
 INDIVIDUAL PERFORMING ANALYSES

Parameter	Quantity			Other Units			Measurement Frequency	Sample Type				
	Minimum	Avg. Monthly	Max. Daily	Units	N.E.	Minimum			Avg. Monthly	Max. Daily	Units	N.E.
Flow, in Conduit or thru trmt. plant 50050	*****	*****	*****	***	**	*****			MGD	**	Continuous	Measured
BOD, 5 day (20 Deg. C) 00310	N/A	N/A	N/A	***	**	N/A	1.875	N/A	mg/l	**	Once/Week	8 Hour Composite
Solids, Total 00530	*****	312.8	625.5	lbs/day	**	N/A	20.0	40.0	mg/l	**	Once/Week	8 Hour Composite
Nitrogen, Ammonia 00610	*****	469.1	938.2	lbs/day	**	N/A	30.0	60.0	mg/l	**	Once/Week	8 Hour Composite
pH 00400	*****	234.6	469.1	lbs/day	**	N/A	15.0	30.0	mg/l	**	Once/Week	8 Hour Composite
Coliform, Fecal General 74055	*****	N/A	N/A	***	**	*****	*****	*****	Std. Units	**	Daily	Grab
Chlorine, Total Residual 50060	N/A	N/A	N/A	***	**	6.0	N/A	9.0	Count per 100ml	**	Once/Week	Grab

Name of Principal Executive Officer _____ Date Completed _____
 I certify under penalty of law that this document and all attachments were prepared under my directions or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.
 Signature of Principal Executive Officer or Authorized Agent _____
 Title of Officer _____

Parameter	Quantity			Other Units			Measurement Frequency	Sample Type					
	Minimum	Avg. Monthly	Max. Daily	Units	N.E.	Minimum			Avg. Monthly	Max. Daily	Units	N.E.	
Cadmium, Total	Reported	*****	*****	***	**	*****			mg/l				
	Permit Limitation	N/A	N/A	***	**	N/A	0.030	0.045		**	**	Annually	8 Hour Composite
Chromium, Hexavalent 01032	Reported	*****	*****	***	**	*****			mg/l				
	Permit Limitation	N/A	N/A	***	**	N/A	0.34	0.51		**	**	Annually	8 Hour Composite
Lead, Total	Reported	*****	*****	***	**	*****			mg/l				
	Permit Limitation	N/A	N/A	***	**	N/A	0.072	0.11		**	**	Annually	8 Hour Composite
Mercury, Total 71900	Reported	*****	*****	***	**	*****			mg/l				
	Permit Limitation	N/A	N/A	***	**	N/A	0.007	0.010		**	**	Annually	8 Hour Composite
Cyanide, Amenable to Chlorination 00722	Reported	*****	*****	***	**	*****			mg/l				
	Permit Limitation	N/A	N/A	***	**	N/A	0.17	0.25		**	**	Annually	8 Hour Composite
Copper, Total	Reported	*****	*****	***	**	*****			mg/l				
	Permit Limitation	N/A	N/A	***	**	N/A	0.37	0.56		**	**	Annually	8 Hour Composite
Nickel, Total	Reported	*****	*****	***	**	*****			mg/l				
	Permit Limitation	N/A	N/A	***	**	N/A	4.1	6.2		**	**	Annually	8 Hour Composite
Name of Principal Executive Officer	Reported	*****	*****	***	**	*****							
	Permit Limitation	N/A	N/A	***	**	N/A				**	**	Annually	8 Hour Composite

I certify under penalty of law that this document and all attachments were prepared under my directions or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Name of Principal Executive Officer

Title of Officer

Signature of Principal Executive Officer or Authorized Agent

Date Completed

WRD 2A-82
 National Limitations
 inter Limitations (November 1 through April 30)
 STATE OF VIRGINIA
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
 DISCHARGE MONITORING REPORT

FACILITY NAME Nitro, City of; Sanitary Board
 LOCATION OF FACILITY Nitro, Kanawha/Putnam Counties
 PERMIT NUMBER WV0023299 OUTLET NO. 001
 WASTELOAD FOR MONTH OF _____ 19____
 COMMERCIAL LABORATORY NAME
 COMMERCIAL LABORATORY ADDRESS
 INDIVIDUAL PERFORMING ANALYSES

Parameter	Quantity			Other Units			Measurement Frequency	Sample Type					
	Minimum	Avg. Monthly	Max. Daily	Units	N.E.	Minimum			Avg. Monthly	Max. Daily	Units	N.E.	
Flow, in Conduit or thru trmt.	*****	*****	*****	***	**	*****			MGD	**			
Plant 50050	N/A	N/A	N/A	***	**	N/A	1.875	N/A		**		Continuous	Measured
BOD, 5 day (20 Deg. C)	*****			lbs	**	*****			mg/l	**			
00310	N/A	469.1	938.2	day	**	N/A	30.0	60.0		**		Once/Week	8 Hour Composite
Solids, Total	*****			lbs	**	*****			mg/l	**			
Suspended 00530	N/A	469.1	938.2	day	**	N/A	30.0	60.0		**		Once/Week	8 Hour Composite
Nitrogen, Ammonia	*****			lbs	**	*****			mg/l	**			
00610	N/A	234.6	469.1	day	**	N/A	15.0	30.0		**		Once/Week	8 Hour Composite
pH 00400	*****	*****	*****	***	**	*****	*****			**			
Permit Limitation	N/A	N/A	N/A	***	**	6.0	N/A	9.0	Std. Units	**		Daily	Grab
Coliform, Fecal	MF	- - -	MPN	***	**	*****			Count	**			
General 74055	Circle	Method	Used	***	**	N/A	200	400	per 100ml	**		Once/Week	Grab
Chlorine, Total	*****	*****	*****	***	**	*****	*****		mg/l	**			
Residual 50060	N/A	N/A	N/A	***	**	N/A	N/A	0.010		**		Once/Week	Grab

Name of Principal Executive Officer _____ Date Completed _____
 I certify under penalty of law that this document and all attachments were prepared under my directions or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.
 Signature of Principal Executive Officer _____
 Officer or Authorized Agent _____
 Title of Officer _____

Parameter	Quantity			Other Units			Measurement Frequency	Sample Type				
	Minimum	Avg. Monthly	Max. Daily	Units	N.E.	Minimum			Avg. Monthly	Max. Daily	Units	N.E.
Cadmium, Total Recoverable	Reported	*****	*****	***	**	*****			mg/l	**	Annually	8 Hour Composite
	Permit Limitation	N/A	N/A	***	**	N/A	0.030	0.045		**		
Chromium, hexavalent	Reported	*****	*****	***	**	*****			mg/l	**	Annually	8 Hour Composite
	Permit Limitation	N/A	N/A	***	**	N/A	0.34	0.51		**		
Lead, Total Recoverable	Reported	*****	*****	***	**	*****			mg/l	**	Annually	8 Hour Composite
	Permit Limitation	N/A	N/A	***	**	N/A	0.072	0.11		**		
Mercury, Total	Reported	*****	*****	***	**	*****			mg/l	**	Annually	8 Hour Composite
	Permit Limitation	N/A	N/A	***	**	N/A	0.007	0.010		**		
Cyanide, Amenable to Chlorination	Reported	*****	*****	***	**	*****			mg/l	**	Annually	8 Hour Composite
	Permit Limitation	N/A	N/A	***	**	N/A	0.17	0.25		**		
Copper, Total Recoverable	Reported	*****	*****	***	**	*****			mg/l	**	Annually	8 Hour Composite
	Permit Limitation	N/A	N/A	***	**	N/A	0.37	0.56		**		
Nickel, Total Recoverable	Reported	*****	*****	***	**	*****			mg/l	**	Annually	8 Hour Composite
	Permit Limitation	N/A	N/A	***	**	N/A	4.1	6.2		**		

I certify under penalty of law that this document and all attachments were prepared under my directions or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Name of Principal Executive Officer _____
 Title of Officer _____
 Signature of Principal Executive Officer _____
 Officer or Authorized Agent _____
 Date Completed _____

\$4,575,502
THE CITY OF NITRO, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1996 A

GENERAL CERTIFICATE OF:

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

We, the undersigned MAYOR and the undersigned RECORDER of The City of Nitro, West Virginia (the "City"), and the undersigned Attorney for the Sanitary Board, hereby certify in connection with the \$4,575,502 aggregate principal amount of The City of Nitro, West Virginia Sewerage System Revenue Bonds, Series 1996 A (the "Series 1996 A Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this Certificate and not otherwise defined herein shall have the same meanings as in the Ordinance of the City, enacted by the Council of the City on August 6, 1996, and effective on August 20, 1996, and a Supplemental Resolution adopted by the Council of the City on November 12, 1996 (collectively, the "Ordinance") and the Loan Agreement entered into among the City, the West Virginia Water Development Authority and the West Virginia Division of Environmental Protection, dated October 10, 1996.

2. NO LITIGATION: No controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the issuance and delivery of the Series 1996 A Bonds; the acquisition and construction of

the Project; or the collection of the gross revenues of the sewerage system (the "System") or the pledge of the Net Revenues to the payment of the principal of and interest on the Series 1996 A Bonds; nor questioning the proceedings and authority by which the City authorized the issuance and sale of the Series 1996 A Bonds; nor questioning the validity or enforceability of the Series 1996 A Bonds, the Ordinance or the Loan Agreement or any agreement or instrument relating thereto, used or contemplated by the Loan Agreement or any provisions made or authorized for the payment of the Series 1995 A Bonds; nor questioning the valid existence of the City or the authority or titles of the Mayor, Recorder and the members of the Council and other officials of the City to their respective offices; nor questioning any proceeding, procedure, action or thing followed, taken or done in connection with the Series 1996 A Bonds.

3. SALE OF SERIES 1996 A BONDS; SIGNATURES: The Series 1996 A Bonds were sold to the West Virginia Water Development Authority (the "Authority") at an agreed purchase price of \$4,575,502. As of the date hereof, the Series 1996 A Bonds were signed by the manual signature of the Mayor, and the official seal of the City, which seal is impressed upon this Certificate, was impressed thereon and attested by the manual signature of the City Recorder.

4. DELIVERY AND PAYMENT: The undersigned Mayor did, on the date hereof, deliver to the Authority, the entire issue of the Series 1996 A Bonds, as one bond numbered AR-1. Payment of the proceeds of the Series 1996 A Bonds in the amount of \$398,008 shall be advanced on the date hereof, and the balance of the proceeds shall be disbursed to the Issuer as set forth in the Loan Agreement.

5. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the City or the Sanitary Board since October 10, 1996. Except for the City's Series 1995 A Bonds in the amount of \$373,000, which Series 1995 A Bonds share a first lien on the Net Revenues of the System with the Series 1996 A Bonds, there is no indebtedness or obligation of the City outstanding and unpaid or for which full and irrevocable provision for payment has not been made which has priority over or ranks on a parity with the Series 1996 A Bonds as to the sources of and security for payment. The City's 1991 construction loan and the City's Series 1995 B Bonds will be paid with the first advance from the proceeds of the Series 1996 A Bonds.

6. MEETINGS: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the City in any way connected with the issuance of the Series 1996 A Bonds were authorized or adopted at meetings of the Council of the City duly and regularly called and held pursuant to the City Charter and Rules of Procedure of the Council of the City and all applicable statutes, including Chapter 6, Article 9A of the West Virginia Code of 1931, as amended, and a quorum of duly elected, qualified and acting members of the Council was present and acting at all times during all such meetings.

7. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the City is "The City of Nitro" and it is a municipal corporation of the State of West Virginia, in Kanawha and Putnam Counties of said State. The names and dates of commencement and termination of current terms of office of the Mayor, City Recorder, members of Council are as follows:

City Council

Name	Office	Date Term of Office Began	Date Term of Office Ends
------	--------	---------------------------	--------------------------

Rusty Casto	Mayor	July 1, 1996	June 30, 2000
Herb Sibley	Recorder	July 1, 1996	June 30, 2000
Steven E. West	Councilman	July 1, 1996	June 30, 2000
Robert Mattox	Councilman	July 1, 1996	June 30, 2000
Richard Savilla	Councilman	July 1, 1996	June 30, 2000
Robert Young	Councilman	July 1, 1996	June 30, 2000
David Miller	Councilman	July 1, 1996	June 30, 2000
George Atkins	Councilman	July 1, 1996	June 30, 2000
Frank Grover, Jr.	Councilman	July 1, 1996	June 30, 2000

The duly elected or appointed members of the Sanitary Board are:

Rusty Casto	Chairman
Gary Creech	Member
Joseph Brewer	Member
B. S. Saluja	Engineer Member

The duly appointed and acting City Attorney is Philip D. Gaujot, Attorney at Law, Cross Lanes, West Virginia. The duly appointed and acting Attorney for the Sanitary Board is Vaughan & Withrow, Attorney at Law, Charleston, West Virginia.

8. CERTIFICATIONS: (1) the City has duly performed all of its obligations to be performed at or prior to the Closing and each of the City's representations and warranties contained in the Loan Agreement is true as of the Closing; (2) the City has authorized, by all necessary action, the execution, delivery, receipt and due performance of the Series 1996 A Bonds, the Ordinance and any and all such other agreements and documents as may be required to be enacted, adopted, executed, delivered and received by the City in order to carry out, give effect to and consummate the transactions contemplated by the Loan Agreement; and (3) the enactment and due performance of the Ordinance and the execution, delivery, receipt and due performance of the Series 1996 A Bonds and the other agreements contemplated by the Loan Agreement, under the circumstances contemplated thereby, and the City's compliance with the provisions thereof, will not conflict with or constitute on the City's part a breach of or a default under any existing law, court or administrative regulation, decree or order or any agreement, indenture, mortgage, lease or other instrument to which the City is subject or by which the City is or may be bound.

9. SPECIMEN BOND: Attached hereto as Exhibit A is a specimen of the Series 1996 A Bond which, except as to execution and authentication, is identical in all respects to such Series 1996 A Bond this day delivered to the Authority and being substantially in the form prescribed in the Ordinance.

10. 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 and the sale of any land, materials, supplies or services to the City, or to any contractor supplying the City, relating to the Series 1996 A Bonds, the Ordinance or the Loan Agreement, 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.

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

Loan Agreement
Bond Ordinance
Supplemental Resolution
PSC Certificate of Convenience and Necessity
Oaths of Office of Council Members
Minutes of Council Meetings of July 16, August 6, and November 12, 1996
Approval of the Project from the West Virginia Infrastructure and Jobs
Development Council

12. RATES: The Issuer has duly enacted a sewer rate ordinance on February 21, 1995, setting rates and charges for services of the System. The time for appeal of such rate ordinance has expired and there has been no appeal thereof. The rates and charges of such rate ordinance are effective upon the sale and delivery of the Series 1996 A Bonds.

13. GOVERNMENTAL APPROVALS AND BIDDING. All applicable approvals required by law for the construction of the Project, the operation of the System and the issuance of the Series 1996 A Bonds, including, without limitation, the issuance of a certificate of convenience and necessity by the Public Service Commission of West Virginia, have been obtained and remain in full force and effect. Competitive bids, compatible with the plan of financing as described in the application to the Authority, have been obtained in accordance with the provisions of Chapter 5, Article 22 of the West Virginia Code, and such bids remain in full force and effect.

14. BOND PROCEEDS: On the date hereof, the Issuer received \$398,008 from the Authority and the DEP, being a portion of the principal amount of the Series 1996 A Bonds and more than a de minimis amount of the proceeds of the Series 1996 A Bonds. The balance of the principal amount of the Series 1996 A Bonds will be advanced to the Issuer as the construction of the Project progresses.

15. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE. Upon enactment of the Ordinance, an abstract of the ordinance and notice of public hearing was published as a Class II legal advertisement in the Charleston Daily Mail, a newspaper of general circulation within the City of Nitro, the first publication of which occurred not less than 10 days prior to the public hearing. At such public hearing the governing body heard the comments of all persons relating to the construction of the Project and the issuance of the Series 1996 A Bonds. No petition was filed with the governing body opposing the construction of the Project or the issuance of the Series 1996 A Bonds.

16. PRIVATE USE OF FACILITIES: The Issuer shall at all times take, and refrain from taking, and shall not fail to take, any and all actions necessary in order to assure the initial and continued tax-exempt status of the Series 1996 A Bonds and the interest thereon. Less than 10% of the proceeds of the Series 1996 A Bonds will be used, directly or indirectly, for any private business use, and less than 10% of the payment of principal of, or the interest on, such issue,

under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by any interest in property used or to be used for a private business use, payments in respect of such property, or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use. None of the proceeds of the Series 1996 A Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Series 1996 A Bonds, including the disproportionate related business use of the proceeds of the Series 1996 A Bonds, and none of the payment of principal on, or the interest on, such issue, under the terms of any underlying arrangement, is, directly or indirectly, secured by any interest in property used, or to be used for a private business use, payments in respect of such property or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use with respect to such private business use, which is not related to any government use of such proceeds, including the disproportionate business use of the issue of the Series 1996 A Bonds. None of the proceeds of the issue of the Series 1996 A Bonds will be used, directly or indirectly, to make or finance loans to persons other than governmental units. For purposes of this paragraph, private business use means use, directly or indirectly, in a trade or business carried on by any person, including related persons, other than a governmental unit or other than use as a member of the general public. All of the foregoing shall be determined in accordance with and within the meaning of the Internal Revenue Code of 1986, as amended, including any successor provisions and rules and regulations thereunder (the "Code").

17. **NO FEDERAL GUARANTY:** The Series 1996 A Bonds are not and will not be, in whole or part, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

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

19. **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 Issuer, and are adequate for such purposes and are not and will not be subject to any liens, encumbrances, reservations or exceptions that adversely affect or interfere in any way with use thereof for such purposes. The costs thereof, including any properties that may have to be acquired by condemnation are, in the opinion of the undersigned, within the ability of the Issuer to for the same without jeopardizing the security of or payments on the Bonds.

20. **LOAN AGREEMENT:** As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not make any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best of the knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the Loan Agreement which should be disclosed for the purpose for which it is to used or which is necessary to disclose therein in order to make the statements and information therein not misleading; and (iv) the Issuer is in compliance with the Loan Agreement.

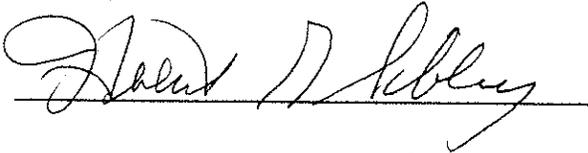
21. **IRS INFORMATION RETURN:** On the date hereof, the undersigned Mayor did officially sign a properly completed IRS Form 8038-G and will cause such executed Form 8038-

G to be filed in a timely manner with Internal Revenue Service Center, Philadelphia, Pennsylvania.

Witness our signatures and the official corporate seal of The City of Nitro, all as of the 10th day of December, 1996.



Mayor



Recorder



Sanitary Board Attorney

(SEAL)

\$4,575,502
THE CITY OF NITRO, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1996 A

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

One Valley Bank, National Association
Charleston, West Virginia 25301

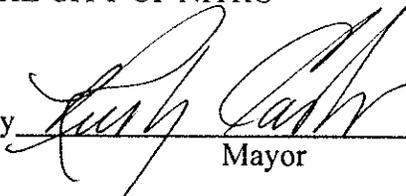
Lady & Gentlemen:

We herewith hand to you Bond No. AR-1, constituting the entire original issue of The City of Nitro, West Virginia Sewerage System Revenue Bonds, Series 1996 A, dated December 10, 1996, (the "Bonds") executed by the Mayor and Recorder of The City of Nitro (the "Issuer") and bearing the official seal of the Issuer. The Bonds are authorized to be issued under and pursuant to an Ordinance passed by the Issuer on August 6, 1996, and a Supplemental Resolution adopted by the Issuer on November 12, 1996 (the "Ordinance").

You are hereby requested and authorized, pursuant to the Ordinance, to authenticate, register and deliver the Bonds in the name of the West Virginia Water Development Authority, as Original Purchaser thereof.

Dated this 10th day of December, 1996.

THE CITY OF NITRO

By  _____
Mayor

Part I Reporting Authority If Amended Return, check here

1 Issuer's name
The City of Nitro

2 Issuer's employer identification number
55 6000223

3 Number and street (or P.O. box if mail is not delivered to street address) Room/suite
20th Street & 2nd Avenue

4 Report number
G19 96 - 1

5 City, town, state, and ZIP code
Nitro, WV 25143

6 Date of issue

7 Name of issue

8 CUSIP Number

Part II Type of Issue (check applicable box(es) and enter the issue price)

	Issue price
9 <input type="checkbox"/> Education (attach schedule—see instructions)	\$
10 <input type="checkbox"/> Health and hospital (attach schedule—see instructions)	
11 <input type="checkbox"/> Transportation	
12 <input type="checkbox"/> Public safety	
13 <input checked="" type="checkbox"/> Environment (including sewage bonds)	<u>4,575,502</u>
14 <input type="checkbox"/> Housing	
15 <input type="checkbox"/> Utilities	
16 <input type="checkbox"/> Other. Describe (see instructions) ▶	
17 If obligations are tax or other revenue anticipation bonds, check box ▶ <input type="checkbox"/>	
18 If obligations are in the form of a lease or installment sale, check box ▶ <input type="checkbox"/>	

Part III Description of Obligations

	(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
19 Final maturity.	<u>6-1-2018</u>	<u>3 %</u>	<u>69,188.13</u>	<u>69,188.13</u>			
20 Entire issue			<u>4,575,502</u>	<u>4,575,502</u>	<u>10.78</u> years	<u>3.000 %</u>	<u>2.00 %</u>

Part IV Uses of Original Proceeds of Bond Issue (including underwriters' discount)

21 Proceeds used for accrued interest	21	<u>-0-</u>
22 Issue price of entire issue (enter amount from line 20, column (c))	22	<u>4,575,502</u>
23 Proceeds used for bond issuance costs (including underwriters' discount)	23	<u>25,000</u>
24 Proceeds used for credit enhancement	24	<u>-0-</u>
25 Proceeds allocated to reasonably required reserve or replacement fund	25	<u>-0-</u>
26 Proceeds used to refund prior issues	26	<u>-0-</u>
27 Total (add lines 23 through 26)	27	<u>25,000</u>
28 Nonrefunding proceeds of the issue (subtract line 27 from line 22 and enter amount here)	28	<u>4,550,502</u>

Part V Description of Refunded Bonds (complete this part only for refunding bonds)

29 Enter the remaining weighted average maturity of the bonds to be refunded ▶ _____ years

30 Enter the last date on which the refunded bonds will be called ▶ _____

31 Enter the date(s) the refunded bonds were issued ▶ _____

Part VI Miscellaneous

32 Enter the amount of the state volume cap allocated to the issue ▶ -0-

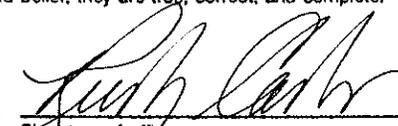
33 Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(i)(II) (small issuer exception) ▶ -0-

34 Pooled financings:
 a Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units ▶ -0-
 b If this issue is a loan made from the proceeds of another tax-exempt issue, check box and enter the name of the issuer ▶ _____ and the date of the issue ▶ _____

35 If the issuer has elected to pay a penalty in lieu of rebate, check box

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Please Sign Here


Signature of officer

12-10-96
Date

Rusty Casto, Mayor
Type or print name and title

THIS TAX REGULATORY AGREEMENT is made and dated as of December 10, 1996, between THE CITY OF NITRO, WEST VIRGINIA (the "Issuer"), and the WEST VIRGINIA MUNICIPAL BOND COMMISSION (the "Commission").

WITNESSETH:

WHEREAS, this Tax Regulatory Agreement has been executed by the parties hereto to ensure compliance by the Issuer with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and the Regulations (as hereinafter defined) thereunder; and

WHEREAS, to ensure that interest on the Issuer's Sewer System Revenue Bonds, Series 1996 A (the "Bonds") will be and remain excludable from gross income under the Code, the restrictions contained in this Tax Regulatory Agreement must be satisfied.

NOW, THEREFORE, the parties warrant, represent and covenant as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. The following words and phrases shall have the following meanings. Any capitalized word or term used herein ascribed thereto in the hereinafter defined Bond Ordinance.

"Act" means Article 13 of Chapter 16 of the Code of West Virginia, 1931, as amended.

"Bond Counsel" means the law firm or firms with expertise in public finance delivering their approving opinions with respect to the issuance of or the exclusion from federal income taxation of interest on the Bonds.

"Sinking Fund" means the fund described in Section 4.2 hereof.

"Bond Ordinance" means the ordinance and resolution supplemental thereto authorizing the issuance of the Bonds.

"Bond Year" means the one-year periods during the term of the Bonds beginning on the first day of December of any calendar year and ending on the last day of November of any calendar year. The first Bond Year begins on the Date of Issue of the Bonds and ends on November 30, 1997.

"Costs of Issuance" means all costs incurred in connection with the borrowing. Examples of costs of issuance include (but are not limited to):

(a) underwriters' spread (whether realized directly or derived through purchase of the Bonds at a discount below the price at which a substantial number of Bonds are sold to the public);

(b) counsel fees (including Bond Counsel, underwriters counsel, Issuer's counsel, Insurance Company's counsel, Commission counsel and any other specialized counsel fees incurred in connection with the issuance of the Bonds);

- (c) financial advisor fees incurred in connection with the issuance of the Bonds;
 - (d) paying agent, disbursement agent, and certifying and authenticating agent fees related to issuance of the Bonds;
 - (e) accountant fees related to issuance of the Bonds;
 - (f) printing costs (for the Bonds and of preliminary and final offering materials);
- and
- (g) costs incurred in connection with any required public approval process (e.g., publication costs for public notices generally and costs of the public hearing or voter referendum).

"Date of Issue" means December 10, 1996.

"Discharged" means, with respect to any Bond, the date on which all amounts due with respect to such Bond are actually and unconditionally due, if cash is available at the place of payment for such Bond, and no interest accrues with respect to such Bond after such date.

"Fair Market Value" means, in the case of an investment, the price at which a willing buyer would purchase the investment from a willing seller. If the investment is not readily salable, the fair market value shall be determined by taking into account the price at which a willing buyer would purchase the same (or a substantially similar) investment from the issuer of the investment. The price shall not be increased by brokerage commissions, administrative expenses or similar expenses. The price at which a willing buyer would purchase an investment that is traded in an established securities market (within the meaning of Section 15A.453-1(e)(4)(iv) of the Regulations) shall generally be determined as provided in Section 20.2031-2 of the Regulations (relating to estate tax). The following guidelines shall apply for purposes of determining the fair market value of the obligations described below:

(a) United States Treasury Obligations. In the case of an investment which is an obligation of the United States (or any agency or instrumentality thereof within the meaning of section 149(b) of the Code) and is backed by the full faith and credit of the United States (or any such agency or instrumentality), the Fair Market Value shall be the mean of the bid and asked prices on the date of determination (or, if there are no bid and asked prices on such date, on the first day preceding such date for which there are bid and asked prices). The bid and asked prices shall be determined either by reference to "Composite Closing Quotations for United States Government Securities" published by the Federal Reserve Bank of New York or by reference to a comparable compilation of bid and asked prices regularly published in a newspaper of general circulation throughout the United States. In the case of a SLG, the Fair Market Value shall be determined pursuant to Section 1.148-2(d)(4) of the Regulations.

(b) Certificates of Deposit. The purchase of certificates of deposit will be deemed to be an investment purchased at its Fair Market Value if the price at which it is purchased or sold is the bona fide bid price quoted by a dealer who maintains an active secondary market in such certificates of deposit. If there is no active secondary market in such certificates of deposit, the purchase of such certificate of deposit will be deemed to be an investment purchased at its Fair Market Value if at least three bona fide bids are received from unrelated financial institutions and the certificate of deposit is purchased from the financial institution offering the highest Yield.

(c) Investment Contracts. The purchase or sale of Nonpurpose Investments pursuant to an investment contract (e.g., an agreement to deposit gross proceeds with a particular bank, with the deposits to bear interest at an agreed rate) will be deemed to be an investment purchased at its Fair Market value if (i) at least three bids on the investment contract from persons other than those with an interest in the issue (e.g., underwriters) are received, (ii) the Yield on the investment contract is at least equal to the Yield offered under the highest bid received from an uninterested party, and (iii) the Yield on the investment contract is at least equal to the Yield offered on similar contracts (e.g., the Yield on investment contracts entered into by other issuers of tax-exempt bonds).

"Final Computation Date" means the date the last Bond is Discharged.

"Future Value" means the future value of a Receipt or Payment at the end of any interval as determined by the following formula:

$$FV = PV(1+i)^n$$

where:

FV = The future value of the Receipt or Payment at the end of the interval. Each interval ends on the last day of a compounding interval. The compounding interval is the same compounding interval used in computing the Bond Yield.

PV = The future value of the Receipt or Payment at the beginning of the interval, or the amount thereof if the computation is for the first interval. The first interval begins on the date the Receipt or Payment is actually or constructively received or paid (or otherwise is taken into account). The amount of every Receipt and Payment with respect to an issue that is taken into account at the beginning of the first interval may be rounded to the nearest whole dollar. The preceding sentence shall not apply to Receipts and Payments with respect to investments in a restricted escrow within the meaning of Section 1.148-8(g) of the Regulations.

i = The Yield during the interval (expressed as a decimal) divided by the number of compounding intervals in a year.

n = A fraction, the numerator of which is the length of the interval and the denominator of which is the length of a whole compounding interval.

"Gross Proceeds" means amounts which by the Regulations become applicable to the Bonds and subject to the rebate provisions of Section 4 of this Tax Regulatory Agreement through operation of the Regulations.

"Installment Computation Date" means the last day of the fifth Bond Year and each succeeding fifth Bond Year.

"IRS" means the Internal Revenue Service.

"Issue Price" means \$4,575,502.00.

"Net Sale Proceeds" means the Issue Price less amounts that (a) are part of any reasonably required reserve or replacement fund, (b) are used to pay capitalized interest within

the meaning of Section 1.148-8(d)(6)(ii) of the Regulations, or (c) amounts properly allocated for refunding.

"Nonpurpose Investment" means any security, obligation, annuity contract, or investment type property as defined in Section 148(b) of the Code, including "specified private activity bonds" as defined in Code Section 57(a)(5), but excluding all other tax-exempt Bonds.

"Payments" means, with respect to investments allocated to the Bonds, the amount of Gross Proceeds of the Bonds to which the investment is allocated directly used to purchase the investment. Payments do not include brokerage commissions, administrative expenses or similar expenses. An investment that was not directly purchased with Gross Proceeds of the Bonds shall be treated as if directly purchased with such Gross Proceeds for Fair Market Value on the date allocated to the Bonds. Any payment of rebatable arbitrage with respect to the Bonds is a Payment.

"Private Person" means any entity other than a Governmental Unit or an entity described in Section 501(c)(3) of the Code and exempt from federal income tax under Section 501(a) of the Code.

"Proceeds" means any original proceeds, any discount proceeds, and any Transferred Proceeds of the issue within the meaning of Section 1.148-8(d)(2) of the Regulations.

"Prohibited Payment Transaction" means either (i) any transaction to reduce the yield on the investment of Gross Proceeds of the Bonds in such a manner that the amount to be rebated to the federal government pursuant to Section 4.4 hereof is less than it would have been had the transaction been at arm's length and had the yield on the issue not been relevant to either party or (ii) any transaction described in the Regulations as giving rise to imputed receipts as defined in the Regulations.

"Qualified Section 501(c)(3) Bond" means an obligation (a) all of the property provided by the Net Proceeds of which is owned by a Section 501(c)(3) Organization or a governmental unit, and (b) no more than 5 percent of the Net Proceeds of which is used in a trade or business activity carried on by a Section 501(c)(3) Organization, if such activity is an unrelated trade or business for Federal income tax purposes, or by a nongovernmental person other than a Section 501(c)(3) Organization and the payments of or interest on no more than 5 percent of the Net Proceeds of which is directly or indirectly secured by or derived from payments in respect of property or borrowed money used or to be used in a nongovernmental business activity including any such activity which, as to a Section 501(c)(3) Organization, is an unrelated trade or business.

"Rebate Account" means the account created by that name by the Issuer.

"Rebate Amount" means the excess of the Future Value of all Receipts with respect to investments in Nonpurpose Investments allocated to the Gross Proceeds of the Bonds over the Future Value of all the Payments with respect to such Nonpurpose Investments. Future Value is computed as of the Computation Date. The Rebate Amount payable after the Final Computation Date shall include income attributable to the rebatable arbitrage from the Final Computation Date until the date which is 15 days before the final rebate is paid, and such Rebate Amount is paid to the United States no later than 60 days after the Final Computation Date. For purposes of the preceding sentence, to the extent that the Rebate Amount was not identified or invested, the income attributable to the rebatable arbitrage shall be the amount that would have been earned if such amounts had been so identified and were invested during the period described in the preceding sentence at a rate equal to the maximum interest rate (with interest compounded and

added to principal semiannually) in effect on the final computation date for a SLG with a term equal to the longer of (i) such period or (ii) 30 days. The Rebate Amount shall be calculated on an aggregate basis for the Bonds.

"Rebate Analyst" means the entity chosen by the Issuer in accordance with Section 4.8 hereof to determine the amount of required deposits to the Rebate Account, if any.

"Rebate Payment Date" means the date following a Computation Date on which the Rebate Amount is mailed or otherwise filed with the IRS. The Rebate Payment Date cannot be a date which is more than 60 days after a Computation Date.

"Receipts" means, with respect to an investment allocated to the Bonds, any amount actually or constructively received with respect to the investment. Receipts are not reduced by selling commissions, administrative expenses or similar expenses. An investment that ceases to be allocated to the Bonds other than by reason of a sale or retirement shall be treated as if sold on the date of such cessation for Fair Market Value. The Fair Market Value of all Nonpurpose Investments allocated to the Bonds at the close of business on the Computation Date shall be taken into account as a Receipt as of such date. The preceding sentence may be applied on any Installment Computation Date to all fixed rate investments by substituting "present value" for "Fair Market Value" and applying the computation described in Section 1.148-2T of the Regulations. Any amounts returned by the United States as an overpayment of the Rebate Amount are treated as receipts. Any imputed receipts (as determined pursuant to Section 1.148-5T of the Regulations) are treated as receipts.

"Regulation" or "Regulations" means the temporary, proposed or final Income Tax Regulations promulgated by the Department of the Treasury and applicable to the Bonds including proposed regulations Sections 1.148-0 through 1.148-9, 1.149(d)-1 and Sections 1.150-0 and 1.150-1 relating to arbitrage rebate compliance.

"Section 501(c)(3) Organization" means an organization that is described in Section 501(c)(3) of the Code which is exempt from tax under Section 501(a) of the Code.

"State" means the State of West Virginia.

"Tax-Exempt Bond" has the meaning given to such term by Section 1.148-8(e)(3) of the Regulations.

"Tax Regulatory Agreement" means this Tax Regulatory Agreement dated as of December 10, 1996, between the Issuer and the Commission.

"Transferred Proceeds" means proceeds that have ceased to be proceeds of a refunded issue and are Proceeds of the Bonds by reasons of the Regulations.

"Yield" or "yield" means, except as specifically modified herein, that yield with semiannual compounding which when used in computing the present worth of all payments of principal interest and payments for "qualified guarantees" (within the meaning of Section 1.148-3(b)(12) of the Regulations) on an obligation produces an amount equal to its purchase price. For example, if an investment of \$100 for one year results in a payment of \$110.25 exactly one year later, then the yield to maturity of the investment, based on semiannual compounding, is 10%, because the future payment of \$110.25 when discounted at 10%, compounded semiannually, equals the purchase price of \$100.

"Yield Restricted Investments" means any investments which either (a) bear a yield that is no greater than the Bond Yield, or (b) are investments in one or more Tax-Exempt Bonds.

Section 1.2. Reliance on Information Provided by the Issuer. Bond Counsel and the Commission shall be permitted to rely, after due inquiry, upon the contents of any certification, document or instructions provided pursuant to this Tax Regulatory Agreement and shall not be responsible or liable in any way for the accuracy of their contents or the failure of the Issuer to deliver any required information.

Section 1.3. Interpretation. In this Tax Regulatory Agreement:

(A) The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms, as used in this Tax Regulatory Agreement, refer to this Tax Regulatory Agreement, and the term "hereafter" means after, and the term "heretofore" means before the date of this Tax Regulatory Agreement.

(B) Unless the context requires otherwise, words of the masculine gender mean and include correlative words of the feminine and neuter genders and words importing the singular number mean and include the plural number and vice versa.

(C) Words importing persons include firms, associations, partnerships, trusts, corporations and other legal entities, including public bodies, as well as natural persons.

(D) Any headings preceding the texts of the several Articles and Sections of this Tax Regulatory Agreement, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Tax Regulatory Agreement, nor shall they affect its meaning, construction or effect.

(E) All certifications, documents and instructions required to be given or made by any person or party hereunder shall be made in writing.

(F) This Tax Regulatory Agreement shall be governed by and construed in accordance with the applicable laws of the State.

(G) If any provision of this Tax Regulatory Agreement shall be ruled invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect any of the remaining provisions hereof.

ARTICLE II

CERTAIN REPRESENTATIONS

Section 2.1. Representations as to Other Bonds. The Issuer represents that it has not issued nor does it intend to issue any other obligations which may, for certain purposes, be considered the same issue of bonds as the Series 1996 A Bonds.

Section 2.2. Federal Guarantee. The Issuer represents that the Bonds are not and shall not become directly or indirectly "federally guaranteed." Unless otherwise excepted under Section 149(b) of the Code, the Bonds will be considered "federally guaranteed" if (i) the payment of principal and interest with respect to the Bonds is guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof), (ii) 5% or more of the proceeds of the Bonds is (A) to be used in making loans, the payment of principal or interest with respect to

which are to be guaranteed (in whole or in part) by the United States (or any agency instrumentality thereof) or (B) to be invested (directly or indirectly) in federally insured deposits or accounts or (iii) the payment of principal or interest on the Bonds is otherwise indirectly guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof). For purposes of determining whether the Bonds are federally guaranteed, a guarantee by the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Insurance Company, the Government National Mortgage Association or the Resolution Funding Corporation shall not be considered a "federal guarantee."

Section 2.3. Representations by the Issuer for Purposes of IRS Form 8038-G. Section 149(e) of the Code requires as a condition to qualification for exclusion of interest on the Bonds for federal income tax purposes that the Issuer provide to the Secretary of the Treasury certain information with respect to the Bonds and the application of the proceeds derived therefrom. The representations of the Issuer with respect thereto will be relied upon by the Bond Counsel in satisfying this information reporting requirement. Accordingly, the Issuer hereby certifies to the truth and accuracy of the information contained on Exhibit B hereto.

The Issuer agrees to file, in a timely fashion, Internal Revenue Service Form 8038-G with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255.

Section 2.4. Representations by the Issuer for purposes of Section 148 of the Internal Revenue Code. (a) As of the date of the delivery of the Bonds, the Issuer has entered into agreements which require the Issuer to expend in excess of \$100,000 on the Project, constituting a substantial binding commitment. Acquisition, construction and equipping of the Project shall proceed with due diligence to completion, and with the exception of proceeds constituting capitalized interest (if any) and proceeds deposited in Series 1996 Bonds Reserve Account (if any), all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before July 1, 1998. Construction of the Project is expected to be completed by December, 1997.

(b) The total costs of the Project (including all costs of issuance of the Bonds) is estimated at \$4,575,502.00, and will consist of the following:

Line Replacement	1,780,900.00
Treatment Plant Upgrade	1,816,000.00
Technical Services - Basic	52,600.00
Engineering - Other	52,300.00
Inspection	178,400.00
Legal/Fiscal	20,000.00
Other Administrative	15,000.00
Construction Refinance	398,008.00
Closing Costs	25,000.00
Project Contingency	237,264.00
Total Project	4,575,502.00

(c) Construction of the Project will be financed as follows:

1996 Bonds (SRF Construction Loan)	4,575,502.00
Total Financing	4,575,502.00

The amount of the costs of the acquisition and construction of the Project is estimated to be at least equal to the gross proceeds of the Bonds. Except for the proceeds of the Bonds, no other funds of the Issuer will be available to meet costs of the Project, which would constitute "replacement proceeds" within the meaning of Tres. Reg. §1.148-1(c), inasmuch as (i) the Issuer does not reasonably expect that the term of the Bonds is longer than is reasonably necessary for the governmental purposes of the Issuer, (ii) the weighted average maturity of the Bonds does not exceed 120% of the average expected economic life of the Project, and (iii) there are no amounts that have a sufficiently direct nexus to the Bonds or to the governmental purpose of the Bonds to conclude that the amounts would have been used for that governmental purpose if the proceeds of the Bonds were not used or to be used for that governmental purpose.

(c) Amounts in the Bond Construction Trust Fund, if invested, will be invested without yield limitation for a period necessary to complete the Project, not to exceed 3 years, except as otherwise set forth herein. All of such moneys are necessary for such purpose.

(d) As of the date of the delivery of the Bonds, the Issuer has received bids for the construction of the Project and will enter into contracts for construction of the Project within 30 days from the date hereof. The amount to be expended pursuant to such contract exceeds the lesser of 2 1/2% of the estimated total Project cost financed with proceeds from the sale of the Bonds or \$100,000.

Work with respect to the acquisition and construction of the Project will proceed with due diligence to completion. The Project is expected to be completed within 12 months of the date hereof.

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

(f) The Issuer does not expect to sell or otherwise dispose of the Project in whole or in part prior to the last maturity date of the Bonds.

(g) All property financed with the proceeds of the Bonds will be held for federal income tax purposes by (or on behalf of) qualified governmental unit.

(h) The Issuer is a governmental unit and has general taxing powers; no Bonds are private activity bonds; 95% or more of the net proceeds of the Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and the aggregate face amount of all tax-exempt bonds or obligations (other than private activity bonds) issued by the Issuer during the calendar year 1996, the calendar year in which the Bonds are issued, is not reasonably expected to exceed \$5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code. For purposes of this paragraph and for purposes of applying such Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying this paragraph and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by

a subordinate entity shall, for purposes of applying this paragraph and Section 148(f)(4)(D) of the Code, to each entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(D) of the Code and all other entities benefiting thereby shall be treated as one issuer. No portion of the Bonds is issued to refund other obligations.

(i) The Issuer shall submit to the Authority within 15 days following the end of each bond year a certified copy of its rebate calculation or, if the Issuer qualifies for the small governmental issuer exception to rebate, the Issuer shall submit a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the bond year which would make the Bonds subject to rebate.

ARTICLE III

USE OF BOND PROCEEDS

Section 3.1. Use of Proceeds. The Issuer represents that the Proceeds of the Bonds will be used to provide funds for the costs of acquisition and construction of certain improvements, additions and betterments to the Issuer's wastewater collection and treatment system and paying the costs of issuance of the Series 1996 A Bonds.

Section 3.2. Source and Distribution of Proceeds of the Bonds. The proceeds from the sale of the Bonds are \$4,575,502. Such proceeds will be disbursed upon the request of the Issuer, by the West Virginia Department of Environmental Protection, in accordance with a Loan Agreement, and will be used as follows:

- (a) For Project Costs \$4,550,502.00.
- (b) For Costs of Issuance \$25,000.00.

(c) The Issuer has not entered into any transaction to reduce the Yield on the investment of the Gross Proceeds of the Bonds in such a manner that the amount to be rebated to the Federal government is less than it would have been had the transaction been at arm's length and the Yield on the Bonds not been relevant to either party to the transaction (a "Prohibited Payment").

(d) The Issuer understands that the investment of Bond proceeds in a certificate of deposit issued by a commercial bank will not result in a Prohibited Payment if the price at which it is purchased or sold is the bona fide bid price quoted by a dealer who maintains an active secondary market in such certificates of deposit. If there is no active secondary market in such certificates of deposit, the purchase or sale of a certificate of deposit will not result in a Prohibited Payment if the certificate of deposit has a Yield (i) as high or higher than the Yield on comparable obligations traded on an active secondary market, as certified by a dealer who maintains such market, and (ii) as high or higher than the Yield available on comparable obligations offered by the United States Treasury. The certification described in the preceding sentence must be executed by a dealer who maintains an active secondary market in comparable certificates of deposit and must be based on actual trades adjusted to reflect the size and term of that certificate of deposit and the stability and reputation of the person issuing the certificate of deposit.

(e) The Issuer understands that Nonpurpose Obligations purchased or sold pursuant to an investment contract (e.g., an agreement to deposit Gross Proceeds with a particular bank, with the deposits to bear interest at an agreed rate) will not result in a Prohibited Payment if (i) at least three (3) bids on the investment contract from persons other than those with an interest in the Bond issue (e.g., underwriters) are received, (ii) a certification is provided by the person whose bid is accepted stating that, based on that person's reasonable expectations on the date that the contract is entered into, Nonpurpose Obligations will not be purchased pursuant to the investment contract at a price in excess of their fair market value or sold pursuant to the investment contract at a price less than their fair market value, (iii) the Yield on the investment contract is at least equal to the Yield offered under the highest bid received from a non-interested party, and (iv) the Yield on the investment contract is at least equal to the Yield offered on similar obligations under similar investment contracts (e.g., the Yield on investment contracts entered into by issuers of Qualified 501(C)(3) Bonds).

ARTICLE IV

ARBITRAGE

Section 4.1. Prohibited Payment Transaction. The Issuer, in order to ensure that there will not be a Prohibited Payment Transaction, agrees to cause the execution of one of the certificates in Exhibit C of this Tax Regulatory Agreement if Gross Proceeds are invested in Certificates of Deposit or Guaranteed Investment Contracts.

Section 4.2. Certain Yield Restrictions. The Bond Ordinance requires that the Issuer have rates and charges which generate net revenues sufficient to pay principal and interest on the Bonds as they come due. The Revenues are collected by the Issuer and remitted to and held by the Commission in a fund or account established for such purpose (the "Sinking Fund").

(a) (i) All moneys held in the Sinking Fund will be used to pay debt service on the Bonds.

(ii) Moneys deposited into the Sinking Fund will constitute a "sinking fund" within the meaning of the Regulations and may not be invested at a yield that exceeds the Yield on the Bonds unless such moneys, or a part of such moneys, qualify as being held in a "bona fide debt service fund." To the extent that moneys qualify as being held in a "bona fide debt service fund," such moneys may be invested without regard to Yield limitations. A "bona fide debt service fund" is defined by the Regulations as a fund that is used primarily to achieve a proper matching of revenues and debt service within each Bond Year, and which is depleted at least once a year except for a reasonable carryover amount (not to exceed the greater of one year's earnings on the fund or one-twelfth of annual debt service).

(b) Moneys held in the Rebate Account will be used to pay arbitrage rebate within the meaning of Section 148(f) of the Code. Moneys in the Rebate Account may be invested without restriction as to Yield.

(c) Moneys held in the Reserve Account constitute a reasonably "required reserve or replacement fund" and as such may be invested without restriction as to Yield.

(d) The Issuer has not created or established nor intends to create or establish any sinking fund or similar fund for the payment of debt service on the Bonds or which may be pledged as security for the Bonds, except for the Sinking Fund.

The representations set forth herein are made for the purpose of establishing the reasonable expectations of the Issuer as to the amount and use of the proceeds of the Bonds. They are intended and may be relied upon as a certification described in Section 1.103-13(a)(2)(ii) of the Regulations and delivered as part of the record of proceedings in connection with the issuance of the Bonds.

Section 4.3. Arbitrage Compliance. The Issuer acknowledges that the continued exclusion of interest on the Bonds from gross income of the recipients thereof for purposes of federal income taxation depends, in part, upon compliance with the arbitrage limitations imposed by Section 148 of the Code, including the rebate requirement described in Section 4.4 below.

The Issuer hereby authorizes the Commission to take all actions necessary to comply with these requirements. The Issuer further covenants that it shall not permit at any time or times any of the proceeds of the Bonds or other funds of the Issuer to be used directly or indirectly, to acquire any asset or obligation, the acquisition of which would cause the Bonds to be "arbitrage bonds" for purposes of Section 148 of the Code; and further agrees herein that it shall do and perform all acts and things necessary in order to assure that the arbitrage and rebate requirements of Section 148 of the Code are met.

Section 4.4. Creation of Rebate Account. In the event Section 148(f)(4)(D) of the Internal Revenue Code does not apply to the Bonds the following provisions shall apply:

(a) Section 148(f) of the Code requires the payment to the United States of the excess of the amount earned on the investment of Gross Proceeds in Nonpurpose Investments over the amount that would have been earned on such investments had the amount so invested been invested at a rate equal to the Bond Yield, together with any income attributable to such excess.

(b) (i) The Issuer hereby acknowledges the creation of the Rebate Account in a depository to be held separate and apart from all other funds of the Issuer.

(ii) On or before 45 days following each Computation Date, the Issuer shall deposit in the Rebate Account, an amount such that the balance held in the Rebate Account equals the aggregate Rebate Amount due as of the Rebate Payment Date following such Computation Date. The moneys so deposited shall be derived from the Issuer's own funds.

Section 4.5. Calculation of Rebate Amount. To meet the rebate requirement of Section 148(f) of the Code, the Issuer agrees, covenants or elects, as applicable:

(a) For each investment of amounts held with respect to the Bonds in the (A) Sinking Fund (except as to amounts in a "bona fide debt service fund"), (B) Rebate Account, (C) Transferred Proceeds of the Bonds, and (D) other moneys held by the Issuer that are Gross Proceeds, the Issuer shall record, or cause to be recorded, the purchase date of such investment, its purchase price, accrued interest due on its purchase date, its face amount, its coupon rate, the frequency of its interest payment, its disposition price, accrued interest due on its disposition date and its disposition date. The yield for an investment shall be calculated by using the method set forth in the Regulations.

(b) For each Installment Computation Date with respect to Rebate Amounts specified in paragraph (c) below, the Rebate Analyst described in Section 4.8 hereof shall compute the Yield on the Bonds as required by the Regulations based on the definition of issue price contained in Section 148(h) of the Code and the Regulations. Should the Bonds be redeemed earlier than their scheduled maturity, the Issuer should seek advice of Bond Counsel or other rebate expert to recompute the Yield on the Bonds as required by the Regulations based on the definitions of issue price contained in Section 148(h) of the Code using payments or prepayments of the principal of, premium, if any, and interest on the Bonds required by the Regulations. For purposes of this Tax Regulatory Agreement the initial offering price to the public (not including bond houses and brokers or organizations acting in the capacity of underwriters or wholesalers) at which a substantial amount of the Bonds were sold is the Issue Price.

(c) Subject to the special rules set forth in paragraphs (d) and (e) below, the Rebate Analyst described in Section 4.8 hereof shall determine the amount of earnings received on all Nonpurpose Investments described in paragraph (a) above, for each Computation Date. In addition, where Nonpurpose Investments are retained by the Commission after retirement of the Bonds, any unrealized gains or losses as of the date of retirement of the Bonds must be taken into account in calculating the earnings on such Nonpurpose Investments to the extent required by the Regulations.

(d) In determining the amount of any rebate computed pursuant to this section, all earnings on any "bona fide debt service fund" to the extent such earnings do not exceed \$100,000 in any Bond year shall not be taken into account.

(e) For each Computation Date specified in paragraph (c) above, the Rebate Analyst shall calculate for each investment described in Paragraphs (a) and (c) above, an amount equal to the earnings which would have been received on such investment at an interest rate equal to the Yield on the Bonds as described in paragraph (b) above. The method of calculation shall follow that set forth in the Regulations.

(f) For each Computation Date specified in paragraph (c) above, the Rebate Analyst shall determine the amount of earnings received on all investments held in the Rebate Account during the Computation Period. The method of calculation shall follow that set forth in the Regulations.

(g) For each Computation Date specified in paragraph (c) above, the Rebate Analyst shall calculate the Rebate Amount by any appropriate method to be described in the Code and Regulations applicable or which become applicable to the Bonds. The determination of the Rebate Amount shall account for the amount (to be rounded down to the nearest multiple of \$100) equal to the sum of all amounts determined in paragraph (c), all amounts determined in paragraphs (d), (e) and (f), and less any amount which has previously been paid to the United States pursuant to Section 4.6 below.

(h) If the Rebate Amount exceeds the amount on deposit in the Rebate Account, the Issuer shall immediately pay, or cause to be paid, such amount into the Rebate Account.

Section 4.6. Payment to United States. (a) Within 60 days after each Installment Computation Date, the Issuer shall pay from the Rebate Account to the United States 90% of the Rebate Amount required to be on deposit in the Rebate Account as of such payment date. The Issuer shall pay to the United States, not later than 60 days after the Final Computation Date, 100% of the balance remaining in the Rebate Account.

(b) Each Payment of an installment shall be mailed to the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255. Each Payment shall be accompanied by (i) a copy of IRS Form 8038-T, and (ii) the CUSIP number for the Bond with the latest maturity.

(c) If on the Rebate Payment Date the balance on deposit in the Rebate Account is in excess of the Rebate Amount attributable to the Bonds, such excess may be withdrawn by the Issuer from the Rebate Account. The Issuer may direct that any overpayment of rebate may be recovered from any rebate payment previously made to the United States under any procedure that may, after the date of this Tax Regulatory Agreement, be permitted by the Code or the Regulations.

Section 4.7. Recordkeeping. In connection with the rebate requirement, the Issuer shall maintain (or cause to be maintained) the following records:

(a) The Issuer shall record all amounts paid to the United States pursuant to Section 4.6 hereof.

(b) The Issuer shall retain records of the rebate calculations until six years after the Final Computation Date.

(c) The Issuer shall keep and record the data described in Section 4.5(a) hereof pertaining to the investment of the proceeds of the Bonds until six years after the Final Computation Date.

Section 4.8. Rebate Analyst. (a) The Issuer shall appoint a Rebate Analyst to perform the rebate calculations, as required herein. The Rebate Analyst and each successor Rebate Analyst shall signify its acceptance of the duties imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer and the Commission under which such Rebate Analyst will agree to discharge its duties pursuant to this Tax Regulatory Agreement in a manner consistent with prudent industry practice.

(b) The Commission may rely conclusively upon and shall be fully protected from all liability in relying upon the opinions, calculations, determinations, directions and advice of the Rebate Analyst. The charges and fees for such Rebate Analyst shall be paid by the Issuer upon presentation of an invoice for services rendered in connection therewith. The Issuer hereby agrees to pay the fees of the Rebate Analyst.

Section 4.9. Terms of the Bonds and Calculations of Yield. (a) The date, maturities, price, denomination, and rates of interest of the Bonds are as shown in the Bond Ordinance.

(b) The Series 1996 A Bonds are not being issued to the public, but are being purchased by the West Virginia Water Development Authority, an agency of the State of West Virginia, at 100% of their face amount. The Issuer believes that such price, interest rate and term is reasonable under customary standards applicable in the established tax exempt market.

(c) Based upon the report of Ferris, Baker Watts, the Yield on the Bonds is determined to be not less than 3.0110%.

ARTICLE V

EXHIBIT A

USE OF BOND PROCEEDS

1. Face Amount of Bonds: \$4,575,502.
2. Total amount to be used to pay project costs: \$4,550,502.
3. Total amount of costs of issuance to be paid from Bond proceeds: \$25,000.

EXHIBIT B

USE OF PROCEEDS FOR PURPOSES OF FORM 8038-G

(a) Issuer's employer identification number	55-6000223
(b) Number of 8038 reports previously filed by the Issuer this calendar year	-0-
(c) Issue Price of the Bonds	\$4,575,502.00
(d) Proceeds used for Accrued Interest	\$0.00
(e) Costs of Issuance (including Underwriter's Discount)	\$25,000.00
(f) Reasonably required Reserve Fund deposits	\$0.00
(g) Proceeds used for Credit Enhancement	\$0.00
(h) Proceeds used to refund prior issues	\$0.00
(i) Nonrefunding Proceeds	\$4,550,502.00
(j) Remaining weighted maturity of refunded bonds	NA
(k) Last date on which refunded bonds will be called.	NA
(l) Date on which refunded bonds were issued	NA
(m) Amount of Bonds designated by Issuer under §265(b)(3)(B)(i)(111)	\$0.00

TERM OF TAX REGULATORY AGREEMENT

This Tax Regulatory Agreement shall be effective from the date of issuance of the Bonds through the date that is six years after the last Bond is Discharged pursuant to the terms of the Bond Ordinance.

ARTICLE VI

AMENDMENTS

Notwithstanding any other provision hereof, any provision of this Tax Regulatory Agreement may be deleted or modified at any time at the option of the Issuer if the Issuer has provided an opinion of Bond Counsel satisfactory to the Commission that such deletion or modification will not adversely affect the exclusion of interest on the Bonds from the gross income of the recipients thereof for purposes of federal income taxation.

ARTICLE VII

EVENTS OF DEFAULT, REMEDIES

Section 7.1. Events of Default. If the Issuer fails to perform any of its required duties or obligations under any provision hereof, such event shall constitute an Event of Default under this Tax Regulatory Agreement and under the Bond Ordinance.

Section 7.2. Remedies for an Event of Default. Upon an occurrence of an Event of Default under Article 7.1 hereof, the Commission may, in its discretion, proceed to protect and enforce the rights of the owners of the Bonds by pursuing any available remedy, including, but not limited to, a suit at law or in equity.

ARTICLE VIII

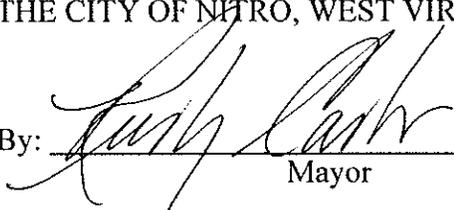
COUNTERPARTS

Section 8.1. Counterparts. This Tax Regulatory Agreement may be executed in any number of counterparts, each of which shall be regarded for all purposes as an original, and each of such signed counterparts shall constitute a single instrument.

IN WITNESS WHEREOF, the Issuer and the Commission have caused this Tax Regulatory Agreement to be executed in their respective names and by their proper officers thereunto duly authorized, all as of the day and year first written above.

THE CITY OF NITRO, WEST VIRGINIA

By: _____


Mayor

WEST VIRGINIA MUNICIPAL BOND
COMMISSION

By: 
Executive Director

CERTIFICATE OF CONSULTING ENGINEER

THE CITY OF NITRO

SEWERAGE SYSTEM REVENUE BONDS SERIES 1996 A

I, F. Wayne Hypes, Registered Professional Engineer, West Virginia License No. 10949, of Dunn Engineers, Inc., Consulting Engineers, Charleston, West Virginia, hereby certify that my firm is the engineer for the acquisition and construction of certain additions, betterments and improvements to the existing sanitary sewerage system of the City of Nitro, (the "Issuer") to be constructed in Kanawha and Putnam Counties, West Virginia, which construction and acquisition are being financed permanently, in part, by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meanings set forth in the Ordinance enacted by the Council of the Issuer on August 6, 1996, effective August 20, 1996, 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 October 10, 1996.

1. The Bonds are being issued for the purpose of providing funds to pay the costs of certain extensions, improvements and betterments to the City's sanitary sewer system, and paying the costs of issuance thereof, which extensions, improvements and betterments consist of replacing approximately 4,400 lineal feet of 12" gravity sewer line, upgrading two pump stations, installing one new pump station, upgrading the wastewater treatment plant by installing a 625,000 gpd treatment unit, an aerobic digester, belt filter press, upgrading telemetry systems and similar work (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 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 or will ascertain that all contractors have made or will make the required provisions for all insurance policies and payment and performance bonds and that such insurance policies or binders and such bonds have been or will be verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State of West Virginia and the federal government necessary for the construction of the Project, (v) 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 Agreement, (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be deposited simultaneously and irrevocably pledged thereto, are sufficient to pay the costs of construction 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.

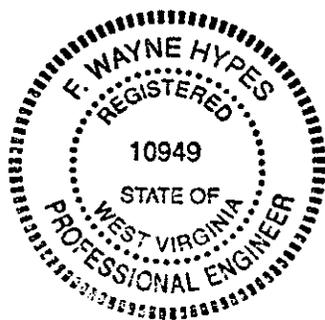
Witness my signature on this 10th day of December, 1996.

DUNN ENGINEERS, INC.



By

F. Wayne Hypes, R.P.E.
West Virginia License No. 10949



SCHEDULE A

NAME OF GOVERNMENTAL AGENCY: City of Nitro

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

A. Cost of Project

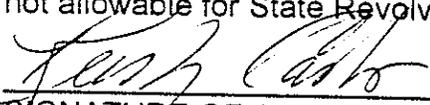
1.	Construction		
	Line Replacement	\$ <u>1,780,900</u>	
	Treatment Plant	\$ <u>1,816,000</u>	
	21st Street Project	\$ <u>287,762</u>	
	Misc. Refinancing	\$ <u>172,446</u>	
2.	Technical Services		
	Design	\$ <u>234,304</u>	
	21st Street Inspection	\$ <u>35,822</u>	
	Construction	\$ <u>283,300</u>	
3.	Legal and Fiscal	\$ <u>20,000</u>	
4.	Administrative	\$ <u>15,000</u>	
* 5.	Site and Other Lands	\$ <u>0</u>	
* 6.	FP/Design/Other Loan Repayment	\$ <u>0</u>	
7.	Interim Financing Costs	\$ <u>0</u>	
8.	Contingency	\$ <u>238,968</u>	
9.	Total of Lines 1 Through 8		\$ <u>4,884,502</u>

B. Sources of Funds

10.	Federal Grants: ¹	\$ _____	
	(Specify Sources) _____	\$ _____	
11.	State Grants: ¹	\$ _____	
	(Specify Sources) _____	\$ _____	
12.	Other Grants: ¹	\$ _____	
	(Specify Sources) _____	\$ _____	
13.	Any Other Source ²	\$ _____	
	(Specify) SRF Design Loan	\$ <u>373,000</u>	
14.	Total of Lines 10 Through 13		\$ <u>373,000</u>
15.	Net Proceeds Required from Bond Issue (Line 9 Less than 14)		\$ <u>4,511,502</u>

C. Cost of Financing

16.	Capitalized Interest	\$ _____	
	(Construction period plus six months)		
17.	Funded Reserve Account: ³ - design	\$ <u>33,000</u>	
18.	Other Costs: ⁴ Bond Counsel - design	\$ <u>6,000</u>	
	construction	\$ <u>25,000</u>	
19.	Total Cost of Financing (lines 16 through 18)		\$ <u>64,000</u>
20.	Size of Bond Issue (Line 15 plus Line 19)		\$ <u>4,575,502</u>
*	not allowable for State Revolving Fund Assistance		



SIGNATURE OF APPLICANT
DATE: Dec 10, 1996

SCHEDULE A
CITY OF NITRO

TOTAL COST OF PROJECT:

1 CONSTRUCTION

Line replacement	1,780,900.00	
Treatment Plant	1,816,000.00	
21st Street project	287,762.00	
Backhoe	37,367.00	
Pump Station #1	17,898.00	
Pump Station #2 (under design loan)	8,609.00	
Pump Station #2 (balance)	6,270.00	
Pump Station #5	14,764.00	
Huntington Nat'l Bank - misc work (as of 12/96)	87,568.00	4,057,138.00

2 TECHNICAL SERVICES

Design Service	234,304.00	
21st Street Inspection	35,822.00	
Construction Services	283,300.00	553,426.00

3 LEGAL & FISCAL

20,000.00

4 ACCOUNTING

15,000.00

* 5 SITE & OTHER LANDS

0.00

* 6 LOAN REPAYMENT

0.00

7 INTERIM FINANCING COSTS

0.00

8 CONTINGENCY

238,938.00

10 TOTAL LINES 1 - 8

4,884,502.00

SOURCES OF FUNDS:

10 FEDERAL GRANTS

0.00

11 STATE GRANTS

0.00

12 OTHER GRANTS TAP FEES

0.00

13 ANY OTHER SOURCE SRF LOAN

373,000.00

14 TOTAL LINES 10 - 13

373,000.00

15 NET PROCEEDS REQUIRED (LINE 9 LESS 14)

4,511,502.00

COST OF FINANCING:

16 CAPITALIZED INTEREST

0.00

17 FUNDED RESERVE

33,000.00

18 OTHER COSTS--BOND COUNSEL - design
construction

6,000.00

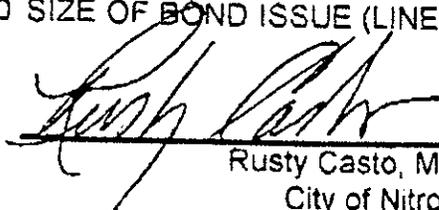
25,000.00

19 TOTAL COST OF FINANCING (LINES 16 - 18)

64,000.00

20 SIZE OF BOND ISSUE (LINE 15 LESS 19)

4,575,502.00



Rusty Casto, Mayor
City of Nitro

\$4,575,502
THE CITY OF NITRO, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1996 A

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 10th day of December, 1996, by and between THE CITY OF NITRO, a municipal corporation and a political subdivision of the State of West Virginia (the "Issuer"), and ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association, as bond registrar and authenticating agent (the "Registrar").

WHEREAS, the Issuer has contemporaneously with the execution hereof issued and sold the bonds described above (the "Bonds"); and

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 enacted by the Issuer on August 6, 1996, effective August 20, 1996, and a supplemental resolution adopted by the Issuer on November 12, 1996, authorizing issuance of the Bonds (collectively herein the "Ordinance"), copies of which are respectively attached as Exhibits A and B hereto and incorporated herein by reference; and

WHEREAS, the Ordinance appoints One Valley Bank, National Association to act as Registrar for the Bonds;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Ordinance, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest on the Bonds from gross income for federal income tax purposes, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar, from time to time the compensation for services rendered hereunder provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection therewith.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Ordinance with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Ordinance, the terms of the Ordinance shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Ordinance will violate any order, decree or agreement to which it is a party or by which it is bound.

7. The Registrar may resign as Registrar at any time by giving at least 60 days written notice to the Issuer. The Registrar may be removed as Registrar at any time by an instrument filed with the Registrar and signed by the Issuer.

Notices shall be delivered to the parties at the following addresses:

ISSUER:

The City of Nitro
20th Street and 2nd Avenue
Nitro, West Virginia 25143
Attention: Mayor

REGISTRAR

One Valley Bank, National Association
P. O. Box 1793
Charleston, West Virginia 25326
Attention: Corporate Trust Department

8. Unless otherwise so notified, the Registrar shall register all Bonds in the name of the West Virginia Water Development Authority.

9. All notices and communications required or permitted hereunder, except as otherwise expressly agreed in writing, shall be in writing and shall be delivered by hand or sent by mail or sent by telex, telecopier, or telegraph, addressed to the respective party at the appropriate address in Section 7 hereof.

10. The Registrar shall maintain records which indicate the date and volume of services rendered hereunder. Such records shall include, but not be limited to, records of the Bonds or portions thereof paid by the Registrar. Such records and the applicable premises of the Registrar shall be subject to inspection by duly designated agents, designees or officials of the Issuer for the purpose of reviewing the adequacy of procedures, systems capabilities methods of operation. Any such inspection may be made during normal banking hours after reasonable prior written notice.

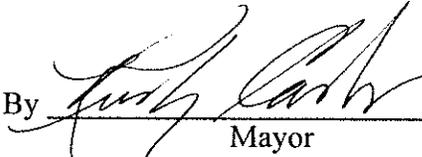
11. The Registrar warrants and represents that it is a national banking association, and in good standing under the laws of the United States of America, may lawfully conduct business in the State of West Virginia, and is lawfully empowered, pursuant to such laws, to accept the duties and obligations contemplated and as provided in this agreement and to serve in the capacity of Registrar thereunder.

12. There is no litigation pending or threatened in any court, either State or Federal, calling into question the creation, organization or existence of the Registrar or the authority of the Registrar to perform its duties under this agreement or the Ordinance.

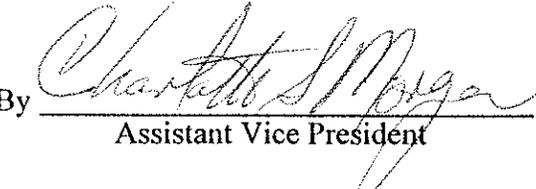
13. This Registrar's Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia.

IN WITNESS WHEREOF, THE CITY OF NITRO and ONE VALLEY BANK, NATIONAL ASSOCIATION, have each caused this Registrar's Agreement to be executed in their names and on their behalf, by their duly authorized officers, all as of the date first above written.

THE CITY OF NITRO

By  _____
Mayor

ONE VALLEY BANK, NATIONAL
ASSOCIATION

By  _____
Assistant Vice President

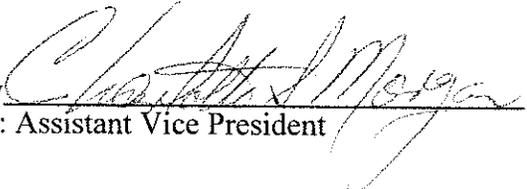
\$4,575,502
THE CITY OF NITRO, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1996 A

CERTIFICATE OF REGISTRATION OF BONDS

I, Charlotte ^SM. Morgan, Assistant Vice President, of One Valley Bank, National Association, of Charleston, West Virginia, as Registrar (the "Registrar") under the Ordinance providing for the issuance of the Bonds described above, hereby certify that on the 10th day of December, 1996, the fully registered Sewerage System Revenue Bonds, Series 1996 A in the stated principal amount of \$4,575,502, designated "The City of Nitro, Sewerage System Revenue Bonds, Series 1996 A" numbered AR-1, and dated the date hereof were registered as to principal and interest in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of One Valley Bank, National Association, Charleston, West Virginia, as Registrar.

WITNESS my signature as of this 10th day of December, 1996.

ONE VALLEY BANK, NATIONAL
ASSOCIATION

By 
Its: Assistant Vice President

\$4,575,502
THE CITY OF NITRO, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1996 A

REGISTRAR'S CERTIFICATE

The undersigned, on behalf of ONE VALLEY BANK, NATIONAL ASSOCIATION, Charleston, West Virginia, a national banking association (the "Bank"), hereby certifies as follows with respect to the above-captioned Bonds (the "Bonds"):

1. The Bank has full power and authority to enter into and carry out the provisions of the Registrar's Agreement, dated as of December 10, 1996, between The City of Nitro (the "Issuer") and the Bank (the "Agreement").

2. The person whose title, name and signature is set forth below holds the position by election or appointment by the Board of Directors of the Bank shown opposite her name, and such person has been respectively named and designated as an authorized officer of the Bank to authenticate and register the Bonds, to deliver certificates on behalf of the Bank in connection with the closing of the sale of the Bonds and to take any other actions required by the Agreement.

Assistant Vice President Charlotte S. Morgan



3. The above signed, Charlotte S. Morgan, was duly authorized to, and did on or prior to the date hereof, execute and deliver the Agreement to the Issuer on behalf of the Bank.

4. The Bank has received from the Issuer on the date hereof the Bonds, being one certificate, namely No. AR-1, in the principal amount of \$4,575,502, payable as to principal and interest, and maturing all as set forth therein. At the time of such receipt, the Bond had been executed by the manual signature of the Mayor of the City, impressed with the seal of the City, and attested by the manual signature of the City Recorder.

5. The Bank has caused the Series 1996 A Bonds to be duly authenticated by the manual signature of Charlotte Morgan, by attaching to such Bonds a certificate in the following terms:

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of The City of Nitro Sewerage System Revenue Bonds, Series 1996 A, described in the within mentioned Ordinance and has been duly registered in the name of the Registered Owner set forth above on the date set forth below.

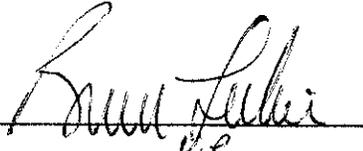
Date: December 10, 1996

ONE VALLEY BANK, NATIONAL
ASSOCIATION, as Registrar

By: /s/
Its Authorized Officer

WITNESS my signature this 10th day of December, 1996.

ONE VALLEY BANK, NATIONAL
ASSOCIATION

By 
Its v.p.

VAUGHAN & WITHROW
Attorneys and Counsellors at Law

DENNIS R. VAUGHAN, JR.
JAMES W. WITHROW

SUITE 200 CAPITOL CENTRE
232 CAPITOL STREET
CHARLESTON, WEST VIRGINIA 25301

TELEPHONE (304) 342-3900
TELECOPY (304) 344-2386

December 10, 1996

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

The City of Nitro
20th Street and 2nd Avenue
Nitro, WV 25143

Re: The City of Nitro, West Virginia, Sewerage System Revenue
Bonds, Series 1996 A

Gentlemen:

We are Bond Counsel to The City of Nitro (the "City"), a municipal corporation created under the laws of the State of West Virginia.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated October 10, 1996 (the "Loan Agreement") among the City, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection (the "DEP") and (ii) the issuance of a series of revenue bonds of the City, denoted as Sewerage System Revenue Bonds, Series 1996 A, dated December 10, 1996 (the "Series 1996 A Bonds"), issued pursuant to an Ordinance enacted by the Council of the City on August 6, 1996, effective on August 20, 1996, as amended and supplemented by a Supplemental Resolution adopted on November 12, 1996 (the "Ordinance").

The Series 1996 A Bonds are in the aggregate principal amount of \$4,575,502.00, issued in the form of one bond, registered in the name of the West Virginia Water Development Authority, as to principal and interest, with interest payable September 1, December 1, March 1 and June 1 of each year, beginning September 1, 1998, all as set forth in the Series 1996 A Bonds. The Series 1996 A Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Ordinance and the Loan Agreement.

The Series 1996 A Bonds are issued for the purpose of providing funds to pay the costs of the acquisition and construction of certain extensions, improvements and betterments to the public sewerage system (the "System") for the City, funding a reserve fund for the Series 1996 A Bonds, and paying the costs of issuance thereof.

We have also examined the applicable provisions of Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), under which the Series 1996 A Bonds are issued.

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 City and is a valid and binding special obligation of the City enforceable in accordance with its terms.

2. The Loan Agreement inures to the benefit of the Authority and the DEP and cannot be amended so as to adversely affect the rights of the Authority or the DEP or diminish the obligations of the City without the consent of the Authority and the DEP.

3. The City is a duly organized and presently existing municipal corporation, with full power and authority to operate and maintain the System referred to in the Ordinance and the Loan Agreement, to acquire and construct the Project and to issue and sell the Series 1996 A Bonds, all under the Ordinance, the Act and other applicable provisions of law.

4. The City has legally and effectively enacted the Ordinance and all other necessary actions and certifications in connection with the issuance and sale of the Series 1996 A Bonds. The Ordinance contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Series 1996 A Bonds are valid and legally enforceable special obligations of the City, payable from the net revenues of the System referred to in the Ordinance and secured by a first lien on and pledge of the net revenues of said System, which first lien is shared with the City's Series 1995 A Bonds in the principal amount of \$373,000 held by the Authority, which were issued to pay a portion of the costs of the Project, all in accordance with the terms of the Series 1996 A Bonds and the Act and have been duly issued and delivered to the Authority.

6. The City has reserved the right to issue additional bonds ranking on a parity with the Series 1996 A Bonds, as provided in the Ordinance.

7. The interest on the Series 1996 A Bonds is excludable from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, it should be noted with respect to corporations, (as defined for federal income tax purposes), such interest is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on such corporations. The opinion set forth above is subject to the condition that the City comply with all requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied subsequent to the issuance of the Series 1996 A Bonds in order that the interest thereon be (or continue to be) excludable from gross income for federal income tax purposes. Failure to comply with such covenants and representations could cause the

West Virginia Water Development Authority
The City of Nitro
December 10, 1996
Page 3

interest on the Series 1996 A Bonds to be so included in gross income retroactive to the date of issuance. We express no opinion regarding other federal tax consequences with respect to the Series 1996 A Bonds.

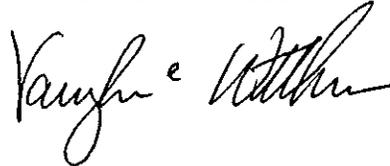
8. The Series 1996 A Bonds and the interest thereon are, under the Act, exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

The rights of the owners of the Series 1996 A Bonds and the enforceability of the Series 1996 A Bonds and the Ordinance may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors rights heretofore or hereafter enacted to the extent constitutionally applicable, and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

We have examined the executed and authenticated Series 1996 A Bond numbered AR-1, and in our opinion, the form of said Bond and its execution and authentication are regular and proper.

Very truly yours,

VAUGHAN & WITHROW

A handwritten signature in cursive script, appearing to read "Vaughan & Withrow", written in dark ink.

Law Offices
Phillip D. Gaujet

177 WALNUT STREET
MORGANTOWN, WEST VIRGINIA 26505
304/292-3000
FAX: 304/292-1072

113 GOFF MOUNTAIN ROAD-CROSS LANES
CHARLESTON, WEST VIRGINIA 25313
304/776-2222
REPLY TO:

December 10, 1996

Charleston, West Virginia

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

**Re: \$4,575,502 The City of Nitro, Sewerage System Revenue
Bonds, Series 1996 A**

Gentlemen:

I am City Attorney for The City of Nitro, West Virginia (the "City"), in connection with the issuance of the City's \$4,575,502 in aggregate principal amount Sewerage System Revenue Bonds, Series 1996 A (the "Bonds").

I have reviewed copies of the approving opinion of Vaughan & Withrow, as bond counsel, the Loan Agreement by and among the West Virginia Water Development Authority (the "Authority"), the West Virginia Division of Environmental Protection and the City, dated October 10, 1996, and the Ordinance enacted by the City Council on August 6, 1996, as amended and supplemented by a Supplemental Resolution adopted November 12, 1996, relating to the Bonds. All capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Ordinance.

I am of the opinion that:

1. The Loan Agreement has been duly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery by the other parties thereto, constitutes a valid and binding agreement of the City in accordance with its terms.
2. The members of the Council are the duly and properly elected or appointed members and are thereby authorized to act on behalf of the City.

Law Offices
Phillip D. Gaujot

West Virginia Water Development Authority
Page Two
December 10, 1996

3. The Ordinance has been duly enacted by the Council of the City, is in full force and effect and no further action of the City is required for its continued validity.
4. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transactions contemplated by the Loan Agreement and the Ordinance, and the carrying out of the terms thereof, do not and will not in any material respect conflict with or constitute on the City's part 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 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, including, without limitation, approval from West Virginia Infrastructure and Jobs Development Council, and the receipt of all requisite orders and approvals from the Public Service Commission of West Virginia, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges, and the appeal period from orders, if any, has expired. The Public Service Commission of West Virginia has issued a certificate of convenience and necessity approving the issuance of the Bonds and the acquisition and construction of the Project, and no party, except the City, has the right to appeal such order.
6. To the best of my knowledge after due inquiry, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or, to my knowledge, threatened against or affecting the City (or, to my knowledge, any basis therefor) wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Loan Agreement or the Ordinance or the validity of or security for the Bonds.

Law Offices

Phillip D. Gaujot

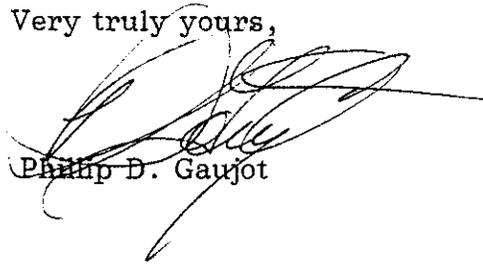
West Virginia Water Development Authority

Page Three

December 10, 1996

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

Very truly yours,

A handwritten signature in black ink, appearing to read "Phillip D. Gaujot", written over a printed name. The signature is stylized and somewhat cursive.

Phillip D. Gaujot

PDG/hlk

VAUGHAN & WITHROW
Attorneys and Counsellors at Law

DENNIS R. VAUGHAN, JR.
JAMES W. WITHROW

SUITE 200 CAPITOL CENTRE
232 CAPITOL STREET
CHARLESTON, WEST VIRGINIA 25301

TELEPHONE (304) 342-3900
TELECOPY (304) 344-2386

December 10, 1996

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

RE: \$4,575,502 The City of Nitro, Sewerage System Revenue
Bonds, Series 1996 A

Gentlemen:

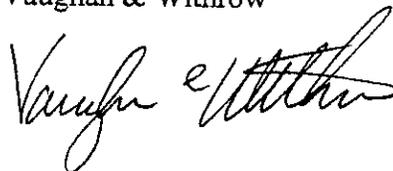
We are counsel to the Sanitary Board of The City of Nitro, West Virginia (the "Sanitary Board"), in connection with the issuance of the City's \$4,575,502 in aggregate principal amount Sewerage System Revenue Bonds, Series 1996 A (the "Bonds").

We have reviewed copies of the Loan Agreement by and among you, the West Virginia Division of Environmental Protection and the City dated October 10, 1996, the Ordinance enacted August 6, 1996, and effective August 20, 1996, as amended and supplemented by a Supplemental Resolution adopted November 12, 1996, and such other documents and instruments as we have deemed necessary to render this opinion. All capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Ordinance.

We are of the opinion that there is no action, suit, proceeding or investigation at law or in equity before any court, public board or body, against or affecting the Sanitary Board, wherein an unfavorable decision, ruling or finding would affect the transactions contemplated by the Loan Agreement or Ordinance, the Order of the Public Service Commission of the State of West Virginia granting the Certificate of the Convenience and Necessity to the City to acquire and construct the Project, the ordinance imposing the rates and charges for the use of the services of the System or the validity of the Bonds.

Very truly yours,

Vaughan & Withrow



MEMBER OF
AMERICAN INSTITUTE OF
CERTIFIED PUBLIC
ACCOUNTANTS

Austin & Co.

CERTIFIED PUBLIC ACCOUNTANTS

*1556 Kanawha Boulevard, East
Charleston, West Virginia 25311
304-344-2727*

MEMBER OF
WEST VIRGINIA SOCIETY OF
CERTIFIED PUBLIC
ACCOUNTANTS

December 10, 1996

West Virginia Water
Development Authority
1201 Dunbar Avenue
Dunbar WV 25064

The City of Nitro
20th Street & 2nd Avenue
Nitro WV 25143

RE: The City of Nitro, Sewerage System Revenue Bonds, Series
1996 A

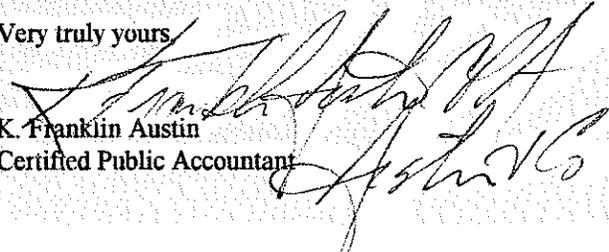
Gentlemen:

We have been asked to determine if the Sewerage System of the City of Nitro will achieve sufficient revenue coverage of its existing and proposed debt service as set forth in the Loan Agreement dated October 10, 1996, by and among the City, the West Virginia Water Development Authority and the West Virginia Division of Environmental Protection. Said Loan Agreement and Section 6.09 of the Ordinance passed by the City Council on August 6, 1996, requires the revenues derived by the Sewerage System will always be sufficient to provide revenues in each Fiscal Year to pay, as the same shall become due, the necessary expenses, repairs, maintenance and operation of said Sewerage System, and leave a balance each year equal to at least 115% of the maximum amount required in any year for the payment of the principal of and interest on the Series 1996 A Bonds, and any obligations secured by a lien superior to or on a parity with such bonds, including the City's Series 1995 A Bonds. Section 4.1(b)(v) of the Loan Agreement relating to the Series 1995 A Bonds provides that parity bonds may only be issued if net revenues of the System prior to the issuance of any parity bonds shall be not less than 115% of the maximum debt service in any succeeding year on the Series 1995 A Bonds, any parity bonds theretofore and then being issued and any other bonds or obligations payable from or secured by the revenues of the System prior to the Series 1995 A Bonds.

In calculating the required coverage, we have assumed that the proposed issue will conform to the terms set forth in the Loan Agreement and Ordinance.

Based on the existing rate structure and the forecasted expenses of the System, we certify that the annual revenues of the City of Nitro Sewerage System will be sufficient to provide revenues in each Fiscal Year to pay, as the same shall become due, the necessary expenses, repairs, maintenance and operation of said Sewerage System, and leave balances each year equal to at least 115% of the maximum amount required in any year for the payment of the principal and interest on the Series 1995A Bonds and the Series 1996 A Bonds, and any obligations secured by a lien superior to or on a parity with such bonds, and that the net revenues of the System for 12 of the last 18 months prior to the issuance of the Series 1996 A Bonds is not less than 115% of the maximum debt service in any succeeding year on the Series 1995 A Bonds and the Series 1996A Bonds and meets the parity test requirements for the Series 1995 A Bonds. However, there will usually be differences between forecasted and actual results because events and circumstances frequently do not occur as expected, and these differences may be material.

Very truly yours,


K. Franklin Austin
Certified Public Accountant



UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF NITRO
SEWERAGE SYSTEM REVENUE BOND
SERIES 1996 A

No. AR-1

\$4,575,502.00

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF NITRO, a municipal corporation and political subdivision of the State of West Virginia in Kanawha and Putnam Counties of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of Four Million Five Hundred Seventy Five Thousand Five Hundred Two and 00/100 Dollars (\$4,575,502.00), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached hereto as Exhibit A and incorporated herein by reference, together interest thereon at the rate of two percent (2%) per annum and an administrative fee of one percent (1%) per annum, which interest and administrative fee shall begin to accrue June 1, 1998, in installments on March 1, June 1, September 1 and December 1 of each year, beginning September 1, 1998, as set forth on the "Debt Service Schedule" attached as Schedule Y hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Schedule Y.

The interest rate on each installment shall run from June 1, 1998, and shall be payable on March 1, June 1, September 1 and December 1 of each year, beginning September 1, 1998, as shown on the aforesaid Schedule. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of One Valley Bank, Charleston, West Virginia, as registrar (the "Registrar") on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and among the Issuer, the Authority and the West Virginia Division of Environmental Protection, dated October 10, 1996.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, improvements and betterments to the sewerage system facilities of the Issuer (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"), and an Ordinance and Supplemental Resolution, duly enacted and adopted, respectively, by the Issuer on August 6, 1996, and November 12, 1996, (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH THE SEWERAGE SYSTEM REVENUE BONDS, SERIES 1995 A OF THE ISSUER (THE "SERIES 1995 A BONDS"), ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF \$373,000, WITH RESPECT TO LIENS AND SOURCES OF AND SECURITY FOR PAYMENT OF THE SERIES 1996 A BONDS.

This Bond is payable only from and secured by a first lien pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1996 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1996 A Bonds Reserve Account and unexpended Bond proceeds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and

maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount required in any year for principal of and interest on the Series 1996 A Bonds and the Series 1995 A Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 1996 A Bonds or the Series 1995 A Bonds, provided however, that so long as there exists in the Series 1996 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Series 1996 A Bonds in the then current or any succeeding year, and in the respective reserve accounts established for the Series 1995 A Bonds and any other obligations outstanding prior to or on a parity with the Series 1996 A Bonds or the Series 1995 A Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, THE CITY OF NITRO has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated December 10, 1996.

[SEAL]

THE CITY OF NITRO

By: _____
Mayor

ATTEST:

Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of The City of Nitro Sewerage System Revenue Bonds, Series 1996 A, described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: December 10, 1996

ONE VALLEY BANK, as Registrar

By: _____
Assistant Vice President

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, ____.

In the presence of:

EXHIBIT A

SCHEDULE OF ADVANCES

Amount

Date

SCHEDULE Y

City of Nitro \$4,575,502 2% interest rate, 1% annual fee 20 year loan DEBT SERVICE SCHEDULE				
DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
6/01/1998	-	-	-	-
9/01/1998	46,656.56	2.00000%	22,877.51	69,534.07
12/01/1998	46,889.84	2.00000%	22,644.23	69,534.07
3/01/1999	47,124.29	2.00000%	22,409.78	69,534.07
6/01/1999	47,359.91	2.00000%	22,174.16	69,534.07
9/01/1999	47,596.71	2.00000%	21,937.36	69,534.07
12/01/1999	47,834.70	2.00000%	21,699.37	69,534.07
3/01/2000	48,073.87	2.00000%	21,460.20	69,534.07
6/01/2000	48,314.24	2.00000%	21,219.83	69,534.07
9/01/2000	48,555.81	2.00000%	20,978.26	69,534.07
12/01/2000	48,798.59	2.00000%	20,735.48	69,534.07
3/01/2001	49,042.58	2.00000%	20,491.49	69,534.07
6/01/2001	49,287.79	2.00000%	20,246.27	69,534.06
9/01/2001	49,534.23	2.00000%	19,999.84	69,534.07
12/01/2001	49,781.90	2.00000%	19,752.16	69,534.06
3/01/2002	50,030.81	2.00000%	19,503.25	69,534.06
6/01/2002	50,280.97	2.00000%	19,253.10	69,534.07
9/01/2002	50,532.37	2.00000%	19,001.70	69,534.07
12/01/2002	50,785.03	2.00000%	18,749.03	69,534.06
3/01/2003	51,038.96	2.00000%	18,495.11	69,534.07
6/01/2003	51,294.15	2.00000%	18,239.91	69,534.06
9/01/2003	51,550.63	2.00000%	17,983.44	69,534.07
12/01/2003	51,808.38	2.00000%	17,725.69	69,534.07
3/01/2004	52,067.42	2.00000%	17,466.65	69,534.07
6/01/2004	52,327.76	2.00000%	17,206.31	69,534.07
9/01/2004	52,589.40	2.00000%	16,944.67	69,534.07
12/01/2004	52,852.34	2.00000%	16,681.73	69,534.07
3/01/2005	53,116.60	2.00000%	16,417.46	69,534.06
6/01/2005	53,382.19	2.00000%	16,151.88	69,534.07
9/01/2005	53,649.10	2.00000%	15,884.97	69,534.07
12/01/2005	53,917.34	2.00000%	15,616.72	69,534.06
3/01/2006	54,186.93	2.00000%	15,347.14	69,534.07
6/01/2006	54,457.87	2.00000%	15,076.20	69,534.07
9/01/2006	54,730.15	2.00000%	14,803.91	69,534.06
12/01/2006	55,003.81	2.00000%	14,530.26	69,534.07
3/01/2007	55,278.82	2.00000%	14,255.24	69,534.06
6/01/2007	55,555.22	2.00000%	13,978.85	69,534.07
9/01/2007	55,832.99	2.00000%	13,701.07	69,534.06
12/01/2007	56,112.16	2.00000%	13,421.91	69,534.07
3/01/2008	56,392.72	2.00000%	13,141.35	69,534.07
6/01/2008	56,674.68	2.00000%	12,859.38	69,534.06
9/01/2008	56,958.06	2.00000%	12,576.01	69,534.07
12/01/2008	57,242.85	2.00000%	12,291.22	69,534.07
3/01/2009	57,529.06	2.00000%	12,005.01	69,534.07
6/01/2009	57,816.71	2.00000%	11,717.36	69,534.07
9/01/2009	58,105.79	2.00000%	11,428.28	69,534.07
12/01/2009	58,396.32	2.00000%	11,137.75	69,534.07
3/01/2010	58,688.30	2.00000%	10,845.77	69,534.07
6/01/2010	58,981.74	2.00000%	10,552.33	69,534.07
9/01/2010	59,276.65	2.00000%	10,257.42	69,534.07
12/01/2010	59,573.03	2.00000%	9,961.03	69,534.06

City of Nitro

2% interest rate, 1% annual fee
20 year loan
DEBT SERVICE SCHEDULE

DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
3/01/2011	59,870.90	2.00000%	9,663.17	69,534.07
6/01/2011	60,170.25	2.00000%	9,363.81	69,534.06
9/01/2011	60,471.11	2.00000%	9,062.96	69,534.07
12/01/2011	60,773.46	2.00000%	8,760.61	69,534.07
3/01/2012	61,077.33	2.00000%	8,456.74	69,534.07
6/01/2012	61,382.72	2.00000%	8,151.35	69,534.07
9/01/2012	61,689.63	2.00000%	7,844.44	69,534.07
12/01/2012	61,998.08	2.00000%	7,535.99	69,534.07
3/01/2013	62,308.07	2.00000%	7,226.00	69,534.07
6/01/2013	62,619.61	2.00000%	6,914.46	69,534.07
9/01/2013	62,932.71	2.00000%	6,601.36	69,534.07
12/01/2013	63,247.37	2.00000%	6,286.70	69,534.07
3/01/2014	63,563.61	2.00000%	5,970.46	69,534.07
6/01/2014	63,881.42	2.00000%	5,652.64	69,534.06
9/01/2014	64,200.83	2.00000%	5,333.24	69,534.07
12/01/2014	64,521.84	2.00000%	5,012.23	69,534.07
3/01/2015	64,844.44	2.00000%	4,689.62	69,534.06
6/01/2015	65,168.67	2.00000%	4,365.40	69,534.07
9/01/2015	65,494.51	2.00000%	4,039.56	69,534.07
12/01/2015	65,821.98	2.00000%	3,712.09	69,534.07
3/01/2016	66,151.09	2.00000%	3,382.98	69,534.07
6/01/2016	66,481.85	2.00000%	3,052.22	69,534.07
9/01/2016	66,814.26	2.00000%	2,719.81	69,534.07
12/01/2016	67,148.33	2.00000%	2,385.74	69,534.07
3/01/2017	67,484.07	2.00000%	2,050.00	69,534.07
6/01/2017	67,821.49	2.00000%	1,712.58	69,534.07
9/01/2017	68,160.60	2.00000%	1,373.47	69,534.07
12/01/2017	68,501.40	2.00000%	1,032.67	69,534.07
3/01/2018	68,843.91	2.00000%	690.16	69,534.07
6/01/2018	69,188.13	2.00000%	345.94	69,534.07
TOTAL	4,575,502.00	-	987,223.45	5,562,725.45

*

*Plus a one-percent annual administrative fee paid quarterly in the amount of \$6,170.15. The total administrative fee over the life of the loan is \$493,612.

YIELD STATISTICS

Accrued Interest from 06/01/1998 to 06/01/1998...	-
Average Life.....	10.788 YEARS
Bond Years.....	49,361.17
Average Coupon.....	2.0000000%
Net Interest Cost (NIC).....	2.0000000%
Bond Yield for Arbitrage Purposes.....	3.0112500%
True Interest Cost (TIC).....	2.0050000%
Effective Interest Cost (EIC).....	3.0112500%



STATE OF WEST VIRGINIA
WATER DEVELOPMENT AUTHORITY

1201 DUNBAR AVENUE
DUNBAR, WV 25064

Telephone (304) 558-3612
Telecopier (304) 558-0299

May 5, 1995

City of Nitro
P.O. Box 607
Nitro WV 25143

PRELIMINARY APPLICATION -
CITY OF NITRO (SEWER PROJECT -
UPGRADE OF WASTEWATER TREATMENT PLANT)

The West Virginia Infrastructure and Jobs Development Council (the "Council") has reviewed the Preliminary Application for the above-referenced project and has determined that the project is technically and financially feasible within the guidelines of the Act. (See attached Sewer Assessment Committee comments.)

The Council recommends that the City of Nitro use a State Revolving Fund Loan of \$3,625,000 from the Division of Environmental Protection to finance this project.

If you have any questions concerning this decision, please contact Daniel Yonkosky, Director of the Water Development Authority, who serves as chairman of the Council's Funding Committee.

Daniel B. Yonkosky

for RUSSELL L. ISAACS, CHAIRMAN
WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

db

c Mike Johnson, Division of Environmental Protection
Region III Planning and Development Council

enrind

interoffice

MEMORANDUM

to: Fred Hypes, DEP, Infrastructure Sewer Assessment Committee

from: ^{WST} William S. Herold, Jr., P.E.

re: Preliminary Application for the City of Nitro Sewage Treatment Plant Upgrade Project, Kanawha County

date: March 13, 1995

This project is technically feasible and we recommend approval.

cc: Joseph P. Schock
John Brown

RECEIVED 7
MAR 14 1995
Water Resources
Construction Assistance

from the desk of...

William S. Herold, Jr., P.E.
Assistant Director
Environmental Engineering Division
815 Quarrier Street, Suite 418
Charleston, WV 25301

(304) 558-2981
Fax: (304) 558-0691



DIVISION OF ENVIRONMENTAL PROTECTION

1201 Greenbrier Street
Charleston, WV 25311-1088

GASTON CAPERTON
GOVERNOR

DAVID C. CALLAGHAN
DIRECTOR

**INTER-OFFICE MEMORANDUM
OFFICE OF WATER RESOURCES**

RECEIVED

MAR 28 1995

TO: J. Michael Johnson, P. E.
Committee Chairman
Sewer Assessment Committee

FROM: Pravin G. Sangani, P. E. *Pravin*
Municipal Branch Leader, Permits

DATE: March 24, 1995

W. Virginia Dept. of Environmental Protection
Construction Assistance

RE: West Virginia Infrastructure and Jobs Development Council
Preliminary Application
City of Nitro - Proposed Wastewater Treatment Plant Expansion
and Collection System Renovation

In accordance with your request, received the 10th day of March 1995, please be advised that we have reviewed the preliminary application for the City of Nitro, Sanitary Board, proposed wastewater treatment plant expansion and collection system renovation project.

The City has exhibited deficiencies with respect to their solids handling capabilities, the effluent flow meter configuration and/or functioning, and the handling of storm water on the plant site. The grit removal unit, that was installed a few years ago, has never functioned properly. The City diligently pursues the correction of deficiencies and proficiently implements solutions to alleviate consequential effects.

The City currently accepts nondomestic wastewater from several industrial/commercial customers. No enumeration of this was provided in the preliminary application materials that we received. Appropriate consideration must be afforded these nondomestic dischargers during project implementation.

The City's WV/NPDES Water Pollution Control Permit will expire in September 1995. The implementation of the State's Toxic Pollutant Control Permitting Strategy, and a review of the nondomestic wastewater base accordingly, will result in the imposition of chemical specific effluent discharge limitations for certain pollutants and whole effluent toxicity testing.



RECEIVED

APR 04 1995

GASTON CAPERTON
GOVERNOR

DIVISION OF ENVIRONMENTAL PROTECTION
617 Broad Street
Charleston, WV 25301-1251

WATER DEVELOPMENT
AUTHORITY

DAVID C. CALLAGHAN
DIRECTOR

MEMORANDUM

TO: Bernie Yonkosky, Chairman
Funding Committee
WV Infrastructure and Jobs Development Council

DATE: April 4, 1995

RE: Nitro Preliminary Application

-
1. This committee has reviewed the pre-application and preliminary engineering report submitted for the above referenced project in accordance with Chapter 31, Article 15A. It has been determined that the proposed project is:
 - (a) Consistent with the intent of the Infrastructure and Jobs Development Act and is the most cost-effective, environmentally sound alternative for solving the wastewater needs in this area.
 - (b) Not consistent with the Act and may not be the most cost effective, environmentally sound alternative for solving the wastewater needs in this area.
 - (c) Same as (a) above except that certain issues need to be addressed prior to design and construction as the attached comments indicated.
 - (d) The preliminary application and engineering report are not sufficiently complete for our review to be completed at this time. Our attached comments indicate apparent deficiencies.
 2. Our recommendation is that:
 - (a) The Funding Committee needs to review the proposed sources of funding to determine the best mix of grant and/or loan funds in accordance with applicable guidelines.
 - (b) The Funding Committee should recommend that the Council approve the proposed project and its funding plan.

- (c) _____ The Funding Committee does not need to review the funding assumptions on this project because of major deficiencies in the engineering report. The Committee should suggest to the Council the proposed project funding be denied until technical comments have been resolved.

3. Other remarks:

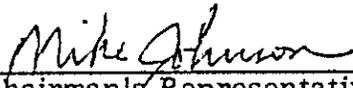
- (a) The PSC notes some financial concerns on rates and debt service that need to be clarified when their Certificate case is filed.

4. Attachments: Technical Comments

Review
Certification:

Positive, considering all information presented

_____ Negative, considering all information presented



Chairman's Representative
Sewer Assessment Committee

MJ/a

cc: Sewer Assessment
Committee Members
Susan Riggs, PSC
Bill Herold, Health
Tom Holder, WVDO
Pravin Sangani, OWR-Permits
Fred Hypes, OWR-C.A.



DIVISION OF ENVIRONMENTAL PROTECTION
617 Broad Street
Charleston, WV 25301-1251

DAVID C. CALLAGHAN
DIRECTOR

M E M O R A N D U M

TO: Mike Johnson, P.E., Assistant Chief, OWR
FROM: Frederick L. Hypes, P.E., Engineering Branch Leader
DATE: March 23, 1995 FH
SUBJECT: City of Nitro STP Upgrade - Infrastructure Council
Pre-Application - Technical Review

The Pre-Application and Preliminary Engineering Report (PER) for the City of Nitro's Sewage Treatment Plant and Interceptor Sewer upgrading project has been reviewed. Since this is the same project for which the DEP approved the Facilities Plan on 1995, and for which the DEP has accepted an application for an SRF loan to fund design, I strongly recommend that the Sewer Assessment Committee endorse the project, and seek the agreement of the Funding Committee and the approval of the Council. The proposed project will provide sufficient capacity for Nitro to continue to accept additional industrial flow, as well as the flows from the various proposed sewer extension (including the proposed Poca River project).

NOTE: Nitro has just recently adopted and put into effect a rate increase to provide the revenue necessary for supporting the proposed SRF loan. /

FH/1

J. Michael Johnson, P. E.
Preliminary Application
City of Nitro
Page 2
March 24, 1995

Based on the information we received, we have, at this time, no significant objections to the proposed project. Any proposals and/or provisions for nondomestic wastewater shall be reviewed in accordance with the provisions of Title 47, Series 10, Section 14 of the Legislative Rules.

Public Service Commission

Richard E. Hitt, General Counsel

201 Brooks Street, P.O. Box 812
Charleston, West Virginia 25323



Phone: (304) 340-0317
FAX: (304) 340-0372

RECEIVED

March 28, 1995

MAR 28 1995

Mr. Fred Hypes
Office of Water Resources
Division of Environmental Protection
617 Broad Street
Charleston, WV 25301
FAX 558-3778

Water Resources
Construction Assistance

RE: Public Service Commission Staff Review Comments
City of Nitro Infrastructure Pre-application

Dear Fred:

Attached please find the Public Service Commission Staff (Staff) technical review comments regarding the City of Nitro's (City's) pre-application to the Infrastructure Council for approval of a project to upgrade its wastewater treatment plant.

The project appears to be technically feasible, however, the Staff notes a discrepancy in the proposed increase in operation and maintenance costs listed in the preliminary application (\$4,400) and in the facilities plan (\$44,950). The Staff notes the following deficiencies with the financial information presented in the application. The application and facilities plan are based on year ended June 30, 1992 numbers. In addition, the City is in the process of adopting a rate ordinance, thus the rates in effect at the time of completion of the project will be higher than current rates. A discrepancy exists between the debt service as proposed in the facilities plan and in the application. Depending upon the final operation and maintenance expenses, the City's rates may not be adequate to support the proposed debt service.

Please let me know if you have any questions regarding this matter. Thank you for your attention.

Sincerely,


Susan J. Riggs
Staff Attorney

SJR/s
Attachment

CITY OF NITRO - SANITARY BOARD

ENGINEERING: INGRID FERRELL

1. Staff feels that the City of Nitro (Nitro) has shown the need for this project and that the alternatives chosen for the treatment plant upgrade and line replacements are justified.
2. The engineering cost for the Nitro project is 20.6% of the construction cost. This is fairly high. Staff believes that Nitro's engineering costs should be further justified.
3. The preapplication shows the increase in O&M cost due to the proposed project will be \$4,400. The facilities plan shows an increase in O&M costs of \$44,950 due to the proposed project. The larger increase is also discussed on page 25 of the facilities plan. Staff is not certain where the discrepancy is in these two figures. The O&M budget will have to be detailed in a certificate of convenience and necessity with the Public Service Commission.
4. This project will require a certificate of convenience and necessity from the Public Service Commission. The Commission requires a final engineering report to be included in the certificate application. This will allow Staff to analyze the final recommendations and the appropriate costs associated with the final proposed project.

FINANCIAL: DIANE DAVIS CALVERT

1. Nitro is proposing to finance the project with 100% debt at a 3% rate for 20 years. The Facilities Plan Report submitted with the application indicates debt service including 10% coverage of \$268,020 annually. However, on the pre-application form Nitro indicates that proposed debt service will be under \$200,000. Nitro's June 30, 1994 Annual Report reveals that existing debt service is approximately \$88,300 before coverage.
2. The pre-application and the Facilities Plan Report are based on year ended June 30, 1992 numbers. When compared to the 1994 Annual Report revenues have increased 47.6% without a corresponding increase in the number of customers. Operating expenses have increased 33%.
3. The proposed operating expenses reflected in the pre-application and the Facilities Plan Report are below the level incurred in the most recent fiscal year. Increasing the 1994 revenue with Nitro's proposed 22% increase (Nitro is currently in the process of adopting a rate ordinance) and adjusting debt service for the proposed project above the 1994 level would leave a surplus of approximately \$31,500 base

on the 1994 operating expenses.

4. An increase in operating expenses associated with the proposed project of \$44,000 would leave the rates deficit in meeting a required 10% coverage. However, it should be noted that one of the existing debt issues should be retired in 1998.
5. Based on the 1994 Annual Report and the information submitted for the pre-application, the level of operating expenses could be critical in the determination as to whether or not the project is supported with sufficient rates. However, this would need to be considered in the context of the timing of the increased debt service with the retirement of existing debt.



**STATE OF WEST VIRGINIA
WATER DEVELOPMENT AUTHORITY**

1201 DUNBAR AVENUE
DUNBAR, WV 25064

Telephone (304) 558-3612
Telecopier (304) 558-0299

December 10, 1996

**CITY OF NITRO
SEWER SYSTEM REVENUE BONDS, SERIES 1996 A**

The undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the entire outstanding aggregate principal amount of the Sewer System Revenue Bonds Series 1995 A Bonds in the principal amount of \$373,000, issued by the City of Nitro (the "Issuer"), hereby consents to the issuance of Sewer System Revenue Bonds, Series 1996 A, in the aggregate amount of \$4,575,502, by the Issuer, under the terms of the Ordinance authorizing the Bonds, on a parity, with respect to lien, pledge and source of and security for payment, with the Issuer's Sewer System Revenue Bonds, Series 1995 A.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: *Daniel B. Lyubosky*
Its Authorized Representative