SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)
SEWER REVENUE BONDS, SERIES 2005 B
(STATE REVOLVING FUND)

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BOND RESOLUTION

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SHADY SPRINGS PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF FACILITIES OF SHADY SPRINGS PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEROF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $2,875,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND) AND NOT MORE THAN $3,078,043 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2005 B (STATE REVOLVING FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING LOAN AGREEMENTS RELATING TO SUCH BONDS; AUTHORZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF SHADY SPRINGS PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

Section 1.01. Authority for this Resolution. This Resolution (together with any order or supplemental hereto or amendatory hereof, the "Bond Legislation") is adopted pursuant to the provisions of the Chapter 16, Article 13A, Chapter 22C, Article 2 and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

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

A. Shady Springs Public Service District (the "Issuer") is a public service district, public corporation and political subdivision of the State of West Virginia in Raleigh County of said State.

B. The Issuer presently owns and operates a public sewer system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants

of the Issuer that there be acquired and constructed certain improvements and extensions to the existing public sewer facilities of the Issuer, consisting of the Cool Ridge-Flat Top Wastewater Collection and Disposal Project (Phase I), together with all appurtenant facilities (the "Project"). The existing public sewer facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System".

C. The Issuer has received bids for the Project. It is deemed necessary for the Issuer to issue its Bonds, in an aggregate principal amount of not more than $1,000,000 being its Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund) the "Series 2005 A Bonds") and the Sewer Revenue Bonds, Series 2005 B (State Revolving Fund) (the "Series 2005 B Bonds", and collectively with the Series 2005 A Bonds, the "Series 2005 Bonds") to permanently finance a portion of the costs of the Project and the costs of issuance of the Bonds and related costs. The remaining costs will be paid by the Flat Top Lake Grant in the amount of $204,000 and an Army Corp of Engineers Grant of $2,700,000.

D. It is in the best interests of the Issuer that the Series 2005 A Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and provisions of a bond purchase agreement by and among the Issuer, the Authority and the West Virginia Department of Environmental Protection (the "DEP"), (the "Bond Purchase Agreement"), both loan agreements in form satisfactory to the respective parties (collectively, the Loan Agreements"), approved hereby if not previously approved by resolution of the Issuer.

E. There are outstanding obligations of the Issuer which will rank on parity to the Series 2005 A Bonds and Series 2005 B Bonds as to liens, pledge and source of and security for payment, which obligations are designated and have the lien positions and respect to the Series 2005 A Bonds and Series 2005 B Bonds as follows:

Designation	Lien Position
Sewer Revenue Bonds, Series 1982B, August 12, 1982, issued in the original principal amount of $795,515 (the "Series 1982B Bonds");	First Lien (Parity)
Sewer Revenue Bonds, Series 1994A June 8, 1994, issued in the original principal amount of $170,532 (the "Series 1994A Bonds");	First Lien (Parity)

Sewer Revenue Bonds, Series 1996A, dated April 25, 1996, issued in the original principal amount of $151,800 (the "1996A Bonds").	First Lien (Parity)
Sewer Revenue Bonds, Series 1997C dated June 24, 1997, issued in the original principal amount of $2,197,304 (the "Series 1997C Bonds");	First Lien (Parity)
Sewer Revenue Refunding Bonds, Series 1997D dated June 24, 1997, issued in the original principal amount of $3,056,955 (the "Series 1997D Bonds");	First Lien (Parity)
Sewer Revenue Bonds, Series 1998A dated November 25, 1998, issued in the original principal amount of$1,202,100 (the "Series 1998A Bonds");	First Lien (Parity)
Sewer Revenue Bonds, Series 1998B dated December 17, 1998, issued in the original principal amount of $839,000 (the "Series 1998B Bonds");	First Lien (Parity)
Sewer Revenue Bonds, Series 1999A, dated March 18, 1999, issued in the original principal amount of $752,000 (the "Series 1999A Bonds");	First Lien (Parity)
Sewer Revenue Bonds, Series 1999B, dated March 18, 1999, issued in the original principal amount of $165,000 (the "Series 1999B Bonds");	First Lien (Parity)

Sewer Revenue Bonds, Series 2002A, dated March 8, 2002, issued in the original principal amount of $2,419,905 (the "Series 2002A Bonds")	First Lien (Parity)

The Series 1982B Bonds, the Series 1994A Bonds, the Series 1996A Bonds. the Series 1997C Bonds, the Series 1997D Bonds, the Series 1998A Bonds, the Series 1998B Bonds, the Series 1999A Bonds, the Series 1999B Bonds and the Series 2002A Bonds are hereinafter collectively referred to as the "Prior Bonds." The Issuer's Series 2003 A Bonds will be paid in full simultaneously with the issuance of the Series 2005 Bonds.

F. The estimated revenues to be derived in each year following completion of the Project from the operation of the System will be sufficient to pay all Operating Expenses of the System and the principal of and interest on the Prior Bonds and the Series 2005 Bonds and to make payments into all funds and accounts and other payments provided for herein.

G. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the design of the Project and issuance of the Series 2005 Bonds, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, the approval of the Project and the financing thereof by the Council and the obtaining of approval of this financing and necessary user rates and charges described herein from the Public Service Commission of West Virginia (the "PSC") by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 2005 Bonds or such final order will not be subject to appeal or rehearing.

H. The Project has been reviewed and determined to be technically and financially feasible by the Council as required under Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2005 Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all such Series 2005 Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond and any other of a series and any other Bonds of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

"Act" means, collectively, Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia of 1931, as amended and in effect on the date of adoption hereof.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2005 Bonds, or any other agency, board or department of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the Chairperson of the Governing Body of the Issuer or any temporary Chairperson duly elected by the Governing Body.

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

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

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

"Bonds" means, collectively, the Series 2005 Bonds and any bonds on a parity therewith subsequently authorized to be issued hereunder or by another resolution of the Issuer.

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

"Chairperson" means the Chairperson of the Governing Body of the Issuer.

"Closing Date" means the date upon which there is an exchange of the Series 2005 Bonds for all or a portion of the proceeds of the Series 2005 Bonds.

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

"COE Grant" means the grant in the amount of $2,700,000 from the United States Army Corp of Engineers.

"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 L. A. Gates Company, Beckley, West Virginia, or any qualified engineer or firm of engineers, licensed by the State, that shall at any time hereafter be procured by the Issuer as Consulting Engineers for the System or portion thereof in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended; provided however, that the Consulting Engineers shall not be a regular full-time employee of the State or any of its agencies, commissions or political subdivisions.

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

"Council" means the West Virginia Infrastructure and Jobs Development Council or any other agency of the State of West Virginia that succeeds to the functions of the Council.

"DEP" means the West Virginia Division of Environmental Protection or any other agency, board or department of the State that succeeds to the functions of the DEP.

"Depository Bank" means the bank or banks designated as such in the Supplemental Resolution and any successors and assigns, which shall be a member of FDIC.

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

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

"Flat Top Lake Grant" means the grant in the amount of $204,000 to be made by the Flat Top Lake Association.

"Governing Body" or "Board" means the public service board of the Issuer, as it may now or hereafter be constituted.

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

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

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

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

"Investment Property" means:

(A) any security (within the meaning of Section 165(g)(2)(A) or (B) of the Code),

(B) any obligation,

(C) any annuity contract,

(D) any investment-type property, or

(E) in the case of a bond other than a private activity bond, any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan.

Except as provided in the following sentence, the term "Investment Property" does not include any tax-exempt bond. With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in section 57(a)(5)(C) of the Code), the term "Investment Property" includes a specified private activity bond (as defined).

"Issuer" means the Shady Springs Public Service District, a public service district, public corporation and political subdivision of the State of West Virginia in Raleigh County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" means the Loan Agreements heretofore entered, or to be entered, into by and between the Issuer and the Authority, on behalf of the Council, providing for the purchase of the Series 2005 A Bonds from the Issuer by the Authority, and the Issuer, the Authority and DEP providing for the purchase of the Series 2005 B Bonds, the forms of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

"Net Proceeds" means the face amount of the Series 2005 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Reserve Accounts. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2005 Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

"Nonpurpose Investment" means any Investment Property as defined in Section 148(b) of the Code, that is not a purpose investment.

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

"Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered except (i) any Bond canceled 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 X hereof; and (iv) for purposes of consents, notices or other action by a specified percentage of Bondholders, any Bonds registered to the Issuer.

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 7.07 hereof.

"Paying Agent" means the Commission or other entity designated as such for the Series 2005 Bonds in the Supplemental Resolution.

"Prior Bonds" shall have the meaning described in Section 1.03G hereof.

"Private Business Use" means use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit; provided that, use as a member of the general public shall not be taken into account.

"Project" means the Project as described in Section 1.02 hereof.

"PSC" means the Public Service Commission of West Virginia and any successors to the functions thereof.

"PSC Order" means, collectively, the final order or orders of the PSC approving the financing for the Project and the rates of the System.

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

(a) Government Obligations;

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

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

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

(e) Time accounts, (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC, shall be secured by a pledge of Government Obligations, provided, that such Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time account 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, the only assets are investments of the type described in paragraphs (a) through (e) above; and

(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 _____ pursuant to Chapter 12, Article __ of the Code of West Virginia, 193 1, as amended; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investor Services, Inc. or Standard & Poor's Corporation.

"Registrar" means the Bond Registrar.

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

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

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

"Secretary" means the Secretary of the Governing Body of the Issuer.

"Series 2005 Bonds Construction Trust Fund" means the Series 2005 A Bonds Construction Fund created by Section 5.01 hereof.

"Series 2005 A Bonds" means the Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), of the Issuer, authorized by this Resolution.

"Series 2005 A Bonds Reserve Account" means the Series 2005 A Bonds Reserve Account created by Section 5.02 hereof.

"Series 2005 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2005 A Bonds in the then current or any succeeding year.

"Series 2005 A Bonds Sinking Fund" means the Series 2005 A Bonds Sinking Fund created by Section 5.02 hereof.

"Series 2005 B Bonds" means the Sewer Revenue Bonds, Series 2005 B (West State Revolving Fund), of the Issuer, authorized by this Resolution.

"Series 2005 B Bonds Reserve Account" means the Series 2005 B Bonds Reserve Account created by Section 5.02 hereof.

"Series 2005 B Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2005 B Bonds in the then current or any succeeding year.

"Series 2005 B Bonds Sinking Fund" means the Series 2005 B Bonds Sinking Fund created by Section 5.02 hereof.

"SRF Administrative Fee" means any administrative fee required to be paid under the Bond Purchase 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 government entities satisfying certain legal and other requirements with the proceeds of a capitalization grant award from the United States Environmental Protection Agency and funds of the State.

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

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution or order of the Issuer supplementing or amending this Resolution and, when preceded by the article "the," refers specifically to the supplemental resolution or resolutions authorizing the sale of the Series 2005 Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect the Series 2005 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, without limitation, the Sinking Funds, the Reserve Accounts and the Renewal and Replacement Fund.

"System" means the complete public service properties of the Issuer for the collection, treatment. purification or disposal of liquid or solid wastes, sewage or industrial wastes, as presently existing in its entirety or any integral part thereof, and shall include the Project and any additions, improvements and extensions thereto hereafter constructed or acquired for the System from any sources whatsoever.

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

"West Virginia Infrastructure Fund" means the West Virginia Infrastructure Fund established in accordance with Chapter 31, Article 15A, Section 9 of the Code of West Virginia, 1931, as amended and in effect on the date of adoption hereof.

Additional terms and phrases are defined in this Resolution as they are used. Words importing singular number shall include the plural number in each case and vice

versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender.

ARTICLE II

AUTHORIZATION OF THE PROJECT, APPROVAL OF THE LOAN AGREEMENTS AND PAYMENT OF DESIGN LOAN

Section 2.01. Authorization of the Project. There is hereby authorized and ordered the Project, at an estimated cost of $8,857,043. The Costs of the Project will be paid as follows: $2,875,000 will be paid from proceeds of the Series 2005 A Bonds, $3,078,043 will be paid from proceeds of the Series 2005 B Bonds, $204,000 will be paid from the Flat Top Lake Grant, and $2,700,000 will be paid by the Army Corp of Engineers. The Issuer is hereby authorized and directed to enter into the Contracts.

Section 2.02. Approval of Loan Agreements. The Issuer hereby approves the Loan Agreements and the sale of the Series 2005 A Bonds and the Series 2005 B Bonds pursuant to the Loan Agreements. The Issuer is hereby authorized and directed to execute and deliver the Loan Agreements to the Authority. The Issuer shall perform, satisfy and comply with all the terms and conditions of the Loan Agreements.

Section 2.03. Payment of Design Loan. Simultaneously with the issuance of the Series 2005 Bonds, the Issuer shall pay to the Bond Commission an amount sufficient to pay in full the Series 2003 Bonds.

ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purposes of paying Costs of the Project not otherwise provided for, paying in full the Series 2003 A Bonds, funding the reserve account for the Series 2005 B Bonds and paying certain costs of issuance of the Series 2005 Bonds and related costs, or any or all of such purposes as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued negotiable Series 2005 A Bonds and Series 2005 B Bonds of the Issuer. The Series 2005 A Bonds shall be issued as a single bond, designated as "Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund)," in the principal amount of not more than $2,875,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The Series 2005 B Bonds shall be issued as a single bond, designated "Sewer Revenue Bonds, Series 2005 B (State Revolving Fund)," in the principal amount of not more than $3,078,043, and shall have such terms as set forth hereinafter and in the Supplemental Resolution.

The aggregate principal amount of the Series 2005 Bonds need not be paid to the Issuer upon delivery of the Series 2005 Bonds but may be advanced to the Issuer as requested by the Issuer from time to time; and the Series 2005 Bonds shall evidence only the indebtedness recorded on the Record of Advances attached hereto and incorporated therein.

Section 3.02. Terms of Bonds. A. The Series 2005 Bonds shall be issued in such principal amount; shall bear interest at such rate or rates, not exceeding the then legal maximum rate, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the Loan Agreement. The Series 2005 Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 2005 Bonds 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 2005 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 2005 Bonds. The Series 2005 Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in the aggregate principal amount equal to the amount of said Bonds then outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. Such Bonds shall be dated and shall have such terms as set forth in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2005 Bonds shall be executed in the name of the Issuer by the Chairperson, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed any of the Series 2005 Bonds shall cease to be such officer of the Issuer before the Series 2005 Bonds so signed and sealed have been actually sold and delivered, such Series 2005 Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds has not ceased to hold such office. Any Series 2005 Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Bond Registrar; Authentication and Registration. The Bond Registrar for the Series 2005 Bonds shall be the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns. No such Bonds shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the forms set forth in Section 3.10, 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 such Bonds 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 such Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2005 Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder in accepting the Series 2005 Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that such Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 2005 Bonds remain Outstanding, the Issuer, through the Bond Registrar, shall keep and maintain books for the registration and transfer of the Bonds.

The registered Series 2005 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 the Series 2005 Bonds or transferring the registered Series 2005 Bonds is exercised, all such Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All such Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of such 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 the 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 such Bonds, next preceding the date of the selection of the Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2005 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 canceled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2005 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided on parity with the lien of the Prior Bonds. No Holder or Holders of such Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay such Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2005 Bonds shall be secured forthwith equally and ratably with the Prior Bonds by a first lien on the Net Revenues derived from the System. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Prior Bonds and the Series 2005 Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2005 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2005 Bonds to the original purchasers upon receipt of a request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver such Bonds to the original purchasers.

Section 3.10. Form of Bonds. The text of each series of the Series 2005 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof.

(FORM OF SERIES 2005 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. AR-__ $_____

KNOW ALL MEN BY THESE PRESENTS: That SHADY SPRINGS PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Raleigh County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of _____ DOLLARS ($_____) or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year commencing _____ 2, _____, as set forth on the " Debt Service Schedule" attached as EXHBIT B hereto and incorporated herein by reference, bearing interest at the rate set forth in Exhibit B.

Principal installments of this Bond and interest are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Council, dated _____, _____.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of new public sewer facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Bond Resolution duly adopted by the Issuer on _____, _____, and a Supplemental Resolution duly adopted by the Issuer on _____, _____, (collectively, the "Bond Legislation"), and is

subject to all the terms and conditions thereof. This Bond is being issued simultaneously with the Issuer's Sewer Revenue Bonds, Series 2005 B (State Revolving Fund) (the "Series 2005 B Bonds"). The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL OTHER RESPECTS, WITH THE ISSUER'S SERIES 2005 B BONDS AND THE "PRIOR BONDS" DESCRIBED IN THE BOND LEGISLATION.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the System, on a parity with the pledge of Net Revenues in favor of the holders of the Series 2005 A Bonds, and from moneys in the reserve account created under the Bond Legislation for this Bond (the "Series 2005 A Bonds Reserve Account") and unexpended proceeds of this Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the moneys in the Series 2005 A Bonds Reserve Account and unexpended Bond Proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount of principal of and interest, if any, on this Bond payable in any year and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Series 2005 B Bonds and the Prior Bonds; provided however, that so long as there exists in the Series 2005 A Bonds Reserve Account, an amount at least equal to the maximum amount of principal and interest, if any, which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the Series 2005 B Bonds and the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owner (as defined in the Bond Legislation) of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the Registered Owner of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar (as defined in the Bond Legislation) by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer

satisfactory to the Registrar duly executed by the Registered Owner or its attorney duly authorized in writing.

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

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

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of 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, SHADY SPRINGS PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated _____, _____.

[SEAL]

_____
Chairperson

ATTEST:

_____
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2005 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: _____, _____.

_____,
as Registrar

By _____
Its Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) $	_____, _____	(7) $	
(2) $		(8) $	
(3) $		(9) $	
(4) $		(10) $	
(5) $		(11) $	
(6) $		(12) $	

TOTAL

$_____

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

_____

_____

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

Dated: _____, _____.

_____

In the presence of:

_____

(FORM OF SERIES 2005 B BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2005 B
(STATE REVOLVING FUND)

No. BR-__ $_____

KNOW ALL MEN BY THESE PRESENTS: That SHADY SPRINGS PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Raleigh County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of _____ DOLLARS ($_____) or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year commencing _____ 1, _____, as set forth on the " Debt Service Schedule" attached as EXHBIT B hereto and incorporated herein by reference. The SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, _____, as set forth on EXHIBIT B attached hereto.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

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

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of new public sewer facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. The existing public sewerage facilities of the Issuer, the improvements and extensions designed by the Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State

of West Virginia, including particularly Chapter 16, Article 13A and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Bond Resolution duly adopted by the Issuer on _____, _____, and a Supplemental Resolution duly adopted by the Issuer on _____, _____, (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. This Bond is being issued simultaneously with the Issuer's Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund) (the "Series 2005 A Bonds"). The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Bond Legislation.

THIS BOND IS ISSUED ON PARITY AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL OTHER RESPECTS, WITH THE ISSUER'S SERIES 2005 A BONDS AND THE "PRIOR BONDS" DESCRIBED IN THE BOND LEGISLATION.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the System, on a parity with the pledge of Net Revenues in favor of the holders of the Prior Bonds, and from moneys in the reserve account created under the Bond Legislation for the Bonds (the "Series 2005 B Bonds Reserve Account") and unexpended proceeds of this Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the moneys in the Series 2005 B Bonds Reserve Account and unexpended Bond Proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Series 2005 A Bonds and the Prior Bonds; provided however, that so long as there exists in the Series 2005 B Bonds Reserve Account, an amount at least equal to the maximum amount of principal and interest, if any, which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Series 2005 A Bonds and the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of 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 (as defined in the Bond Legislation) by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

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

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

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, this Bond will be in default should any proceeds be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of 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, SHADY SPRINGS PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated _____, _____.

[SEAL]

_____
Chairperson

ATTEST:

_____
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2005 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: _____, _____.

_____,
as Registrar

By _____
Its Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) $	_____, _____	(7) $	
(2) $		(8) $	
(3) $		(9) $	
(4) $		(10) $	
(5) $		(11) $	
(6) $		(12) $	

TOTAL

$_____

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

_____

_____

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

Dated: _____, _____.

_____

In the presence of:

_____

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Series 2005 Bonds shall be sold to the Authority pursuant to the terms and conditions of the respective Loan Agreement. If not so authorized by previous resolution, the Chairperson is specifically authorized and directed to execute the Loan Agreement and the Secretary is directed to affix the seal of the Issuer thereto, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The Loan Agreements, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Bond Legislation.

Section 3.12. Filing of Amended Schedule. Upon completion of the design of the Project, the Issuer will file with the Authority, DEP and the Council, a schedule, the forms of which will be provided by the Council and DEP, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

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

(1) Revenue Fund;

(2) Renewal and Replacement Fund;

(3) Series 2005 A Bonds Construction Trust Fund; and

(4) Series 2005 B Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with and shall be held by the Commission separate and apart from all other funds and accounts of the Commission and the Issuer and from each other:

(1) Series 2005 A Bonds Sinking Fund;

(2) Series 2005 A Bonds Reserve Account;

(3) Series 2005 B Bonds Sinking Fund; and

(4) Series 2005 B Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner therein and herein provided. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order of priority:

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

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously with the required payments for the Prior Bonds (i) remit to the Commission, commencing 3 months prior to the first date of payment of principal of the Series 2005 Bonds, for deposit in the Series 2005 Bonds Sinking Fund, an amount equal

to 1/3rd of the amount of interest which will mature and become due on the Series 2005 Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2005 Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payment shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date; and (ii) remit to the Commission, commencing 3 months prior to the first date of payment of principal of the Series 2005 Bonds, for deposit in the Series 2005 Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2005 Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2005 Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payment shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(3) The Issuer shall next, on the first day of each month, commencing 3 months after the completion of design of the Project, as certified by the Consulting Engineers, with the requirements for the Prior Bonds, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Series 2005 Bonds Reserve Account, an amount equal to 1/20th of the Series 2005 Bonds Reserve Requirement, until the amount in the Series 2005 Bonds Reserve Account equals the Series 2005 Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2005 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 2005 Bonds Reserve Requirement.

(4) The Issuer shall next, on the first day of each month, commencing 3 months after the completion of design of the Project, as certified by the Consulting Engineers, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund, an amount equal to 2 ½% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. All funds in the month, exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, improvements or extensions to the System; provided that, any deficiencies in any Reserve Account, except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof, shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 2005 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 2005 Bonds as the same shall become due. Moneys in the Series 2005 Bonds Reserve Account shall be used only for the purposes of paying principal of and interest on the Series 2005 Bonds as the same shall

become due, when other moneys in the Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Reserve Account (if fully funded) shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2005 Bonds and then to the next ensuing principal payment due thereon, all on a pro rata basis.

Any withdrawals from the Reserve Account which result in a reduction in the balance there to below the Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the Series 2005 Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay any interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve accounts in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the Sinking Fund or the Reserve Account when the aggregate amount of funds therein are at least equal to the respective aggregate principal amount of the Series 2005 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

Interest, principal or reserve account payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Prior Bonds and the Series 2005 Bonds, in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2005 Bonds Sinking Fund and the Series 2005 Bonds Reserve Account created hereunder, and all amounts required for such accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Authority at any time, the Issuer shall make the necessary arrangements whereby required payments into such accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Moneys in the Series 2005 Bonds Sinking Fund and the Series 2005 Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Sinking Fund and the Reserve Account shall be used solely and only for, and is hereby pledged for, the purpose of servicing the Series 2005 Bonds under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payments and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

C. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the Loan Agreement, and submit a copy of said form, together with a copy of its payment check to the Authority by the 5th day of such calendar month.

D. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinabove provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such longer period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

E. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the respective parties shall require, such additional sums as shall be necessary to pay their respective charges and fees then due. In the case of payments to the Commission under this paragraph, the Issuer shall, if required by the Authority or the Government at any time, make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

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

G. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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

ARTICLE VI

APPLICATION OF BOND PROCEEDS

Section 6.01. Application of Bond Proceeds. There is hereby created and established with the Depository Bank, to be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and from all other funds or accounts of the Issuer, the Construction Trust Fund. The moneys derived from the sale of the Series 2005 Bonds shall be deposited with the Depository Bank in the Bond Construction Trust Fund and applied solely to the payment of the costs of the design of the Project and the costs of issuance and related costs, and until so expended, are hereby pledged as additional security for the Series 2005 Bonds.

After completion of design of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2005 Bonds shall be used to fund the Series 2005 Bonds Reserve Account, if not funded upon issuance of the Series 2005 Bonds, in an amount not to exceed the Series 2005 Bonds Reserve Requirement; provided that, in no event shall more than 10% of the proceeds of the Series 2005 Bonds be deposited in the Series 2005 Bonds Reserve Account. Any remaining proceeds thereafter shall be used as directed by the DEP.

Section 6.02. Disbursements From the Project Fund. On or before the Closing Date, the Issuer shall have delivered to the Authority and the DEP a report listing the specific purposes for which the proceeds of the Series 2005 Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments of all Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Project Fund shall be made only after submission to, and approval from, the Authority and the DEP of the following:

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

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

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

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

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

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

Pending such application, moneys in the Project Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2005 Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 2005 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2005 Bonds, or the interest, if any, thereon, is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2005 A Bonds and Series 2005 B 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 the Series 2005 A Bonds and Series 2005 B Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2005 A Bonds and Series 2005 B Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2005 A Bonds and Series 2005 B Bonds and the Prior Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the operation of the System. The Net Revenues in an amount sufficient to pay the principal of and interest on the Series 2005 A Bonds and Series 2005 B Bonds and the Prior Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreement. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in and approved by the PSC Order and such rates are hereby adopted.

So long as the Series 2005 Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and in compliance with the Loan Agreement. In the event the schedule of rates, fees and charges initially established for the System in connection with the Series 2005 Bonds shall provide to be insufficient to produce the required sums set forth in

this Bond Legislation and the Loan Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement.

Section 7.05. Sale of the System. So long as the Series 2005 Bonds are outstanding and except as otherwise required by law or with the written consent of the Council and the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall be remitted to the respective Sinking Funds and applied to the payment of principal of and interest, if any, on the Series 2005 Bonds. Any balance remaining after the payment of the Series 2005 Bonds and interest, if any, thereon shall be remitted to the Issuer unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $10,000, the Issuer shall, by resolution, duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of$10,000 but not in excess of $50,000, the Issuer shall first, in writing, determine upon consultation with the Managing Engineer that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted. authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. The payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said fund by other provisions of this Bond Legislation. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of $50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 7.06 and Section 7.07 hereof and in the Prior Bonds, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2005 Bonds. All obligations issued by the Issuer after the issuance of the Series 2005 Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Series 2005 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2005 Bonds, and the interest thereon, if any, upon any of the income and revenues of the System pledged for payment of the Series 2005 Bonds and the interest thereon, if any, in this Bond Legislation, or upon the System or any part thereof.

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

Section 7.07. Parity Bonds. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2005 Bonds pursuant to this Bond Legislation, except with the prior written consent of the Authority and the Council under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2005 Bonds.

No such Parity Bonds shall be issued except for the purposes of financing the costs of the design, acquisition or construction of extensions and improvements to the System or refunding any outstanding Bonds, or both such purposes.

No such Parity Bonds shall be issued at any time, unless there has been procured and filed with the Secretary a written statement by Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall not be less than 115% of the largest aggregate amount that will

mature and become due in any succeeding Fiscal Year for principal of and interest, if any, on the following:

(1) The Bonds and Prior 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 the financed by such Parity Bonds and (b) any increase in rates adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to the date of issuance of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Secretary prior to the issuance of such Parity Bonds.

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

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the 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.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on revenues of the System is subject to the prior and superior liens of the Series 2005 Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from 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 2005 Bonds.

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

Section 7.08. Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the Council, or their agents and representatives, to inspect all books, documents, papers and records relating to the Projects and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority and the Council such documents and information as they may reasonably require in connection with the design of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Issuer shall permit the Authority and the Council, or their agents and representatives, to inspect all records pertaining to the operation and maintenance of the System at 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 currently accepted accounting principles and safeguards to the extent allowed and as prescribed by the PSC. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner, on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Governing Body shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Council and the Authority, or any other original purchaser of the Series 2005 Bonds, and shall mail in each year to any Holder or Holders of the Series 2005 Bonds, requesting the same, an annual report containing the following:

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

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation, and the status of all said funds and accounts.

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

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Certified Public Accountants in compliance with the applicable OMB Circular, or any successor thereto and the Single Audit Act, or any successor thereto, to the extent legally required, and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 2005 Bonds, and shall submit said report to the Council and the Authority, or any other original purchaser of the Series 2005 Bonds. Such audit report submitted to the Authority and the Council shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the Loan Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the Loan Agreement and the Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

Section 7.09. Rates. Prior to the issuance of Series 2005 Bonds, equitable rates or charges for the use of and service rendered by the System shall be established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2005 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2005 Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirements are on deposit respectively in the Reserve Accounts and the reserve accounts for obligations on a parity with the Series 2005 Bonds are funded at least at the requirement

th4erefor, such balance each year need only equal at least 110% of he maximum amount required in any year for payment of principal of and interest, if any, on the Series 2005 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2005 Bonds. In any event, the Issuer shall not reduce the rates or charges for services described in Section 7.04.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 30 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority and the Council within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the managing engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the managing engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and the Council and to any Holder of any Bonds, within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the DEP, the Authority, the Council and the Government and to any Holder of any Bonds, or anyone acting for and in behalf of such Holder of any Bonds.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for two years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the respective Loan Agreements, and forward a copy of such report to the DEP, the Authority and the Council by the 10th day of each month.

Section 7.11. Engineering Services. The Issuer will obtain a certificate of Consulting Engineers in the form attached to the Bond Purchase Agreement, stating, among other things, that the Project will be constructed as described in the application submitted to the Authority, the Council and the DEP.

The Issuer shall employ and retain qualified operating personnel properly certified by the State to operate the System so long as the Series 2005 Bonds are outstanding.

Section 7.12. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rates, rentals or other charges for the services and facilities of the System and take all steps, actions and proceedings for the enforcement and collection of such fees, rates, rentals or other charges that shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the PSC and other laws of the State of West Virginia.

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

Section 7.14. No Free Services. Except as required by law, the Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.15. Insurance Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund

and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will required each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than $1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than $500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles 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 Chapter 38, Article 2, Section 39 of the Code of West Virginia, 1931, as amended.

(4) FLOOD INSURANCE, if the facilities of the System are or will be located in designated special flood or mudslide-prone areas and to the extent available at reasonable cost to the Issuer.

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

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

B. The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction.

The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the

Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project; provided that the amounts and terms of such coverage are satisfactory to the Authority, the DEP, the Council and the Government. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear. The Issuer shall verify such insurance prior to commencement of construction.

Section 7.16. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the PSC, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30 day notice of the availability of the System, pay the rates and charges established therefor.

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

Section 7.17. Completion and Operation of Project; Permits and Orders. The Issuer shall complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and state requirements and standards.

The Issuer has obtained all permits required by state and federal laws for the operation of the System, all orders and approvals from the Public Service Commission of West Virginia and the West Virginia Infrastructure and Jobs Development Council necessary for the design of the Project and the operation of the System and all approvals for issuance of the Series 2005 Bonds required by state law, with all requisite appeal periods having expired without successful appeal.

Section 7.18. [Reserved]

Section 7.19. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2005 Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, and shall take effect immediately upon delivery of the Series 2005 Bonds.

Section 7.20. Compliance with Loan Agreements and Law. The Issuer shall perform, satisfy and comply with all terms and conditions of the Loan Agreements and the Act. Notwithstanding anything herein to the contrary, the Issuer shall provide the Council and 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 Project and the operation, maintenance and use of the System.

Section 7.21. Public Releases. The Issuer shall list the funding provided by the Council, the DEP and the Authority in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any ground breaking or dedication of the Project.

Section 7.22. Securities Laws Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

ARTICLE VIII

INVESTMENTS

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

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

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2005 Bonds are Outstanding.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2005 Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest, if any, on any series of the Series 2005 A Bonds or Series 2005 B 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 2005 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2005 Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, Registrar or any other Paying Agent or a Holder of a Bond; or

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

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a 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 at law or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Registered Owners of the Series 2005 A Bonds and Series 2005 B Bonds and the Prior Bonds shall be on a parity with each other.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under this Bond Legislation and the Act, including the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Registered Owner of a Bonds 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 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 the System, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to the System as the Issuer itself might exercise.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Bond Legislation for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Bond Legislation shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

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

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

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Series 2005 Bonds. If the Issuer shall pay or there shall otherwise be paid to the Holders of the Series 2005 Bonds, the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other 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 2005 Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Resolution. Prior to issuance of the Series 2005 Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2005 Bonds, no material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the respective rights of Registered Owners of the Series 2005 Bonds shall be made without the consent in writing of the Registered Owners of the Series 2005 Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest, if any, out of the funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds, required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest, if any, on the Series 2005 Bonds from the gross income of the holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 2005 Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution, the Supplemental Resolution, or the Series 2005 Bonds.

Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 11.05. Conflicting Provisions Repealed. All orders or resolutions, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed.

Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been

performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairperson, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 11.07. Effective Date. This Resolution shall take effect immediately upon adoption.

Adopted this 13th day of December, 2005.

M. Lee Lucas
Chairperson

Jim Wood
Member

Connie L. Barber
Member

{C1020784.1}

CERTIFICATION

Certified as a true copy of a Resolution adopted by the Public Service Board of SHADY SPRINGS PUBLIC SERVICE DISTRICT on the 13th day of December, 2005.

Dated: December 13, 2005.

[SEAL]

Secretary

SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS,
SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND)
SEWER REVENUE BONDS,
SERIES 2005 B (STATE REVOLVING FUND)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE SHADY SPRINGS PUBLIC SERVICE DISTRICT SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND); AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF THE SERIES 2005 A BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; SEWER REVENUE BONDS, SERIES 2005 B (STATE REVOLVING FUND); AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF THE SERIES 2005 B BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; APPROVING AND RATIFYING THE LOAN AGREEMENTS WITH RESPECT TO THE SERIES 2005 A BONDS AND SERIES 2005 B BONDS; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board (the "Governing Body") of Shady Springs Public Service District (the "Issuer") has duly and officially adopted a Bond Resolution on December 13, 2005 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF FACILITIES OF SHADY SPRINGS PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEROF, NOT OTHERWISE PROVIDED, THROUGH THE

ISSUANCE BY THE DISTRICT OF NOT MORE THAN $2,875,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND) AND NOT MORE THAN $3,078,043 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2005 B (STATE REVOLVING FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING LOAN AGREEMENTS RELATING TO SUCH BONDS; AUTHORZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution when used herein.

WHEREAS, the Resolution provides for the issuance of the Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund) of the Issuer, in the aggregate principal amount of not to exceed $2,875,000 (the "Bonds"), and has authorized the execution and delivery of a loan agreement relating to the Series 2005 A Bonds, including all schedules and exhibits attached thereto, by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council") (the "Loan Agreement"), and has authorized the execution and delivery of a bond purchase agreement relating to the Series 2005 B Bonds, including all schedules and exhibits attached thereto, by and between the Issuer and the Authority and West Virginia Department of Environmental Protection (the "DEP") (the "Bond Purchase Agreement"), all in accordance with Chapter 16, Article 13A, Chapter 31, Article 15A and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Act"); and in the Resolution it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds should be established by a supplemental resolution, and that other matters relating to the Bonds be therein provided for;

WHEREAS, the Loan Agreement and the Bond Purchase Agreement have been presented to the Issuer by the Authority pursuant to the Loan Agreement and Bond Purchase Agreement;

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Loan Agreement and the Bond Purchase Agreement be approved and ratified, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF SHADY SPRINGS PUBLIC SERVICE DISTRICT:

Section 1. Pursuant to the Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the following bonds of the Issuer:

Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), of the Issuer originally represented by a single bond, numbered A-1, in the original principal amount of $2,875,000. The Series 2005 A Bonds shall be dated the date of delivery, shall finally mature on December 1, 2045, and shall bear interest at the rate of 0% per annum. The principal of and interest on the Series 2005 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2008, in the amounts set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Series 2005 A Bonds. The Series 2005 A Bonds shall be subject to redemption upon the written consent of the Authority and the Council, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the Registered Owner of the Series 2005 A Bonds.

Sewer Revenue Bonds, Series 2005 B (State Revolving Fund), of the Issuer originally represented by a single bond, numbered B-1, in the original principal amount of $ 3,078,043. The Series 2005 B Bonds shall be dated the date of delivery, shall finally mature on December 1, 2045, and shall bear interest at the rate of 0% per annum. The principal of and interest on the Series 2005 B Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2008, in the amounts set forth in the Schedule Y attached to the Bond Purchase Agreement and incorporated in and made a part of the Series 2005 B Bonds. The Series 2005 B Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the Bond Purchase Agreement, so long as the Authority shall be the Registered Owner of the Series 2005 B Bonds. The Series 2005 B Bonds are subject to an Administrative Fee of 0.5%

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Resolution.

Section 3. The Issuer hereby ratifies, approves and accepts the Loan Agreement and the Bond Purchase Agreement, including all schedules and exhibits attached thereto, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement and the Bond Purchase Agreement by the Chairperson and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and the Bond Purchase Agreement and in the applications to the Council and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 4. The Issuer hereby appoints and designates City National Bank of WV, Beckley/Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Series 2005 Bonds under the Resolution and approves and accepts the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Chairperson, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved.

Section 5. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Commission"), to serve as the Paying Agent for the Series 2005 Bonds under the Resolution.

Section 6. The Issuer hereby appoints and designates City National Bank of WV, Beckley/Charleston, West Virginia, to serve as the Depository Bank.

Section 7. Series 2005 A Bonds proceeds in the amount of $-0- shall be deposited in the Series 2005 A Bonds Sinking Fund as capitalized interest.

Section 8. Series 2005 B Bonds proceeds in the amount of $-0- shall be deposited in the Series 2005 B Bonds Sinking Fund as capitalized interest.

Section 9. Series 2005 A Bonds proceeds in the amount of $-0- shall be deposited in the Series 2005 A Bonds Reserve Account.

Section 10. Series 2005 B Bonds proceeds in the amount of $152,300 shall be deposited in the Series 2005 B Bonds Reserve Account.

Section 11. The remaining proceeds of the Bonds, as advanced from time to time, shall be deposited in the Series 2005 Bonds Construction Trust Funds, as received by the Issuer for payment of costs of the Project, including costs of issuance of the Bonds. $185,328.93 of the proceeds of the Series 2005 A Bonds shall be deposited with the Commission for payment in full of the Series 2003 Bonds.

Section 12. The Chairperson and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Resolution approved and provided for, to the end that the Series 2005 Bonds may be delivered to the Authority pursuant to the Loan Agreement on or about December 13, 2005.

Section 13. The Project and the financing thereof in part with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the resident of the Issuer.

Section 14. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Resolution held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer. Moneys in the Sinking Funds and the Reserve Accounts shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 15. The Issuer hereby approves and accepts all contracts relating to the design of the Project.

Section 16. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 17. This Supplemental Resolution shall be effective immediately following the adoption hereof.

Adopted this 13th day of December, 2005.

M. Lear Lucas
Chairperson

Jim Wood
Member

Bruce L. Barker
Member

CERTIFICATION

Certified as a true copy of a Supplemental Resolution duly adopted by the Public Service Board of Shady Springs Public Service District on the 13th day of December, 2005.

Dated this 13th day of December, 2005.

[SEAL]

Secretary

3 (a)

SRF-BPA-1
(11/01/04)

BOND PURCHASE AGREEMENT

THIS WATER POLLUTION CONTROL REVOLVING FUND BOND PURCHASE AGREEMENT (the "Bond Purchase Agreement"), made and entered into in several counterparts, by and among the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), the WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION (the "DEP"), and the local government designated below (the "Local Government").

SHADY SPRING PUBLIC SERVICE DISTRICT
(Local Government)

W I T N E S S E T H:

WHEREAS, the United States Congress under Title VI of the federal Clean Water Act, as amended (the "Clean Water Act"), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining state water pollution control revolving funds for the planning, design, construction, acquisition and/or improvement of wastewater treatment facilities;

WHEREAS, pursuant to the provisions of Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a state water pollution control revolving fund program (the "Program") to acquire bonds of particular local governments pursuant to the Clean Water Act;

WHEREAS, under the Act the DEP is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency ("EPA") to accept capitalization grant awards (U.S. General Services Administration; Catalog of Federal Domestic Assistance, 32nd Edition § 66.458 (1998)) and DEP has been awarded capitalization grants to partially fund the Program;

WHEREAS, under the Act and under the direction of DEP, the Authority has established a permanent perpetual fund known as the "West Virginia Water Pollution Control Revolving Fund" (hereinafter the "Fund");

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Local Government, DEP and the Authority hereby agree as follows:

ARTICLE I

Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "cost," "fund," "local government," and "project" have the definitions and meanings ascribed to them in the Act or in the SRF Regulations.

1.2 "Consulting Engineers" means the professional engineer, licensed by the State, designated in the Application and any successor thereto.

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

1.4 "Local Bonds" means the revenue bonds to be issued by the Local Government pursuant to the provisions of the Local Statute, as hereinafter defined, and to be purchased by the Authority with money held in the Fund, all in accordance with the provisions of this Bond Purchase Agreement.

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

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

1.7 "Program" means the wastewater treatment facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Clean Water Act and administered by DEP.

1.8 "Project" means the wastewater treatment facility project hereinabove referred to, to be constructed or being constructed by the Local Government in whole or in part with the net proceeds of the Local Bonds or being or having been constructed by the Local Government in whole or in part with the proceeds of bond anticipation notes or other interim financing, which is to be paid in whole or in part with the net proceeds of the Local Bonds.

as may be reasonably necessary to accomplish all of the powers and rights of the Authority and DEP with respect to the System pursuant to the pertinent provisions of the Act.

2.5 The Local Government shall keep complete and accurate records of the cost of acquiring the Project site and the costs of constructing, acquiring and installing the Project. The Local Government shall permit the Authority and DEP, acting by and through their Directors or duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination, and the Local Government shall submit to the Authority and DEP such documents and information as it may reasonably require in connection with the construction, acquisition and installation of the Project, the operation and maintenance of the System and the administration of the Local Bonds proceeds or of any State and federal grants or other sources of financing for the Project.

2.6 The Local Government agrees that it will permit the Authority and DEP and their respective agents to have access to the records of the Local Government pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof or if the Project is an improvement to an existing system at any reasonable time following commencement of construction.

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

2.8 The Local Government shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and DEP and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Local Government, the Local Government or (at the option of the Local Government) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Local Government, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Local Government on or before the Date of Closing, as hereinafter defined, and maintained

2.13 The Local Government, during construction of the Project, shall complete Payment Requisition Forms, the form of which is attached hereto as Exhibit C and incorporated herein by reference, and forward such forms to DEP in compliance with the Local Government's construction schedule.

ARTICLE III

Conditions to Purchase of Local Bonds; Issuance of Local Bonds

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

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

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

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

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

(e) The Local Government shall have obtained all permits required by the laws of the State and the federal government necessary for the construction of the

experienced in the financing of wastewater treatment projects and satisfactory to the Authority and DEP, to such effect, such certificate to be in form and substance satisfactory to the Authority and DEP, and evidence satisfactory to the Authority and DEP of such irrevocably committed grants.

3.2 Subject to the terms and provisions of this Bond Purchase Agreement, the rules and regulations promulgated by the Authority and DEP, including the SRF Regulations, or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall purchase the Local Bonds of the Local Government and the Local Government shall issue and sell the Local Bonds to the Authority, and in furtherance thereof it is agreed that the Local Government shall sell to the Authority and the Authority shall purchase the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

3.3 The Local Bonds shall be secured and shall be repaid in the manner hereinafter provided in this Bond Purchase Agreement.

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

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

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

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by a pledge of either the net or gross revenues of the System as provided in the Local Act;

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

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

(iv) That, except as otherwise required by State law or the SRF Regulations, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole or substantially as a whole, provided that the net proceeds to be realized from such sale, mortgage, lease or other disposition shall be sufficient to fully pay all of the Local Bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of such System as evidenced by certificates from the Consulting

independent public accountant and shall submit the report of said audit to the Authority and DEP, which report shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Local Government's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

(xii) That the Local Government shall annually adopt a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding fiscal year and shall submit a copy of such budget to the Authority and DEP within 30 days of adoption thereof;

(xiii) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, prospective users of the System shall be required to connect thereto;

(xiv) That the proceeds of the Local Bonds, advanced from time to time, except for accrued interest and capitalized interest, if any, must (a) be deposited in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Local Government and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim financing of such Local Government, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority and DEP, the proceeds of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein;

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Local Government may authorize redemption of the Local Bonds with 30 days written notice to the Authority;

(xvi) That the West Virginia Municipal Bond Commission (the "Commission") shall serve as paying agent for all Local Bonds;

(xvii) That the Local Government shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payment. The Local Government shall complete the Monthly Payment Form, attached hereto as Exhibit F

4.2 The Local Bonds shall be secured by the pledge and assignment by the Local Government, as effected by the Local Act, of the fees, charges and other revenues of the Local Government from the System.

4.3 At least five percent (5%) of the proceeds of the Local Bonds will be advanced on the Date of Closing. The remaining proceeds of the Local Bonds shall be advanced by the DEP monthly as required by the Local Government to pay Costs of the Project, provided, however, if the proceeds of the Local Bonds will be used to repay an interim financing, the proceeds will be advanced on a schedule mutually agreeable to the Local Government, the DEP and the Authority. The Local Bonds shall not bear interest during the construction period but interest shall commence accruing on the completion date as defined in the SRF Regulations, provided that the annual repayment of principal and payment of interest shall begin not later than one (1) year after the completion date. The repayment of principal and interest on the Local Bonds shall be as set forth on Schedule Y hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

4.4 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Local Government. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series.

4.5 As provided by the SRF Regulations, the Local Government agrees to pay from time to time, if required by the Authority and DEP, the Local Government's allocable share of the reasonable administrative expenses of the Authority relating to the Program. Such administrative expenses shall be determined by the Authority and shall include, without limitation, Program expenses, legal fees paid by the Authority and fees paid to the trustee and paying agents for any bonds or notes to be issued by the Authority for contribution to the Fund and the fees and expenses of any corporate trustee for the Fund.

4.6 The obligation of the Authority to purchase the Local Bonds shall be conditioned upon the availability of moneys in the Fund in such amount and on such terms and conditions as, in the sole judgment of the Authority, will enable it to purchase the Local Bonds.

ARTICLE V

Certain Covenants of the Local Government; Imposition and Collection of User Charges; Payments To Be Made by Local Government to the Authority

Agreement, and the Local Government hereby covenants and agrees that, if the Authority should hereafter have recourse to said rights and powers, the Local Government shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Bond Purchase Agreement.

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

6.3 The Local Government hereby agrees to repay on or prior to the Date of Closing any moneys due and owing by it to the Authority or any other lender for the planning or design of the Project, provided that such repayment shall not be made from the proceeds of the Local Bonds.

6.4 The Local Government hereby covenants that it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Local Government fails to make any such rebates as required, then the Local Government shall pay any and all penalties, obtain a waiver from the Internal Revenue Service and take any other actions necessary or desirable to preserve the exclusion from gross income for federal income tax purposes of interest on the Local Bonds.

6.5 Notwithstanding Section 6.4, the Authority and DEP may at any time, in their sole discretion, cause the rebate calculations prepared by or on behalf of the Local Government to be monitored or cause the rebate calculations for the Local Government to be prepared, in either case at the expense of the Local Government.

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

7.7 This Bond Purchase Agreement shall terminate upon the earlier of:

(i) written notice of termination to the Local Government from either the Authority or DEP;

(ii) the end of ninety (90) days after the date of execution hereof by the Authority or such later date as is agreed to in writing by DEP if the Local Government has failed to deliver the Local Bonds to the Authority;

(iii) termination by the Authority and DEP pursuant to Section 6.2 hereof; or

(iv) payment in full of the principal of and interest on the Local Bonds and of any fees and charges owed by the Local Government to the Authority or DEP; provided that the amount of the Local Bonds purchased under this Bond Purchase Agreement in any succeeding fiscal year is contingent upon funds being appropriated by the State legislature or otherwise being available to purchase the Local Bonds. In the event funds are not appropriated or otherwise available to purchase all of the Local Bonds, the responsibility of the Authority and DEP to purchase the Local Bonds is terminated; provided further that the obligation of the Local Government to repay the outstanding amount of the Local Bonds is not terminated due to such non-funding on any balance of the Local Bonds. The DEP agrees to use its best efforts to have the amount contemplated under this Bond Purchase Agreement included in its budget. Non-appropriation or non-funding of the Loan shall not be considered an event of default under this Bond Purchase Agreement.

EXHIBIT A

FORM OF PERFORMANCE CERTIFICATE

[To Be Provided By DEP]

INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

Item 1 You will need a copy of the current fiscal year budget adopted by the Local Government to complete Items 1 and 2. In Item 1, provide the amount of actual **Gross Revenues** for the current month and the total amount year-to-date in the respective columns. Divide the budgeted annual Gross Revenues by 12. For example, if Gross Revenues of $1,200 are anticipated to be received for the year, each month the base would be increased by $100 ($1,200/12). This is the incremental amount for the Budget Year-to-Date column.

Item 2 Provide the amount of actual **Operating Expenses** for the current month and the total amount year-to-date in the respective columns. Any administrative fee should be included in the Operating Expenses. Divide the budgeted annual Operating Expenses by 12. For example, if Operating Expenses of $900 are anticipated to be incurred for the year, each month the base would be increased by $75 ($900/12). This is the incremental amount for the Budget Year-to-Date column.

Item 3 Provide the **Bond Payments (principal, interest and reserve account)** for all the outstanding bonds of the Local Government according to the source of funding. For example, Clean Water State Revolving Fund loan from Department of Environmental Protection, Drinking Water Treatment Revolving Fund loan from Bureau for Public Health, Infrastructure Fund loan from Infrastructure and Jobs Development Council, or a loan from the Water Development Authority, etc.

Item 4 Provide the amount deposited into the **Renewal and Replacement Fund** each month. This amount is equal to 2.5% of Gross Revenues minus the total reserve account payments included in Item 3. If Gross Revenues are $1,200, then $30 (2.5% of $1,200), LESS the amount of all reserve account payments in Item 3 should be deposited into the Renewal and Replacement Fund. The money in the Renewal and Replacement Fund should be kept separate and apart from all other funds of the Local Government.

The Local Government must complete the Monthly Financial Report and forward it to the Water Development Authority by the 10th day of each month, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project.

EXHIBIT D

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____
(Issuer)

_____
(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No._____, of _____, Consulting Engineers, _____, _____, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of _____ to the _____ system (the "Project") of _____ (the "Issuer"), to be constructed primarily in _____County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the same meaning set forth in the bond _____ adopted or enacted by the Issuer on _____, and the Bond Purchase Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection (the "DEP"), dated _____.

2. The Bonds are being issued for the purposes of (i) _____, and (ii) paying certain issuance and other costs in connection therewith.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the DEP and any change orders approved by the Issuer, the DEP and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least _____ years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing

EXHIBIT E

SPECIAL CONDITIONS

A. PUBLIC RELEASE REQUIREMENT - The Local Government agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations, ground breaking or project dedication program documents and other documents describing projects or programs funded in whole or in part with Federal money, (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. AUDIT REQUIREMENT (Supplement to Article IV 4.1 (b) (xi)) - Effective October 1, 2003, the Local Government that receives $500,000 or more (in federal funds) in a fiscal year must obtain audits in accordance with the Single Audit Act and the applicable OMB Circular or any successor thereto. Financial statement audits are required once all funds have been received by the Local Government.

EXHIBIT G

OPINION OF BOND COUNSEL FOR LOCAL GOVERNMENT

[To Be Dated as of Date of Closing]

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311

West Virginia Department of Environmental Protection
601 57th Street
Charleston, WV 25304

Ladies and Gentlemen:

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

We have examined a certified copy of proceedings and other papers relating to the authorization of (i) a bond purchase agreement dated ____, ___, including all schedules and exhibits attached thereto (the "Bond Purchase Agreement"), among the Local Government, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and (ii) the issue of a series of revenue bonds of the Local Government, dated _____, ___ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Bond Purchase Agreement. The Local Bonds are issued in the principal amount of $_____, in the form of one bond, registered as to principal only to the Authority, with principal payable quarterly on March 1, June 1, September 1, and December 1 of each year, beginning _____ 1, ____, and ending ____ 1, ____, all as set forth in the "Schedule Y" attached to the Bond Purchase Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purposes of (i) _____, and (ii) paying certain issuance and other costs in connection therewith.

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

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

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

Very truly yours,

2. Sewer Revenue Bonds, Series 1994 A , dated June 8, 1994, issued in the original principal amount of $170,532.

3. Sewer Revenue Bonds, Series 1996 A, dated April 25, 1996, issued in the original principal amount of $151,800.

4. Sewer Revenue Bonds, Series 1997 C, dated June 24, 1997, issued in the original principal amount of $2,197,304.

5. Sewer Revenue Refunding Bonds, Series 1997 D, dated June 24, 1997, issued in the original principal amount of $3,056,955.

6. Sewer Revenue Bonds, Series 1998 A, dated November 25, 1998, issued in the original principal amount of $1,202,100.

7. Sewer Revenue Bonds, Series 1998 B, dated December 17, 1998, issued in the original principal amount of $839,000.

8. Sewer Revenue Bonds, Series 1999 A, dated March 18, 1999, issued in the original principal amount of $752,000.

9. Sewer Revenue Bonds, Series 1999 B, dated March 18, 1999, issued in the original principal amount of $165,000.

10. Sewer Revenue Bonds, Series 2002 A, dated March 8, 2002, issued in the original principal amount of $2,419,905.

11. Sewer Revenue Bonds, Series 2005 B , dated December 13, 2005, issued in the original principal amount of $2,875,000.

$3,078,043

Shady Spring Public Service District
0% Interest Rate, 1/2% Administrative Fee, 40 Years
Closing Date: December 19, 2005

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2017	20,251.00	-	20,251.00
06/01/2017	20,251.00	-	20,251.00
09/01/2017	20,251.00	-	20,251.00
12/01/2017	20,251.00	-	20,251.00
03/01/2018	20,251.00	-	20,251.00
06/01/2018	20,251.00	-	20,251.00
09/01/2018	20,251.00	-	20,251.00
12/01/2018	20,250.00	-	20,250.00
03/01/2019	20,250.00	-	20,250.00
06/01/2019	20,250.00	-	20,250.00
09/01/2019	20,250.00	-	20,250.00
12/01/2019	20,250.00	-	20,250.00
03/01/2020	20,250.00	-	20,250.00
06/01/2020	20,250.00	-	20,250.00
09/01/2020	20,250.00	-	20,250.00
12/01/2020	20,250.00	-	20,250.00
03/01/2021	20,250.00	-	20,250.00
06/01/2021	20,250.00	-	20,250.00
09/01/2021	20,250.00	-	20,250.00
12/01/2021	20,250.00	-	20,250.00
03/01/2022	20,250.00	-	20,250.00
06/01/2022	20,250.00	-	20,250.00
09/01/2022	20,250.00	-	20,250.00
12/01/2022	20,250.00	-	20,250.00
03/01/2023	20,250.00	-	20,250.00
06/01/2023	20,250.00	-	20,250.00
09/01/2023	20,250.00	-	20,250.00
12/01/2023	20,250.00	-	20,250.00
03/01/2024	20,250.00	-	20,250.00
06/01/2024	20,250.00	-	20,250.00
09/01/2024	20,250.00	-	20,250.00
12/01/2024	20,250.00	-	20,250.00
03/01/2025	20,250.00	-	20,250.00
06/01/2025	20,250.00	-	20,250.00
09/01/2025	20,250.00	-	20,250.00
12/01/2025	20,250.00	-	20,250.00
03/01/2026	20,250.00	-	20,250.00
06/01/2026	20,250.00	-	20,250.00
09/01/2026	20,250.00	-	20,250.00
12/01/2026	20,250.00	-	20,250.00
03/01/2027	20,250.00	-	20,250.00
06/01/2027	20,250.00	-	20,250.00
09/01/2027	20,250.00	-	20,250.00
12/01/2027	20,250.00	-	20,250.00

$3,078,043

Shady Spring Public Service District
0% Interest Rate, 1/2% Administrative Fee, 40 Years
Closing Date: December 19, 2005

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2039	20,250.00	-	20,250.00
06/01/2039	20,250.00	-	20,250.00
09/01/2039	20,250.00	-	20,250.00
12/01/2039	20,250.00	-	20,250.00
03/01/2040	20,250.00	-	20,250.00
06/01/2040	20,250.00	-	20,250.00
09/01/2040	20,250.00	-	20,250.00
12/01/2040	20,250.00	-	20,250.00
03/01/2041	20,250.00	-	20,250.00
06/01/2041	20,250.00	-	20,250.00
09/01/2041	20,250.00	-	20,250.00
12/01/2041	20,250.00	-	20,250.00
03/01/2042	20,250.00	-	20,250.00
06/01/2042	20,250.00	-	20,250.00
09/01/2042	20,250.00	-	20,250.00
12/01/2042	20,250.00	-	20,250.00
03/01/2043	20,250.00	-	20,250.00
06/01/2043	20,250.00	-	20,250.00
09/01/2043	20,250.00	-	20,250.00
12/01/2043	20,250.00	-	20,250.00
03/01/2044	20,250.00	-	20,250.00
06/01/2044	20,250.00	-	20,250.00
09/01/2044	20,250.00	-	20,250.00
12/01/2044	20,250.00	-	20,250.00
03/01/2045	20,250.00	-	20,250.00
06/01/2045	20,250.00	-	20,250.00
09/01/2045	20,250.00	-	20,250.00
12/01/2045	20,250.00	-	20,250.00
Total	**$3,078,043.00**	**-**	**$3,078,043.00** *

Yield Statistics

Bond Year Dollars	$64,920.47
Average Life	21.091 Years
Average Coupon	-
Net Interest Cost (NIC)	-
True Interest Cost (TIC)	2.49E-10
Bond Yield for Arbitrage Purposes	2.49E-10
All Inclusive Cost (AIC)	0.4509948%

IRS Form 8038

Net Interest Cost	-
Weighted Average Maturity	21.091 Years

*Plus $1,936.42 one-half percent administrative fee paid quarterly. Total fee over life of loan is $294,335.53.

3(b)

IC-1
(11/01/04)

$2,875,000

LOAN AGREEMENT

THIS LOAN AGREEMENT, made and entered into in several counterparts, by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), acting on behalf of the WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL (the "Council"), and the governmental agency designated below (the "Governmental Agency").

SHADY SPRING PUBLIC SERVICE DISTRICT
(Governmental Agency)

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (the "Act"), the Authority is empowered upon request of the Council to make loans to governmental agencies for the acquisition or construction of projects by such governmental agencies, subject to such provisions and limitations as are contained in the Act;

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

WHEREAS, the Governmental Agency is authorized and empowered by the statutes of the State to acquire, construct, improve, operate and maintain a project, as defined by the Act, and to finance the cost of acquisition and construction of the same by borrowing money to be evidenced by revenue bonds issued by the Governmental Agency;

WHEREAS, the Governmental Agency intends to construct, is constructing or has constructed such a project at the location and as more particularly described and set forth in the Application, as hereinafter defined (the "Project");

WHEREAS, the Governmental Agency has completed and filed with the Authority an Application for a Construction Loan with attachments and exhibits and an Amended Application for a Construction Loan also with attachments and exhibits (together, as further revised and supplemented, the "Application"), which Application is incorporated herein by this reference; and

WHEREAS, having reviewed the Application and made all findings required by the Act and having available sufficient funds therefor, the Council has authorized the Authority to lend the Governmental Agency the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Governmental Agency with money in the Infrastructure Fund, subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Council's loan program (the "Program") as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Governmental Agency and the Authority hereby agree as follows:

ARTICLE I

Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "cost," "Council," "governmental agency," "project," "waste water facility" and "water facility" have the definitions and meanings ascribed to them in the Act.

1.2 "Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Bonds, acting in its administrative capacity pursuant to Section 10 of the Act and upon authorization from the Council.

1.3 "Consulting Engineers" means the professional engineer, licensed by the State, designated in the Application and any qualified successor thereto; provided, however, when a Loan is made for a Project financed, in part, by the Office of Abandoned Mine Lands, "Consulting Engineers" shall mean the West Virginia Department of Environmental Protection, or any successor thereto.

1.4 "Infrastructure Fund" means the West Virginia Infrastructure Fund established in accordance with Section 9 of the Act.

1.5 "Loan" means the loan to be made by the Authority to the Governmental Agency through the purchase of Local Bonds, as hereinafter defined, pursuant to this Loan Agreement.

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

1.7 "Local Bonds" means the revenue bonds to be issued by the Governmental Agency pursuant to the provisions of the Local Statute, as hereinafter defined, to evidence the Loan and to be purchased by the Authority, all in accordance with the provisions of this Loan Agreement.

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

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

1.10 "Project" means the project hereinabove referred to, to be constructed or being constructed by the Governmental Agency in whole or in part with the net proceeds of the Local Bonds.

1.11 "System" means the project owned by the Governmental Agency, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

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

ARTICLE II

The Project and the System

2.1 The Project shall generally consist of the construction and acquisition of the facilities described in the Application, to be, being or having been constructed in accordance with plans, specifications and designs prepared for the Governmental Agency by the Consulting Engineers, the Authority and Council having found, to the extent applicable, that the Project is consistent with the Act.

2.2 Subject to the terms, conditions and provisions of this Loan Agreement and the Local Act, the Governmental Agency has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared for the Governmental Agency by the Consulting Engineers.

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Governmental Agency, subject to any mortgage lien or other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property or any interest therein is approved by the Authority and Council.

2.4 The Governmental Agency agrees that the Authority and the Council and their duly authorized agents shall have the right at all reasonable times to enter upon the Project site and Project facilities and to examine and inspect the same. The Governmental Agency further agrees that the Authority and the Council and their duly authorized agents

and representatives shall, prior to, during and after completion of construction and commencement of operation of the Project, have such rights of access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the Council with respect to the System pursuant to the pertinent provisions of the Act.

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

2.6 The Governmental Agency agrees that it will permit the Authority and the Council and their agents and representatives to have access to the records of the Governmental Agency pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof or if the Project is an improvement to an existing system at any reasonable time following commencement of construction.

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

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Council and the Authority and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Governmental Agency, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Governmental Agency on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds is

outstanding. Prior to commencing operation of the Project, the Governmental Agency must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

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

2.10 The Governmental Agency shall at all times provide operation and maintenance of the System in compliance with any and all State and federal standards. The Governmental Agency shall employ qualified operating personnel properly certified by the State to operate the System during the entire term of this Loan Agreement.

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

2.12 The Governmental Agency, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project, shall each month complete a Monthly Financial Report, the form of which is attached hereto as Exhibit C and incorporated herein by reference, and forward a copy by the 10th of each month to the Authority and Council.

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

(e) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") and the Council necessary for the construction of the Project and operation of the System, with all requisite appeal periods having expired without successful appeal, and the Authority and the Council shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority and the Council, to such effect;

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

(g) The Governmental Agency shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project), with all requisite appeal periods having expired without successful appeal, and the Authority and the Council shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority and the Council, to such effect;

(h) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof, and the Authority and the Council shall have received a certificate of the accountant for the Governmental Agency,

or such other person or firm experienced in the finances of governmental agencies and satisfactory to the Authority and the Council, to such effect; and

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

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

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

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

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Council for loans from the Infrastructure Fund to finance projects and that the obligation of the Authority to make any such loan is subject to the Council's authorization and the Governmental Agency's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing. The Governmental Agency specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Infrastructure

Fund to purchase all the Local Bonds and that, prior to execution of this Loan Agreement, the Authority may commit to and purchase the revenue bonds of other governmental agencies for which it has sufficient funds available.

ARTICLE IV

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

4.1 The Governmental Agency shall, as one of the conditions of the Authority to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official action of the Governmental Agency in accordance with the Local Statute, which shall, as adopted or enacted, contain provisions and covenants in substantially the form as follows, unless the specific provision or covenant is modified or waived by the Council:

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

(i) to pay Operating Expenses of the System;

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

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

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by a pledge of either the gross or net revenues of the System, as more fully set forth in Schedule X attached hereto and in the Local Act;

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

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

(iv) That, except as otherwise required by State law or with the written consent of the Council and the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Local Bonds outstanding, with further restrictions on the disposition of portions of the System as are normally contained in such covenants;

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

provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

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

(viii) That the Authority may, by proper legal action, compel the performance of the duties of the Governmental Agency under the Local Act, including the making and collection of sufficient rates or charges for services rendered by the System, and shall also have, in the event of a default in payment of principal of or interest on the Local Bonds, the right to obtain the appointment of a receiver to administer the System or construction of the Project, or both, as provided by law;

(ix) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, all delinquent rates and charges, if not paid when due, shall become a lien on the premises served by the System;

(x) That, to the extent legally allowable, the Governmental Agency will not grant any franchise to provide any services which would compete with the System;

(xi) That the Governmental Agency shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and the Council, which report shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Governmental Agency's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

(xii) That the Governmental Agency shall annually adopt a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding fiscal year and shall submit a copy of such budget to the Authority and the Council within 30 days of adoption thereof;

(xiii) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, prospective users of the System shall be required to connect thereto;

(xiv) That the proceeds of the Local Bonds, advanced from time to time, must (a) be deposited in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Governmental Agency and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim financing of such Governmental Agency, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority and the Council, the proceeds of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein;

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Governmental Agency may not redeem any Local Bonds by it without the written consent of the Authority and the Council and otherwise in compliance with this Loan Agreement;

(xvi) That the West Virginia Municipal Bond Commission (the "Commission") shall serve as paying agent for the Local Bonds;

(xvii) That the Governmental Agency shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payment. The Governmental Agency shall complete the Monthly Payment Form, attached hereto as Exhibit D and incorporated herein by reference, and submit a copy of said form along with a copy of the check or electronic transfer to the Authority by the 5th day of such calendar month;

(xviii) That, unless it qualifies for an exception to the provisions of Section 148 of the Internal Revenue Code of 1986, as amended, which exception shall be set forth in an opinion of bond counsel, the Governmental Agency will furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Internal Revenue Code of 1986, as amended, a certificate with respect to its rebate calculations and, at any time, any additional information requested by the Authority;

(xix) That the Governmental Agency shall take any and all action, or shall refrain from taking any action regarding the use of the proceeds of the Local Bonds, as shall be deemed necessary by the Authority to maintain the exclusion from gross income for federal income tax purposes of interest on the State's general obligation bonds or any bonds secured by the Local Bonds;

(xx) That the Governmental Agency shall have obtained the certificate of the Consulting Engineer in the form attached hereto as Exhibit A, to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority and the Council, the Project is

adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the Council is sufficient to pay the costs of acquisition and construction of the Project and all permits required by federal and State laws for construction of the Project have been obtained;

(xxi) That the Governmental Agency shall, to the full extent permitted by applicable law and the rules and regulations of the PSC, terminate the services of any water facility owned by it to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore the services of the water facility until all delinquent charges for the services of the System have been fully paid or, if the water facility is not owned by the Governmental Agency, then the Governmental Agency shall enter into a termination agreement with the water provider;

(xxii) That the Governmental Agency shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the Local Bonds (as that term is defined in the Internal Revenue Code of 1986, as amended) from time to time as the Authority may request;

(xxiii) That the Governmental Agency shall submit all proposed change orders to the Council for written approval. The Governmental Agency shall obtain the written approval of the Council before expending any proceeds of the Local Bonds held in "contingency" as set forth in the final Schedule B attached to the certificate of the Consulting Engineer. The Governmental Agency shall obtain the written approval of the Council before expending any proceeds of the Local Bonds available due to bid/construction/project underruns;

(xxiv) That the Governmental Agency shall list the funding provided by the Authority and the Council in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any groundbreaking or dedication of the Project; and

(xxv) That, unless it qualifies for an exception, the Governmental Agency shall comply with all the requirements of Chapter 21, Article 1C of the Code of West Virginia, 1931, as amended (the "West Virginia Jobs Act") and shall require its contractors and subcontractors to comply with the West Virginia Jobs Act. The Governmental Agency shall provide the Council and the Authority with a certificate stating that (I) the Governmental Agency will comply with all the requirements of the West Virginia Jobs Act; (II) the Governmental Agency has included the provisions of the West Virginia Jobs Act in each contract and subcontract for the Project; (III) the Governmental Agency has received or will receive, prior to entering into contracts or subcontracts, from each contractor or subcontractor a certificate demonstrating compliance with Section 4 of the West Virginia Jobs Act or waiver certificates from the West Virginia Division of Labor ("DOL"); and (IV) the Governmental Agency will file with the DOL and the Council copies of the waiver certificates and certified payrolls or comparable documents that include the number of employees, the county and state wherein the employees reside and their occupation,

following the procedures established by the DOL. The monthly requisitions submitted to the Council shall also certify that the Governmental Agency is monitoring compliance by its contractors and subcontractors and that the required information has been submitted.

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

4.2 The Loan shall be secured by the pledge and assignment by the Governmental Agency, as effected by the Local Act, of the fees, charges and other revenues of the Governmental Agency from the System as further set forth by and subject only to such reservations and exceptions as are described in Schedules X and Y hereto or are otherwise expressly permitted in writing by the Authority and the Council.

4.3 The principal of the Loan shall be repaid by the Governmental Agency on the days and in the years provided in Schedule X hereto. Interest payments on the Loan shall be made by the Governmental Agency on a quarterly basis as provided in said Schedule X.

4.4 The Loan shall bear interest from the date and at the rate or rates per annum set forth on Schedule X hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

4.5 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Governmental Agency. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series, as reflected by Schedule X hereto.

4.6 The Governmental Agency agrees to expend the net proceeds of the Local Bonds for the Project within 3 years of the issuance of the bonds which are the source of money used to purchase the Local Bonds, unless otherwise agreed to by the Council.

ARTICLE V

Certain Covenants of the Governmental Agency; Imposition and Collection of User Charges; Payments To Be Made by Governmental Agency to the Authority

5.1 The Governmental Agency hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Governmental Agency hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System and will take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and in compliance with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the required sums set forth in the Local Act and this Loan Agreement, the Governmental Agency hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges (or where applicable, immediately file with the PSC for a rate increase) and take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and this Loan Agreement.

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

5.4 The Governmental Agency hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Governmental Agency, the Authority may exercise any or all of the rights and powers granted under the Act and State law, including, without limitation, the right to an appointment of a receiver.

ARTICLE VI

Other Agreements of the Governmental Agency

6.1 The Governmental Agency hereby warrants and represents that all information provided to the Authority and the Council in this Loan Agreement, in the Application or in any other application or documentation with respect to financing the Project was at the time, and now is, true, correct and complete, and such information does not omit

any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Prior to the Authority's making the Loan and receiving the Local Bonds, the Authority and the Council shall have the right to cancel all or any of their obligations under this Loan Agreement if (a) any representation made to the Authority and the Council by the Governmental Agency in connection with the Loan shall be incorrect or incomplete in any material respect or (b) the Governmental Agency has violated any commitment made by it in its Application or in any supporting documentation or has violated any of the terms of the Act or this Loan Agreement.

6.2 The Governmental Agency hereby covenants that it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Governmental Agency fails to make any such rebates as required, then the Governmental Agency shall pay any and all penalties, obtain a waiver from the Internal Revenue Service and take any other actions necessary or desirable to preserve the exclusion from gross income for federal income tax purposes of interest on the Local Bonds.

6.3 Notwithstanding Section 6.2, the Authority may at any time, in its sole discretion, cause the rebate calculations prepared by or on behalf of the Governmental Agency to be monitored or cause the rebate calculations for the Governmental Agency to be prepared, in either case at the expense of the Governmental Agency.

6.4 The Governmental Agency hereby agrees to give the Authority and the Council prior written notice of the issuance by it of any other obligations to be used for the System, payable from the revenues of the System or from any grants for the Project or otherwise related to the Project or the System.

6.5 The Governmental Agency hereby agrees to file with the Authority and the Council upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule B to the Application, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE VII

Miscellaneous

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

7.2 Schedules X and Y shall be attached to this Loan Agreement by the Authority as soon as practicable after the Date of Loan Closing is established and shall be

approved by an official action of the Governmental Agency supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority and the Council.

7.3 The Authority shall take all actions required by the Council in making and enforcing this Loan Agreement.

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

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

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

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

7.8 The Authority acknowledges that certain terms and requirements in this Loan Agreement may not be applicable when the Project is financed in part by the West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands and under that circumstance those terms and requirements are specifically waived or modified as agreed to by the Authority and set forth in the Local Act.

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

7.10 This Loan Agreement shall terminate upon the earlier of:

(i) the end of ninety (90) days after the date of execution hereof by the Authority or such later date as is agreed to in writing by the Council if the Governmental Agency has failed to deliver the Local Bonds to the Authority;

(ii) termination by the Authority and the Council pursuant to Section 6.1 hereof; or

(iii) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Governmental Agency to the Authority, acting on behalf of the Council.

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

SHADY SPRING PUBLIC SERVICE DISTRICT

(SEAL)

By: _____
Its: Chairperson
Date: 12/01/05

Attest:

_____
Its: Secretary

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

(SEAL)

By: _____
Its: Director
Date: December 13, 2005

Attest:

_____
Its: Secretary-Treasurer

11/15/05
017542/00301

M0471439.1

EXHIBIT A

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____
(Issuer)

_____
(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No. _____, of _____, Consulting Engineers,_____, _____ hereby certify as follows:

1. My firm is engineer for the acquisition and construction of _____ to the _____ system (the "Project") of _____ (the "Issuer"), to be constructed primarily in _____ County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the same meanings set forth in the bond _____ adopted or enacted by the Issuer on _____, and the Loan Agreement by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), dated _____.

2. The Bonds are being issued for the purposes of (i) _____, and (ii) paying certain issuance and other costs in connection therewith.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by [DEP/BPH/PSC] and any change orders approved by the Issuer, the Council and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least ___years if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing

set forth in the Schedule B attached hereto as Exhibit A and my firm[1] has ascertained that all successful bidders have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the [DEP/BPH/PSC] and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) as of the effective date thereof, [2]the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project set forth in the Schedule B attached hereto and approved by the Council; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Final Total Cost of Project, Sources of Funds and Costs of Financing" for the Project.

WITNESS my signature and seal on this ____ day of _____, ___.

[SEAL]

_____

By: _____
West Virginia License No. _____

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[1]If another responsible party, such as the Issuer's attorney, reviews the insurance and payment bonds, then insert the following: [and in reliance upon the opinion of _____, Esq.] and delete "my firm has ascertained that".

[2]If the Rule 42 Exhibit and/or rate structure was prepared by an accountant, then insert the following: "In reliance upon the certificate of _____ of even date herewith," at the beginning of (ix).

EXHIBIT B

OPINION OF BOND COUNSEL FOR GOVERNMENTAL AGENCY

[To Be Dated as of Date of Loan Closing]

West Virginia Infrastructure and
Jobs Development Council
300 Summers Street, Suite 980
Charleston, West Virginia 25301

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25311

Ladies and Gentlemen:

We are bond counsel to _____ (the "Governmental Agency"), a _____.

We have examined a certified copy of proceedings and other papers relating to the authorization of (i) a loan agreement dated _____, _____, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Governmental Agency and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and (ii) the issue of a series of revenue bonds of the Governmental Agency, dated _____, _____ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are issued in the principal amount of $_____, in the form of one bond, registered as to principal and interest to the Authority, with interest and principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, beginning _____, 1, _____, and ending _____, 1, _____, as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purposes of (i) _____, and (ii) paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly adopted or enacted by the Governmental Agency on _____, as supplemented by the supplemental resolution duly adopted by the Governmental Agency on _____ (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement has been undertaken. The Local Bonds are subject to redemption prior

to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

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

3. The Governmental Agency is a duly organized and validly existing _____, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt or enact the Local Act and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Act and all other necessary orders and resolutions have been legally and effectively adopted or enacted by the Governmental Agency and constitute valid and binding obligations of the Governmental Agency, enforceable against the Governmental Agency in accordance with their terms. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds have been duly authorized, issued, executed and delivered by the Governmental Agency to the Authority and are valid, legally enforceable and binding special obligations of the Governmental Agency, payable from the net or gross revenues of the System set forth in the Local Act and secured by a first lien on and pledge of the net or gross revenues of the System, all in accordance with the terms of the Local Bonds and the Local Act.

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

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

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

Very truly yours,

EXHIBIT C

MONTHLY FINANCIAL REPORT

Name of Governmental Agency _____
Name of Bond Issue(s) _____
Type of Project _____ **Water** _____ **Wastewater**
Fiscal Year _____ **Report Month** _____

Item	Current Month	Total Year To Date	Budget Year To Date	Budget Year To Date Minus Total Year To Date
1. Gross Revenues	_____	_____	_____	_____
2. Operating Expenses	_____	_____	_____	_____
3. Bond Payments:				
Type of Issue				
Clean Water SRF	_____	_____	_____	_____
Drinking Water TRF	_____	_____	_____	_____
Infrastructure Fund	_____	_____	_____	_____
Water Development Authority	_____	_____	_____	_____
Rural Utilities Service	_____	_____	_____	_____
Economic Development Administration	_____	_____	_____	_____
Other (Identify)				
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
4. Renewal and Replacement Fund Deposits	_____	_____	_____	_____

_____
Name of Person Completing Form

_____
Address

_____
Telephone

M0471439.1

INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

Item 1 You will need a copy of the current fiscal year budget adopted by the Governmental Agency to complete Items 1 and 2. In Item 1, provide the amount of actual **Gross Revenues** for the current month and the total amount year-to-date in the respective columns. Divide the budgeted annual Gross Revenues by 12. For example, if Gross Revenues of $1,200 are anticipated to be received for the year, each month the base would be increased by $100 ($1,200/12). This is the incremental amount for the Budget Year-to-Date column.

Item 2 Provide the amount of actual **Operating Expenses** for the current month and the total amount year-to-date in the respective columns. Any administrative fee should be included in the Operating Expenses. Divide the budgeted annual Operating Expenses by 12. For example, if Operating Expenses of $900 are anticipated to be incurred for the year, each month the base would be increased by $75 ($900/12). This is the incremental amount for the Budget Year-to-Date column.

Item 3 Provide the **Bond Payments (principal, interest and reserve account)** for all the outstanding bonds of the Governmental Agency according to the source of funding. For example, Clean Water State Revolving Fund loan from Department of Environmental Protection, Drinking Water Treatment Revolving Fund loan from Bureau for Public Health, Infrastructure Fund loan from Infrastructure and Jobs Development Council, or a loan from the Water Development Authority, etc.

Item 4 Provide the amount deposited into the **Renewal and Replacement Fund** each month. This amount is equal to 2.5% of Gross Revenues minus the total reserve account payments included in Item 3. If Gross Revenues are $1,200, then $30 (2.5% of $1,200), LESS the amount of all reserve account payments in Item 3 should be deposited into the Renewal and Replacement Fund. The money in the Renewal and Replacement Fund should be kept separate and apart from all other funds of the Governmental Agency.

The Governmental Agency must complete the Monthly Financial Report and forward it to the Water Development Authority by the 10th day of each month, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project.

EXHIBIT D

MONTHLY PAYMENT FORM

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311

Re: [Name of bond issue]

Ladies and Gentlemen:

The following deposits were made to the West Virginia Municipal Bond Commission on behalf of [Name of Governmental Agency] on [Date].

Sinking Fund:	
Interest	$____
Principal	$____
Total:	$____
Reserve Account:	$____

Witness my signature this ___ day of_____.

[Name of Governmental Agency]

By: _____
Authorized Officer

Enclosure: copy of check(s)

M0471439.1

SCHEDULE X

DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds	$2,875,000
Purchase Price of Local Bonds	$2,875,000

The Local Bonds shall bear no interest. Commencing March 1, 2008, principal of the Local Bonds is payable quarterly. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

The Governmental Agency shall submit its payments monthly to the Commission which will make quarterly payments to the Authority at such address as is given to the Commission in writing by the Authority.

The Local Bonds are fully registered in the name of the Authority as to interest, if any, and principal and the Local Bonds shall grant the Authority a first lien on the gross or net revenues of the Governmental Agency's system as provided in the Local Act.

The Governmental Agency may prepay the Local Bonds in full at any time at the price of par but only with the Council's written consent. The Governmental Agency shall request approval from the Authority and Council in writing of any proposed debt which will be issued by the Governmental Agency on a parity with the Local Bonds which request must be filed at least 60 days prior to the intended date of issuance.

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

1. Sewer Revenue Bonds, Series 1982 B, dated August 12, 1982, issued in the original principal amount of $795,515.

2. Sewer Revenue Bonds, Series 1994 A , dated June 8, 1994, issued in the original principal amount of $170,532.

3. Sewer Revenue Bonds, Series 1996 A, dated April 25, 1996, issued in the original principal amount of $151,800.

4. Sewer Revenue Bonds, Series 1997 C, dated June 24, 1997, issued in the original principal amount of $2,197,304.

5. Sewer Revenue Refunding Bonds, Series 1997 D, dated June 24, 1997, issued in the original principal amount of $3,056,955.

6. Sewer Revenue Bonds, Series 1998 A, dated November 25, 1998, issued in the original principal amount of $1,202,100.

7. Sewer Revenue Bonds, Series 1998 B, dated December 17, 1998, issued in the original principal amount of $839,000.

8. Sewer Revenue Bonds, Series 1999 A, dated March 18, 1999, issued in the original principal amount of $752,000.

9. Sewer Revenue Bonds, Series 1999 B, dated March 18, 1999, issued in the original principal amount of $165,000.

10. Sewer Revenue Bonds, Series 2002 A, dated March 8, 2002, issued in the original principal amount of $2,419,905.

11. Sewer Revenue Bonds, Series 2005 A , dated December 19, 2005, issued in the original principal amount of $3,078,043.

$2,875,000

Shady Spring Public Service District
40 Years from Closing Date; 0% Interest Rate
Closing Date: December 19, 2005

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2006	-	-	-
06/01/2006	-	-	-
09/01/2006	-	-	-
12/01/2006	-	-	-
03/01/2007	-	-	-
06/01/2007	-	-	-
09/01/2007	-	-	-
12/01/2007	-	-	-
03/01/2008	18,914.48	-	18,914.48
06/01/2008	18,914.48	-	18,914.48
09/01/2008	18,914.48	-	18,914.48
12/01/2008	18,914.48	-	18,914.48
03/01/2009	18,914.48	-	18,914.48
06/01/2009	18,914.48	-	18,914.48
09/01/2009	18,914.48	-	18,914.48
12/01/2009	18,914.48	-	18,914.48
03/01/2010	18,914.48	-	18,914.48
06/01/2010	18,914.48	-	18,914.48
09/01/2010	18,914.48	-	18,914.48
12/01/2010	18,914.48	-	18,914.48
03/01/2011	18,914.48	-	18,914.48
06/01/2011	18,914.48	-	18,914.48
09/01/2011	18,914.48	-	18,914.48
12/01/2011	18,914.48	-	18,914.48
03/01/2012	18,914.48	-	18,914.48
06/01/2012	18,914.48	-	18,914.48
09/01/2012	18,914.48	-	18,914.48
12/01/2012	18,914.48	-	18,914.48
03/01/2013	18,914.48	-	18,914.48
06/01/2013	18,914.48	-	18,914.48
09/01/2013	18,914.48	-	18,914.48
12/01/2013	18,914.48	-	18,914.48
03/01/2014	18,914.48	-	18,914.48
06/01/2014	18,914.48	-	18,914.48
09/01/2014	18,914.48	-	18,914.48
12/01/2014	18,914.48	-	18,914.48
03/01/2015	18,914.48	-	18,914.48
06/01/2015	18,914.48	-	18,914.48
09/01/2015	18,914.48	-	18,914.48
12/01/2015	18,914.48	-	18,914.48
03/01/2016	18,914.48	-	18,914.48
06/01/2016	18,914.48	-	18,914.48
09/01/2016	18,914.48	-	18,914.48
12/01/2016	18,914.48	-	18,914.48

$2,875,000

Shady Spring Public Service District
40 Years from Closing Date; 0% Interest Rate
Closing Date: December 19, 2005

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2017	18,914.48	-	18,914.48
06/01/2017	18,914.48	-	18,914.48
09/01/2017	18,914.48	-	18,914.48
12/01/2017	18,914.48	-	18,914.48
03/01/2018	18,914.48	-	18,914.48
06/01/2018	18,914.48	-	18,914.48
09/01/2018	18,914.48	-	18,914.48
12/01/2018	18,914.48	-	18,914.48
03/01/2019	18,914.48	-	18,914.48
06/01/2019	18,914.48	-	18,914.48
09/01/2019	18,914.48	-	18,914.48
12/01/2019	18,914.48	-	18,914.48
03/01/2020	18,914.48	-	18,914.48
06/01/2020	18,914.48	-	18,914.48
09/01/2020	18,914.48	-	18,914.48
12/01/2020	18,914.48	-	18,914.48
03/01/2021	18,914.48	-	18,914.48
06/01/2021	18,914.48	-	18,914.48
09/01/2021	18,914.48	-	18,914.48
12/01/2021	18,914.48	-	18,914.48
03/01/2022	18,914.47	-	18,914.47
06/01/2022	18,914.47	-	18,914.47
09/01/2022	18,914.47	-	18,914.47
12/01/2022	18,914.47	-	18,914.47
03/01/2023	18,914.47	-	18,914.47
06/01/2023	18,914.47	-	18,914.47
09/01/2023	18,914.47	-	18,914.47
12/01/2023	18,914.47	-	18,914.47
03/01/2024	18,914.47	-	18,914.47
06/01/2024	18,914.47	-	18,914.47
09/01/2024	18,914.47	-	18,914.47
12/01/2024	18,914.47	-	18,914.47
03/01/2025	18,914.47	-	18,914.47
06/01/2025	18,914.47	-	18,914.47
09/01/2025	18,914.47	-	18,914.47
12/01/2025	18,914.47	-	18,914.47
03/01/2026	18,914.47	-	18,914.47
06/01/2026	18,914.47	-	18,914.47
09/01/2026	18,914.47	-	18,914.47
12/01/2026	18,914.47	-	18,914.47
03/01/2027	18,914.47	-	18,914.47
06/01/2027	18,914.47	-	18,914.47
09/01/2027	18,914.47	-	18,914.47
12/01/2027	18,914.47	-	18,914.47

$2,875,000

Shady Spring Public Service District
40 Years from Closing Date; 0% Interest Rate
Closing Date: December 19, 2005

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2028	18,914.47	-	18,914.47
06/01/2028	18,914.47	-	18,914.47
09/01/2028	18,914.47	-	18,914.47
12/01/2028	18,914.47	-	18,914.47
03/01/2029	18,914.47	-	18,914.47
06/01/2029	18,914.47	-	18,914.47
09/01/2029	18,914.47	-	18,914.47
12/01/2029	18,914.47	-	18,914.47
03/01/2030	18,914.47	-	18,914.47
06/01/2030	18,914.47	-	18,914.47
09/01/2030	18,914.47	-	18,914.47
12/01/2030	18,914.47	-	18,914.47
03/01/2031	18,914.47	-	18,914.47
06/01/2031	18,914.47	-	18,914.47
09/01/2031	18,914.47	-	18,914.47
12/01/2031	18,914.47	-	18,914.47
03/01/2032	18,914.47	-	18,914.47
06/01/2032	18,914.47	-	18,914.47
09/01/2032	18,914.47	-	18,914.47
12/01/2032	18,914.47	-	18,914.47
03/01/2033	18,914.47	-	18,914.47
06/01/2033	18,914.47	-	18,914.47
09/01/2033	18,914.47	-	18,914.47
12/01/2033	18,914.47	-	18,914.47
03/01/2034	18,914.47	-	18,914.47
06/01/2034	18,914.47	-	18,914.47
09/01/2034	18,914.47	-	18,914.47
12/01/2034	18,914.47	-	18,914.47
03/01/2035	18,914.47	-	18,914.47
06/01/2035	18,914.47	-	18,914.47
09/01/2035	18,914.47	-	18,914.47
12/01/2035	18,914.47	-	18,914.47
03/01/2036	18,914.47	-	18,914.47
06/01/2036	18,914.47	-	18,914.47
09/01/2036	18,914.47	-	18,914.47
12/01/2036	18,914.47	-	18,914.47
03/01/2037	18,914.47	-	18,914.47
06/01/2037	18,914.47	-	18,914.47
09/01/2037	18,914.47	-	18,914.47
12/01/2037	18,914.47	-	18,914.47
03/01/2038	18,914.47	-	18,914.47
06/01/2038	18,914.47	-	18,914.47
09/01/2038	18,914.47	-	18,914.47
12/01/2038	18,914.47	-	18,914.47

$2,875,000

Shady Spring Public Service District
40 Years from Closing Date; 0% Interest Rate
Closing Date: December 19, 2005

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2039	18,914.47	-	18,914.47
06/01/2039	18,914.47	-	18,914.47
09/01/2039	18,914.47	-	18,914.47
12/01/2039	18,914.47	-	18,914.47
03/01/2040	18,914.47	-	18,914.47
06/01/2040	18,914.47	-	18,914.47
09/01/2040	18,914.47	-	18,914.47
12/01/2040	18,914.47	-	18,914.47
03/01/2041	18,914.47	-	18,914.47
06/01/2041	18,914.47	-	18,914.47
09/01/2041	18,914.47	-	18,914.47
12/01/2041	18,914.47	-	18,914.47
03/01/2042	18,914.47	-	18,914.47
06/01/2042	18,914.47	-	18,914.47
09/01/2042	18,914.47	-	18,914.47
12/01/2042	18,914.47	-	18,914.47
03/01/2043	18,914.47	-	18,914.47
06/01/2043	18,914.47	-	18,914.47
09/01/2043	18,914.47	-	18,914.47
12/01/2043	18,914.47	-	18,914.47
03/01/2044	18,914.47	-	18,914.47
06/01/2044	18,914.47	-	18,914.47
09/01/2044	18,914.47	-	18,914.47
12/01/2044	18,914.47	-	18,914.47
03/01/2045	18,914.47	-	18,914.47
06/01/2045	18,914.47	-	18,914.47
09/01/2045	18,914.47	-	18,914.47
12/01/2045	18,914.47	-	18,914.47
Total	**$2,875,000.00**	**-**	**$2,875,000.00**

Yield Statistics

Bond Year Dollars	$60,638.53
Average Life	21.092 Years
Average Coupon	-
Net Interest Cost (NIC)	-
True Interest Cost (TIC)	2.49E-10
Bond Yield for Arbitrage Purposes	2.49E-10
All Inclusive Cost (AIC)	2.49E-10

IRS Form 8038

Net Interest Cost	-
Weighted Average Maturity	21.092 Years

SCHEDULE Z

None.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the Public Service Commission of West Virginia, in the City of Charleston, on the 12th day of December, 2005.

CASE NO. 05-0314-PSD-CN

SHADY SPRING PUBLIC SERVICE DISTRICT,
a public utility, Beaver, Raleigh County.
Application for a certificate of public convenience and necessity to construct a wastewater collection system in the Ghent/Flat Top Lake areas, Raleigh County.

COMMISSION ORDER

The Commission grants a certificate for a sewer extension project and approves increased rates and charges.

FINDINGS OF FACT

1. On March 8, 2005, Shady Spring Public Service District applied for a certificate of convenience and necessity to build a treatment plant and collection system to serve more than 400 new residential and commercial customers, including the Winterplace Ski Resort. A grinder pump pressure sewer system will be installed to serve Flat Top Lake residents, and a 0.2 million gallon-per-day wastewater treatment plant will be constructed. The project was estimated to cost $7,403,000, and Shady Spring proposed to fund it as follows:

US Army Corps of Engineers grant	$2,000,000
Flat Top Lake Association contribution	$204,000
WV Infrastructure & Jobs Development Council loan (38 years at 0%)	$2,875,000
State Revolving Fund loan (30 years at 0%)	$2,324,000
	$7,403,000

To establish need, Shady Spring advised that many area residents do not have public sewer service. The availability of sanitary sewer service will result in more favorable conditions for establishing new businesses in these areas and will be more appealing for new locations of residential structures and commercial establishments.

2. Shady Spring also proposed that rates be increased and advised that it would provide personal notice to its customers in their bills. In its proposed Notice of Filing, Shady Spring did not summarize the percentage increase for each customer class.

3. On April 13, 2005, the Commission referred this matter to the Division of Administrative Law Judges for a decision to be rendered by October 4, 2005.

4. Shady Spring advised that its customers received personal notice of the proposed rate increased in their May 2005 bills, mailed on or about May 3, 2005. Shady Spring does not have any resale customers. Ltr. p. 12 (May 26, 2005).

5. On August 12, 2005, the Commission granted Shady Spring's motion to toll the statutory deadline to process this matter. Comm'n Order p. 3. The Commission set March 31, 2006, as the new deadline and referred the case to the Division of Administrative Law Judges for a decision by February 1, 2006.

6. Bids came in higher than expected, and, thereafter, Shady Spring secured additional funding from the Corps of Engineers and the State Revolving Fund, as follows:

US Army Corps of Engineers grant	$2,700,000
Flat Top Lake Association contribution	$204,000
WV Infrastructure & Jobs Development Council loan (38 years at 0%)	$2,875,000
State Revolving Fund loan (30 years at 0%)	$3,078,043
	$8,857,043

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7. Notice was published in the *The Register-Herald* on September 9, 2005. See Affidavit of Publication (Oct. 7, 2005).

8. The protest period expired on October 10, 2005,[1] and no protests were filed within that period, or to date.

9. On November 15, 2005, Shady Spring advised that the bond closing for this project was scheduled for December 13, 2005. Ltr. p. 1.

10. On November 29, 2005, Shady Spring filed revised financial information in support of its case.

11. On November 30, 2005, Commission Staff recommended that the Commission rescind the referral of this case because, if the ALJ continued to handle this matter, there was not time for a Recommended Decision to become a final order prior to the scheduled bond closing. Motion to Rescind Referral pp. 1-2.

12. On December 2, 2005, the Commission rescinded the referral of this matter.

13. On December 6, 2005, Staff recommended that the certificate be granted. Final Joint Staff Memorandum p. 1.

14. Engineering Staff advised that the extension would serve about 280 new customers. Technical Staff's Final Joint Staff Memorandum p. 2 (attached to Final Joint Staff Memorandum). Although Shady Spring advised in its application that 418 new customers would be served, Engineering Staff advised that the projected number was based on "equivalent customers," which is calculated by assuming an average flow of 4,500 gallons per month for each "equivalent customer." Id. p. 2 n. 1. Staff's report, though, reflects the actual number of customers to be connected to the new system. Id. p. 2. In addition to Winterplace, the project will serve these commercial properties: the Econo Lodge Motel, several gas station/convenience stores, churches and small shops, and a West Virginia Turnpike maintenance facility. Id. Many of these properties are served by small package-type sewage treatment plants or inadequate septic systems, Staff advised. Id. As a result of this project, four package plants with on-going compliance issues will be removed. Id. Engineering Staff also advised that the septic systems for homes at Flat Top Lake often fail due to poor soils, shallow bedrock and the area's steep topography. Engineering Staff wrote that the area's topography dictated the use of grinder pumps and

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[1] The 30th day to protest was Sunday, October 9, 2005. Therefore, the Commission considered whether any protests were filed on Monday, October 10, 2005.

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pressure sewers in lieu of a more "conventional" gravity sewer system. Id. p. 3. In designing this project, four alternatives were considered for the treatment plant and for the collection system, Staff reported. Id.

15. As to need, Engineering Staff wrote as follows:

> The WV Division of Environmental Protection's "*Environmental Assessment*", the records of the Raleigh County Health Department and Engineering Staff's review of the project area all indicate that a need exists for a reliable, long-term solution to the sewage problems of the Ghent and Flat Top areas. Failing septic systems and improperly operated package plants regularly pollute both surface waters (lakes and streams) as well as the groundwater of these communities. Further, the lack of a public sewage system has restricted growth and development in the project area.

Technical Staff's Final Joint Staff Memorandum p. 4 (attached to Final Joint Staff Memorandum).

16. Utilities Staff advised that it had reviewed the cost and budgetary information Shady Spring provided, which is based upon project bids. "We opine that they are within customary ranges and further note that since the project has been bid, these costs should be reliable," Utilities Staff wrote. Technical Staff's Final Joint Staff Memorandum p. 5 (attached to Final Joint Staff Memorandum).

17. Utilities Staff also reviewed the estimated operation and maintenance expenses and advised that these were underestimated. Technical Staff's Final Joint Staff Memorandum p. 6 (attached to Final Joint Staff Memorandum). Staff recommended that annual net labor costs be increased by $35,700, that repair and replacement costs be increased by $871, and that miscellaneous expenses be increased by $3,300, for a total increase of $39,871. Id. Shady Spring had estimated annual O&M expenses at $88,567.

18. Regarding rates, Utilities Staff advised that customers to be served by this project will be billed solely from Schedule II of Shady Spring's tariff. Technical Staff's Final Joint Staff Memorandum p. 7 (attached to Final Joint Staff Memorandum). However, rates will be increased for customers of Schedules I and II. Id. Staff summarized the proposed rate changes as follows:

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Schedule I	Current	Recommended	% Increase
Usage Charge per Mgal	$6.22	$6.65	6.9
Customer Charge	none	none	
Minimum Charge	$12.44 (2,000 gals)	$14.97 (2,250 gals)	20.3
Flat Rate Charge	$27.99 (4,500 gals)	$26.60 (4,000 gals)	(4.9)

Schedule II	Current	Recommended	% Increase
Usage Charge per Mgal	$6.22	$6.65	6.9
Customer Charge	$10	$25	250
Minimum Charge	$12.44 (2,000 gals)	$39.97 (2,250 gals)	321.3
Flat Rate Charge	$37.99 (4,500 gals)	$51.60 (4,000 gals)	35.8

Id. p. 8. "A Schedule I customer who uses 4,500 gallons of metered water per month will pay $29.93 per month compared to $54.93 for a Schedule II customer," Utilities Staff wrote. "Note that the calculation for the minimum bill in the recommended column of both tables is based on 2,250 gallons instead of the current 2,000 gallons. Also, the flat rate for well users decreased on Schedule I." Id.

19. For Schedules I & II, Staff also recommended that a Security Deposit provision be added and that the leak adjustment rate be increased to $1 per 1,000 gallons, from $0.64 per 1,000 gallons. Staff's Recommended Tariff, attached to Technical Staff's Final Joint Staff Memorandum (attached to Final Joint Staff Memorandum)

20. Utilities Staff also advised that the cash flow analysis projects that, after all obligations are met, Shady Spring will have a surplus of $70,405 and a debt coverage of 115.35%. Technical Staff's Final Joint Staff Memorandum p. 8 (attached to Final Joint Staff Memorandum).

21. In summary, Staff recommended that the Commission grant the certificate, contingent upon Shady Spring providing the PSC with a copy of all federal, state and local permits and approvals. Technical Staff's Final Joint Staff Memorandum p. 9 (attached to Final Joint Staff Memorandum). Staff also noted that construction should not begin until the PSC has issued a certificate and all permits and approvals have been filed. Id. Further, Staff recommended that its proposed rates, as well as the revised project funding, be approved. If there are any substantive changes to the scope, cost or funding of the project, Shady Spring should seek further Commission review, Staff wrote. And, Shady Spring should be required to file with the PSC the Certificate of Substantial Completion within 30

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days of its issuance. Id.

22. On December 7, 2005, Shady Spring advised that it did not object to Staff's recommendations and asked that the Commission immediately enter an order because of the bond closing set for December 13, 2005.

CONCLUSIONS OF LAW

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

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

Shady Spring published notice of its certificate application on September 9, 2005, and no protests were filed as a result of that publication. Accordingly, as authorized by the statute, the Commission shall waive formal hearing on Shady Spring's application.

2. In considering a certificate application, the Commission must assess whether the general public convenience will be served and the public necessity for the project. Sexton v. Public Serv. Comm'n, 423 S.E.2d 914 (W. Va. 1992). For the area that Shady Spring proposes to serve, the West Virginia Division of Environmental Protection's "Environmental Assessment", Raleigh County Health Department records and Engineering Staff's review all indicate that a need exists for a reliable, long-term solution to the sewage problems of the Ghent and Flat Top areas, where failing septic systems and improperly operated package plants regularly pollute both surface waters (lakes and streams) as well as the groundwater of these communities. Further, the lack of a public sewage system has restricted growth and development in the project area. Technical Staff's Final Joint Staff Memorandum p. 4 (attached to Final Joint Staff Memorandum). Thus, we agree with Shady Spring and Staff that this project is necessary for the public good and the general public's

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convenience will be served.

3. The Commission also considers whether a project is feasible and adequately financed. This project will add about 280 customers. Staff advised that Shady Spring's projected annual operation and maintenance expenses were underestimated, but Staff provided a revised projection. Bids came in higher than expected for this project, but Shady Spring has secured additional funding to cover the higher costs. Staff concludes that this project is feasible and the funding is acceptable. The Commission agrees.

4. Staff recommended that 1) the certificate be granted, 2) the funding be approved, 3) if there is any change in the plans or scope where a change in financing affects rates, Shady Spring be should required to reopen this case to request approval of the changes, and 5) Shady Spring should be required file a copy of the Certificate of Substantial Completion with the Commission. The Commission agrees with Staff's recommendations.

5. Having found that the public convenience and necessity requires the project, that the project is feasible and that the proposed funding is reasonable, the Commission should grant Shady Spring a certificate for this project, as is more fully described in the application.

6. Staff also recommended revised rates for Shady Spring, whereby Schedule I customers would pay no customer charge, and the flat rate charge would be reduced 4.9%. In comparison, for Schedule II customers, the customer charge would increase to $25 from $10, some 250%; the flat rate charge would increase to $51.60 for 4,000 gallons from $37.99 for 4,500 gallons, nearly 36%; and the minimum charge would increase to $39.97 from $12.44, some 321%.

One of the primary goals of rate design is to match costs and revenue as closely as possible. Although Staff proposed that customers who will directly benefit from the project bear most of the costs, Staff's proposal resulted in a rate decrease for some Schedule I customers and substantially increased the disparity in the customer charges for Schedule I and Schedule II. Given these circumstances, we shall employ gradualism to mitigate rate shock and adopt the following Schedule I rates:

Schedule I	Current	Staff w/% change	Commission w/% change
Usage Charge/Mgal	$6.22	$6.65, 6.9%	$6.65, 6.9%
Customer Charge	none	none	none
Minimum Charge	$12.44 (2,000 gals)	$14.97 (2,250 gals), 20.3%	$14.97 (2,250 gals), 20.3%
Flat Rate Charge	$27.99 (4,500 gals)	$26.60 (4,000 gals), (4.9%)	$29.93 (4,500 gals), 6.9%

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This rate design provides only about $1000 in additional annual revenue, but it eliminates certain customers receiving a decrease. As to Schedule II, the Commission shall adopt Staff's proposal without change.

7. The Commission considered setting a minimal $1 customer charge for the Schedule I customers. However, there are so many more Schedule I customers than Schedule II customers, such a change would have increased revenues some $38,000 a year. At this time, then, the Commission will not impose a customer charge on Schedule I. However, Schedule I customers should be on notice that the Commission will consider a future request to establish a modest customer charge, to begin working to eliminate the large disparity in the customer charge between Shady Spring's rate schedules.

ORDER

IT IS THEREFORE ORDERED that, as authorized by W. Va. Code § 24-2-11, the Commission waives formal hearing on Shady Spring's application.

IT IS FURTHER ORDERED that, pursuant to W. Va. Code § 24-2-11, the Commission grants Shady Spring a certificate of public convenience and necessity for this project, as is more fully described in the application, contingent upon Shady Spring providing the Commission with a copy of all federal, state and local permits and approvals.

IT IS FURTHER ORDERED that the Commission approves the following funding for this project:

US Army Corps of Engineers grant	$2,700,000
Flat Top Lake Association contribution	$204,000
WV Infrastructure & Jobs Development Council loan (38 years at 0%)	$2,875,000
State Revolving Fund loan (30 years at 0%)	$3,078,043
	$8,857,043

IT IS FURTHER ORDERED that if there are changes in the project's plans or scope, as well as its terms of financing which affect rates, Shady Spring must seek the Commission's approval of those changes.

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IT IS FURTHER ORDERED that if there is a change in the project cost that does not affect rates, Shady Spring need not petition to reopen this case for further Commission approval. Instead, Shady Spring must file an affidavit from its certified public accountant verifying that rates are not affected.

IT IS FURTHER ORDERED that Shady Spring must also file a copy of the Certificate of Substantial Completion for each contract, within 30 days of the issuance of the certificate.

IT IS FURTHER ORDERED that the rates set forth in Attachment A are approved for use upon substantial completion of the project.

IT IS FURTHER ORDERED that within 30 days of the date of this order, Shady Spring shall file an original and five copies of a revised tariff, which reflects the rates set forth in Attachment A.

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

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

True Copy, Teste:

Sandra Squire

Sandra Squire
Executive Secretary

CLW/sek
0503148cc.sca

SHADY SPRING PUBLIC SERVICE DISTRICT
CASE NO. 05-0314-PSD-CN

SCHEDULE 1

APPLICABILITY

(C) Applicable within the entire territory served except for the Ghent area and service areas formerly served by Glade Springs Utility Limited Liability Company and Flat Top Lake Association.

AVAILABILITY OF SERVICE

Available for domestic, commercial, industrial (except unusual industrial waste) and resale sewer service

(I) RATES

Usage Charge $6.65 per 1,000 gallons of water usage

(I) FLAT RATE CHARGE (customers with non-metered water supply)

Equivalent to 4,500 gallons of water usage $29.93 per month.

(C, I) MINIMUM CHARGE

No bill will be rendered for less than $14.97 per month, which is equivalent of 2,250 gallons with a 5/8" meter.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

DISCONNECT - RECONNECT - ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with Raleigh County Public Service District, Cool Ridge/Flat Top Public Service District, Beckley Water Company, or West Virginia American Water Company, Inc., a disconnection fee of $20.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company or the District, an administrative fee of $20.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a service termination agreement with Raleigh County Public Service District, Cool Ridge/Flat Top Public Service District, Beckley Water Company, or West Virginia American Water Company, Inc., is reconnected, a reconnection fee of $20.00 shall be charged.

(C) Indicates change
(D) Indicates decrease
(I) Indicates increase

SCHEDULE 1 (Continued)

(N) SECURITY DEPOSIT

Not to exceed one-twelfth (1/12) of the annual estimated charge for residential service, or one-sixth (1/6) of the annual estimated charge for commercial service, or fifty dollars, whichever is greater.

DELAYED PAYMENT PENALTY

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

TAP FEE

The following charge is to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of $300.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

(I) LEAK ADJUSTMENT

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

(I) Indicates increase
(N) Indicates new

SHADY SPRING PUBLIC SERVICE DISTRICT (Sewer)
CASE NO. 05-0314-PSD-CN

SCHEDULE II

APPLICABILITY

Applicable to the Ghent area and the territories formerly served by Glade Springs Utility Limited Liability Company and Flat Top Lake Association.

AVAILABILITY

Available for domestic, commercial, industrial (except unusual industrial waste) and resale sewer service

RATES (customers with metered water supply)

(I) Customer Charge - Each customer shall pay a customer charge of $25.00 per month.

(C, I) Commodity Charge - Each customer shall pay a commodity charge of $6.65 per 1,000 gallons per month.

(C,I) FLAT RATE CHARGE (customers with non-metered water supply)
Equivalent of 4,000 gallons of water usage, $51.60 per month.

(C, I) MINIMUM CHARGE
No bill will be rendered for less than $39.97 per month, which is equivalent to 2,250 gallons with a 5/8" meter.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

DISCONNECT - RECONNECT - ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with Raleigh County Public Service District, Cool Ridge/Flat Top Public Service District, Beckley Water Company, or West Virginia American Water Company, Inc., a disconnection fee of $20.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company or the District, an administrative fee of $20.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a service termination agreement with Raleigh County Public Service District, Cool Ridge/Flat Top Public Service District, Beckley Water Company, or West Virginia American Water Company, Inc., is reconnected, a reconnection fee of $20.00 shall be charged.

SCHEDULE II (Continued)

(N) SECURITY DEPOSIT

Not to exceed one-twelfth (1/12) of the annual estimated charge for residential service, or one-sixth (1/6) of the annual estimated charge for commercial service, or fifty dollars, whichever is greater.

DELAYED PAYMENT PENALTY

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

TAP FEE

The following charge is to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of $300.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

(I) LEAK ADJUSTMENT

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

(I) Indicates increase
(N) Indicates new

SHADY SPRING PUBLIC SERVICE DISTRICT (Sewer)
CASE NO. 05-0314-PSD-CN

SCHEDULE III

SURCHARGE FORMULA TO BE APPLIED IN CASES WHERE SURFACE DRAINAGE IS CONNECTED TO THE UTILITY'S SEWER SYSTEM

APPLICABILITY

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

$$S = A \times R \times .0006233 \times C$$

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

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

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

SCHEDULE IV

SURCHARGE FORMULA TO BE APPLIED TO A CUSTOMER PRODUCING UNUSUAL WASTE

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

$$Ci=VoVi+BoBi+SoSi$$

Ci = charge to unusual user per year
Vo = average unit cost of transport and treatment chargeable to volume, in dollars per gallons
Vi = volume of waste water from unusual users, in gallons per year
Bo = average unit of cost of treatment, chargeable to Biochemical Oxygen Demand (BOD), in dollars per pound
Bi = weight of BOD from unusual users, in pounds per year
So = average unit costs of treatment (including sludge treatment) chargeable to total solids, in dollars per pound
Si = weight of total solids from unusual users, in pounds per year

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

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

SCHEDULE V

APPLICABLE INSIDE AND OUTSIDE THE CORPORATE LIMITS OF THE SHADY SPRING PUBLIC SERVICE DISTRICT

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

SCHEDULE VI

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for wastewater and leachate haulers.

(I) RATES

Usage Charge - Each hauler shall pay a commodity charge of $25.00 per 1,000 gallons per load. Load will be two times the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined or verified by the Shady Spring PSD.

DELAYED PAYMENT PENALTY

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

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(I) Indicates increase

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS INC.
BECKLEY, WEST VIRGINIA 25801

September 09, 2005

STATE OF WEST VIRGINIA
COUNTY OF RALEIGH to wit

I, Tara Meyer, being duly sworn upon my oath, do depose and say that I am Legal Clerk for Beckley Newspapers, Inc., a corporation, publisher of the newspaper entitled The Register Herald, an Independent newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published daily for at least fifty weeks during the calendar year, in the municipality of Beckley, Raleigh County, West Virginia; that such newspaper is a newspaper of "general circulation" as that term is defined in article three, chapter fifty-nine of the Code of West Virginia 1931 as amended, within the publication area or areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price of consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices; that the annexed notice

of REVISED NOTICE OF FILING
(Description of notice)

was duly published in said newspaper once a week for one successive

weeks (Class 1), commencing with the issue of the 9th day of

September, 2005 and ending with the issue

of the 9th day of September, 2005 (and was posted at the

Raleigh County Courthouse

on the 9th day of September, 2005), that said annexed

notice was published on the following dates:

09/09/05 and that the

cost of publishing said annexed notice as aforesaid was $ 344.00

Signed [signature]
Tara Meyer
Legal Clerk
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this
9th day of September, 2005

My commission expires: March 27, 2011

[signature]
Notary Public of Raleigh County.

OFFICIAL SEAL
STATE OF WEST VIRGINIA
DIANNA L. SLONE

COPY OF PUBLI[CATION]

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA
CHARLESTON

Entered by the Public Service Commission of West Virginia, in the City of Charleston on the 8th day of September 2005.

CASE NO. 05-0314-PSD-CN

SHADY SPRING PUBLIC SERVICE DISTRICT, a public utility, Raleigh County, West Virginia.

Application for a Certificate of Convenience and Necessity to construct a wastewater collection system to serve approximately 418 new residential and commercial customers in the Ghent and Flat Top areas and the Winterplace Ski Resort and to construct a 0.2 MGD wastewater treatment plant located in Raleigh County, West Virginia.

REVISED NOTICE OF FILING

WHEREAS, on the 9th day of March, 2005, SHADY SPRING PUBLIC SERVICE DISTRICT filed an application, duly verified, for a Certificate to construct a wastewater collection system to serve the equivalent of approximately 418 new residential and commercial customers (approximately 280 actual) in the Ghent and Flat Top areas and the Winterplace Ski Resort, and to construct a 0.2 MGD wastewater treatment plant, located in Raleigh County, West Virginia. The application is on file with and available for public inspection at the Public Service Commission, 201 Brooks Street, in Charleston, West Virginia; and,

WHEREAS, the District obtained competitive bids and as a result certain project overruns were incurred, and,

WHEREAS, SHADY SPRING PUBLIC SERVICE DISTRICT, the Applicant, now estimates that the new construction to its system will cost an amount not to exceed $9,000,000.00. It is proposed that the new construction will be financed as follows:

US Army Corps of Engineers Grant $2,700,000
Flat Top Lake Association Contribution $204,000
WV Infrastructure and Jobs Development Council Loan (38 years at 0%) $2,975,000
State Revolving Loan Fund Loan (40 years at 0.5%) $3,013,043
Total $8,892,043

and

WHEREAS, the Applicant anticipates charging the following rates and charges for its customers:

SCHEDULE I

APPLICABILITY

Applicable in entire territory served except for the Ghent area and service areas formerly served by Glade Springs Utility Limited Liability Company and Flat Top Lake Association.

AVAILABILITY

Available for domestic, commercial, industrial (except unusual industrial waste) and resale sewer service.

RATES

Usage Charge - $6.65 per 1,000 gallons of water usage

MINIMUM CHARGE

No bill will be rendered for less than $14.97 per month which is equivalent to 2,250 gallons with a 5/8" meter.

FLAT RATE CHARGE (Customers with a non-metered water supply)

Equivalent to 4,000 gallons of water usage, $26.60 per month

TAP FEE

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

A tap fee of $300.00 will be charged to all customers applying for service outside a certificate proceeding before the Commission for each new tap to the system.

DELAYED PAYMENT PENALTY

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

DISCONNECT - RECONNECT - ADMINISTRATIVE FEES

Whenever water service has been disconnected for non payment of sewer bills in conjunction with a water service termination agreement with Raleigh County Public Service [District, Coal Ridge / Flat] Top Public Service District, Beckley Water Company, or West Virginia American Water Company, Inc. a disconnection fee of $20.00 shall be charged, or in the event the delinquent sewer bill is collected by the water company for the District, an administrative fee of $20.00 shall be charged.

Whenever water service which has previously been disconnected or otherwise withheld for non payment of a sewer bill in conjunction with a service termination agreement with Raleigh County Public Service District, Coal Ridge / Flat Top Public Service District, Beckley Water Company, or West Virginia American Water Company is reconnected, a reconnection fee of $20.00 shall be charged.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

LEAK ADJUSTMENT

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

SCHEDULE II

APPLICABILITY

Applicable to the Ghent area and the territories formerly served by Glade Springs Utility Limited Liability Company and Flat Top Lake Association.

AVAILABILITY

Available for domestic, commercial, industrial (except unusual industrial waste) and resale sewer service.

RATES

Customer Charge - Each customer shall pay a customer charge of $25.00 per month.

Commodity Charge
Each customer shall pay a commodity charge of $9.85 per 1,000 gallons each per month.

MINIMUM CHARGE

No bill will be rendered for less than $39.97 per month which is equivalent to 2,250 gallons with a 5/8" meter.

FLAT RATE CHARGE (Customer with a non-metered water supply)

Equivalent to 4,000 gallons of water usage, $51.[illegible] per month

TAP FEE

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

A tap fee of $300.00 will be charged to all customers applying for service outside a certificate proceeding before the Commission for each new tap to the system.

DELAYED PAYMENT PENALTY

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

DISCONNECT - RECONNECT - ADMINISTRATIVE FEES

Whenever water service has been disconnected for non payment of sewer bills in conjunction with a water service termination agreement with Raleigh County Public Service District, Coal Ridge / Flat Top Public Service District, Beckley Water Company, or West Virginia American Water Company, Inc. a disconnection fee of $20.00 shall be charged, or in the event the delinquent sewer bill is collected by the Water Company for the District, an administrative fee of $20.00 shall be charged.

Whenever water service which has previously been disconnected or otherwise withheld for non payment of a sewer bill in conjunction with a service termination agreement with Raleigh County Public Service District, Coal Ridge / Flat Top Public Service District, Beckley Water Company, or West Virginia American Water Company is reconnected, a reconnection fee of $20.00 shall be charged.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

LEAK ADJUSTMENT

$0.40 per 1,000 gallons to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate is used to calculate consumption above the customer's historical average usage.

SCHEDULE III

SURCHARGE FORMULA TO BE APPLIED IN CASES WHERE SURFACE DRAINAGE IS CONNECTED TO THE CITY'S SANITARY SEWER SYSTEM

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

S = A x R x .0006233 x C

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

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

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

SCHEDULE IV

SURCHARGE FORMULA TO BE APPLIED IN THE CASE OF USERS PRODUCING UNUSUAL WASTE

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

Ci = VoVi + BoBi + SoSi

Ci - Charge to unusual users per year
Vo - Average unit cost of transport and treatment chargeable to volume in dollars per gallon
Vi - Volume of waste water from unusual users in gallons per year
Bo - Average unit cost of treatment chargeable to Biochemical Oxygen Demand (BOD) in dollars per year
Bi - Weight of BOD from unusual users in pounds per year
So - Average unit costs of treatment (including sludge treatment) chargeable to total solids, in dollars per pound
Si - Weight of total solids from unusual users pounds per year

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

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

SCHEDULE V

APPLICABLE INSIDE AND OUTSIDE OF THE CORPORATE BOUNDARIES OF THE SHADY SPRING PUBLIC SERVICE DISTRICT

Where the amount of sanitary sewage discharged into the Shady Spring Public Service District's wastewater collection and/or transmission and/or treatment systems by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters and said

[accu]rately determined by the use of the plant's water meter or meters and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Shady Spring Public Service District a sewage charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

SCHEDULE VI

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY

Available for wastewater and leachate haulers.

RATES

Usage Charge - Each customer shall pay commodity charge of $25.00 per 1,000 gallons per load. Load will be two times the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined or verified by the Shady Spring Public Service District.

DELAYED PAYMENT PENALTY

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

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank for insufficient funds.

The requested rates and charges are only a proposal and are subject to change (increase or decrease) by the Public Service Commission in its review of this filing.

Pursuant to §24-2-11, West Virginia Code, IT IS ORDERED that the SHADY SPRING PUBLIC SERVICE DISTRICT give notice of the filing of said application, by publishing a copy of this order once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Raleigh County, making due return to this Commission of proper certification of publication immediately after publication. Anyone desiring to protest or intervene should file a written protest or notice of intervention within 30 days following the date of this publication unless otherwise modified by Commission order. Failure to timely protest or intervene can affect your right to protest aspects of this certificate case, including any associated rate increases, or to participate in future proceedings. All protests or requests to intervene should briefly state the reason for the protest or intervention. Requests to intervene must comply with the Commission's rules on intervention set forth in the Commission's Rules of Practice and Procedure. All protests and interventions should be addressed to Sandra Squire, Executive Secretary, P.O. Box 812, Charleston, West Virginia 25323.

IT IS FURTHER ORDERED that if no protests are received within said thirty (30) day period, the Commission may waive formal hearing and grant the application based on the evidence submitted with said application and its review thereof.

FOR THE COMMISSION:
Sandra Squire
Executive Secretary
9-9 FRI RH LG 9743

West Virginia Infrastructure & Jobs Development Council

Public Members:
Mark Prince
Hurricane
Dwight Calhoun
Petersburg
C. R. "Rennie" Hill, III
Beckley
Tim Stranko
Morgantown

300 Summers Street, Suite 980
Charleston, West Virginia 25301
Telephone: (304) 558-4607
Facsimile: (304) 558-4609

Katy Mallory, PE

Executive Secretary
Katy.Mallory@verizon.net

September 7, 2005

Mr. Jerry Smith
Shady Spring Public Service District
P.O. Box 235
Beaver, West Virginia 25802

Re: Shady Spring Public Service District
REVISED Binding Commitment
Wastewater Project 99S-477-a

Dear Mr. Smith:

The West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act and has reviewed the Shady Spring Public Service District's (the "District") Infrastructure Council's binding commitment offer of January 5, 2005 to the District for financing its Cool Ridge / Flat Top wastewater collection and disposal system to serve residential and commercial customers in the Ghent and Flat Top Lake areas. At its September 7, 2005 meeting, the Infrastructure Council voted to revise the binding commitment as shown on the attached proposed Schedule A. The change includes an increased CWSRF loan.

If the District has any questions regarding this commitment, please contact Katy Mallory at the above-referenced telephone number.

Sincerely,

Mark Prince

MP/km
Attachments

cc: Samme Gee, Esq., Jackson & Kelly
Myron Amick, L. A. Gates Company
Dan Bailey, COE
Flat Top Lake Association
Mike Johnson, DEP
Rose Brodersen, DEP

NOTE: This letter is sent in triplicate. Please acknowledge receipt and immediately return two copies to the Infrastructure Council.

Shady Spring Public Service District

By:_____

Its: _____

Date:_____

WEST VIRGINIA INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL

Shady Spring Public Service District
Wastewater Project 99S-477-a
September 7, 2005

SCHEDULE A

A. Approximate Amount: $ 2,875,000 Loan

B. Loan: $ 2,875,000

1. Maturity Date: 40 years from date of closing.
(The actual debt service term is dependent on the construction time-frame)

2. Debt Service Commencement: The first quarter following completion of construction, which date must be identified prior to closing

3. Interest Rate: 0%

4. Loan Advancement Date(s) Monthly, upon receipt of proper requisition

C. Other Funding:

COE grant	$ 2,700,000
Flat Top Lake Association grant	204,000
CWSRF loan	3,078,043

D. Total Project Cost: $ 8,857,043

E. Proposed Rates: approximately $54.93 / 4500 gallons

SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS,
SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND)
SEWER REVENUE BONDS,
SERIES 2005 B (STATE REVOLVING FUND)

RECEIPT FOR BOND PROCEEDS

The undersigned Chairperson of Shady Springs Public Service District (the "Issuer"), for and on behalf of the Issuer, hereby certifies as follows:

1. On the 19th day of December, 2005, the Issuer received and hereby acknowledges receipt from the West Virginia Water Development Authority (the "Authority"), as the original purchaser of the $2,875,000 Shady Springs Public Service District Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), dated December, 19, 2005 (the "Series 2005 A Bonds"), of the sum of $205,329.00, being a portion of the principal amount of the Series 2005 A Bonds. The Issuer understands that the remaining proceeds of the Series 2005 A Bonds will be advanced to the Issuer by the Authority and the West Virginia Infrastructure and Jobs Development Council from time to time as construction proceeds to completion.

2. On the 19th day of December, 2005, the Issuer received and hereby acknowledges receipt from the Authority, as the original purchaser of the $3,078,043 Shady Springs Public Service District Sewer Revenue Bonds, Series 2005 B (State Revolving Fund), dated December 19, 2005 (the "Series 2005 B Bonds"), of the sum of $232,467.99 being a portion of the principal amount of the Series 2005 B Bonds. The Issuer understands that the remaining proceeds of the Series 2005 B Bonds will be advanced to the Issuer by the Authority and DEP from time to time as construction proceeds to completion.

WITNESS my signature on this 19th day of December, 2005.

SHADY SPRINGS PUBLIC SERVICE DISTRICT

M. Lee Lucas

Chairperson

SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS,
SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND)
SERIES 2005 B (STATE REVOLVING FUND)

RECEIPT FOR SERIES 2005 BONDS

The undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, hereby certifies as follows:

1. On the 19th day of December, 2005, in Charleston, West Virginia, the Authority received the Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), of Shady Springs Public Service District (the "Issuer"), in the principal amount of $2,875,000, numbered AR-1, issued in the form of one bond, fully registered to the Authority, and dated December 19, 2005 (the "Series 2005 A Bonds").

2. On the 19th day of December, 2005, in Charleston, West Virginia, the Authority received the Sewer Revenue Bonds, Series 2005 B (State Revolving Fund), of Shady Springs Public Service District (the "Issuer"), in the principal amount of $3,078,043, numbered BR-1, issued in the form of one bond, fully registered to the Authority, and dated December 19, 2005 (the "Series 2005 B Bonds").

3. At the time of such receipt of the Bonds, they had been executed by the Chairperson of the Issuer and attested by the Secretary of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been impressed upon the Bonds.

WITNESS my signature on this 19th day of December, 2005.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

Authorized Representative

{C1021927.1}

SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS,
SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND)
SEWER REVENUE BONDS,
SERIES 2005 B (STATE REVOLVING FUND)

REQUEST AND AUTHORIZATION TO
AUTHENTICATE AND DELIVER SERIES 2005 BONDS

City National Bank, as Registrar
Beckley, West Virginia

Ladies and Gentlemen:

We herewith hand to you, duly executed, the $2,875,000 Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), in the form of one bond, numbered AR-1, dated December 19, 2005 (the "Series 2005 A Bonds"), of Shady Springs Public Service District (the "Issuer"), authorized to be issued under and pursuant to a Bond Resolution and a Supplemental Resolution duly adopted by the Issuer on December 19, 2005.

We herewith hand to you, duly executed, the $3,078,043 Sewer Revenue Bonds, Series 2005 B (State Revolving Fund, in the form of one bond, numbered BR-1, dated December 19, 2005 (the "Series 2005 B Bonds"), of Shady Springs Public Service District (the "Issuer"), authorized to be issued under and pursuant to a Bond Resolution and a Supplemental Resolution duly adopted by the Issuer on December 19, 2005.

You are hereby requested and authorized to register, authenticate and deliver the Bonds on behalf of the Issuer to the West Virginia Water Development Authority.

WITNESS my signature on this 19th day of December, 2005.

SHADY SPRINGS PUBLIC SERVICE DISTRICT

M. Lee Lucas

Chairperson

(SEAL)

Attest:

Connie L Barker

Secretary

{C1021935.1}

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

SPECIMEN

No. AR-1 $2,875,000.00

KNOW ALL MEN BY THESE PRESENTS: That SHADY SPRINGS PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Raleigh County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefore, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of TWO MILLION EIGHT HUNDRED SEVENTY-FIVE THOUSAND DOLLARS ($2,875,000.00) 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 as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year commencing March 1, 2008, as set forth on the " Debt Service Schedule" attached as EXHBIT B hereto and incorporated herein by reference, bearing interest at the rate set forth in Exhibit B.

Principal installments of this Bond and interest are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Council, dated December 13, 2005.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of new public sewer facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Bond Resolution duly adopted by the Issuer on December 13, 2005, and a Supplemental Resolution duly adopted by the Issuer on December 13, 2005, (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. This Bond is being

SPECIMEN

issued simultaneously with the Issuer's Sewer Revenue Bonds, Series 2005 B (State Revolving Fund) (the "Series 2005 B Bonds"). The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL OTHER RESPECTS, WITH THE ISSUER'S SERIES 2005 B BONDS AND THE "PRIOR BONDS" DESCRIBED IN THE BOND LEGISLATION.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the System, on a parity with the pledge of Net Revenues in favor of the holders of the Series 2005 A Bonds, and from moneys in the reserve account created under the Bond Legislation for this Bond (the "Series 2005 A Bonds Reserve Account") and unexpended proceeds of this Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the moneys in the Series 2005 A Bonds Reserve Account and unexpended Bond Proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount of principal of and interest, if any, on this Bond payable in any year and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Series 2005 B Bonds and the Prior Bonds; provided however, that so long as there exists in the Series 2005 A Bonds Reserve Account, an amount at least equal to the maximum amount of principal and interest, if any, which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the Series 2005 B Bonds and the Prior Bonds, an amount at least equal to the requirement therefore, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owner (as defined in the Bond Legislation) of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the Registered Owner of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar (as defined in the Bond Legislation) by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument

of transfer satisfactory to the Registrar duly executed by the Registered Owner or its attorney duly authorized in writing.

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

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

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

SPECIMEN

IN WITNESS WHEREOF, SHADY SPRINGS PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated December 19, 2005.

[SEAL]

SPECIMEN

Chairperson

ATTEST:

SPECIMEN

Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2005 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: December 19, 2005.

City National Bank,
as Registrar

By _____
Its Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

SPECIMEN

AMOUNT	DATE
AMOUNT	DATE
(1) $205,329	December 19, 2005
(2) $	
(3) $	
(4) $	
(5) $	
(6) $	
(7) $	
(8) $	
(9) $	
(10) $	
(11) $	
(12) $	

TOTAL

$_____

$2,875,000 Exhibit B

Shady Spring Public Service District
40 Years from Closing Date; 0% Interest Rate
Closing Date: December 19, 2005

SPECIMEN

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2006	-	-	-
06/01/2006	-	-	-
09/01/2006	-	-	-
12/01/2006	-	-	-
03/01/2007	-	-	-
06/01/2007	-	-	-
09/01/2007	-	-	-
12/01/2007	-	-	-
03/01/2008	18,914.48	-	18,914.48
06/01/2008	18,914.48	-	18,914.48
09/01/2008	18,914.48	-	18,914.48
12/01/2008	18,914.48	-	18,914.48
03/01/2009	18,914.48	-	18,914.48
06/01/2009	18,914.48	-	18,914.48
09/01/2009	18,914.48	-	18,914.48
12/01/2009	18,914.48	-	18,914.48
03/01/2010	18,914.48	-	18,914.48
06/01/2010	18,914.48	-	18,914.48
09/01/2010	18,914.48	-	18,914.48
12/01/2010	18,914.48	-	18,914.48
03/01/2011	18,914.48	-	18,914.48
06/01/2011	18,914.48	-	18,914.48
09/01/2011	18,914.48	-	18,914.48
12/01/2011	18,914.48	-	18,914.48
03/01/2012	18,914.48	-	18,914.48
06/01/2012	18,914.48	-	18,914.48
09/01/2012	18,914.48	-	18,914.48
12/01/2012	18,914.48	-	18,914.48
03/01/2013	18,914.48	-	18,914.48
06/01/2013	18,914.48	-	18,914.48
09/01/2013	18,914.48	-	18,914.48
12/01/2013	18,914.48	-	18,914.48
03/01/2014	18,914.48	-	18,914.48
06/01/2014	18,914.48	-	18,914.48
09/01/2014	18,914.48	-	18,914.48
12/01/2014	18,914.48	-	18,914.48
03/01/2015	18,914.48	-	18,914.48
06/01/2015	18,914.48	-	18,914.48
09/01/2015	18,914.48	-	18,914.48
12/01/2015	18,914.48	-	18,914.48
03/01/2016	18,914.48	-	18,914.48
06/01/2016	18,914.48	-	18,914.48
09/01/2016	18,914.48	-	18,914.48
12/01/2016	18,914.48	-	18,914.48

$2,875,000

Shady Spring Public Service District
40 Years from Closing Date; 0% Interest Rate
Closing Date: December 19, 2005

SPECIMEN

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2017	18,914.48	-	18,914.48
06/01/2017	18,914.48	-	18,914.48
09/01/2017	18,914.48	-	18,914.48
12/01/2017	18,914.48	-	18,914.48
03/01/2018	18,914.48	-	18,914.48
06/01/2018	18,914.48	-	18,914.48
09/01/2018	18,914.48	-	18,914.48
12/01/2018	18,914.48	-	18,914.48
03/01/2019	18,914.48	-	18,914.48
06/01/2019	18,914.48	-	18,914.48
09/01/2019	18,914.48	-	18,914.48
12/01/2019	18,914.48	-	18,914.48
03/01/2020	18,914.48	-	18,914.48
06/01/2020	18,914.48	-	18,914.48
09/01/2020	18,914.48	-	18,914.48
12/01/2020	18,914.48	-	18,914.48
03/01/2021	18,914.48	-	18,914.48
06/01/2021	18,914.48	-	18,914.48
09/01/2021	18,914.48	-	18,914.48
12/01/2021	18,914.48	-	18,914.48
03/01/2022	18,914.47	-	18,914.47
06/01/2022	18,914.47	-	18,914.47
09/01/2022	18,914.47	-	18,914.47
12/01/2022	18,914.47	-	18,914.47
03/01/2023	18,914.47	-	18,914.47
06/01/2023	18,914.47	-	18,914.47
09/01/2023	18,914.47	-	18,914.47
12/01/2023	18,914.47	-	18,914.47
03/01/2024	18,914.47	-	18,914.47
06/01/2024	18,914.47	-	18,914.47
09/01/2024	18,914.47	-	18,914.47
12/01/2024	18,914.47	-	18,914.47
03/01/2025	18,914.47	-	18,914.47
06/01/2025	18,914.47	-	18,914.47
09/01/2025	18,914.47	-	18,914.47
12/01/2025	18,914.47	-	18,914.47
03/01/2026	18,914.47	-	18,914.47
06/01/2026	18,914.47	-	18,914.47
09/01/2026	18,914.47	-	18,914.47
12/01/2026	18,914.47	-	18,914.47
03/01/2027	18,914.47	-	18,914.47
06/01/2027	18,914.47	-	18,914.47
09/01/2027	18,914.47	-	18,914.47
12/01/2027	18,914.47	-	18,914.47

$2,875,000

Shady Spring Public Service District
40 Years from Closing Date; 0% Interest Rate
Closing Date: December 19, 2005

SPECIMEN

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2028	18,914.47	-	18,914.47
06/01/2028	18,914.47	-	18,914.47
09/01/2028	18,914.47	-	18,914.47
12/01/2028	18,914.47	-	18,914.47
03/01/2029	18,914.47	-	18,914.47
06/01/2029	18,914.47	-	18,914.47
09/01/2029	18,914.47	-	18,914.47
12/01/2029	18,914.47	-	18,914.47
03/01/2030	18,914.47	-	18,914.47
06/01/2030	18,914.47	-	18,914.47
09/01/2030	18,914.47	-	18,914.47
12/01/2030	18,914.47	-	18,914.47
03/01/2031	18,914.47	-	18,914.47
06/01/2031	18,914.47	-	18,914.47
09/01/2031	18,914.47	-	18,914.47
12/01/2031	18,914.47	-	18,914.47
03/01/2032	18,914.47	-	18,914.47
06/01/2032	18,914.47	-	18,914.47
09/01/2032	18,914.47	-	18,914.47
12/01/2032	18,914.47	-	18,914.47
03/01/2033	18,914.47	-	18,914.47
06/01/2033	18,914.47	-	18,914.47
09/01/2033	18,914.47	-	18,914.47
12/01/2033	18,914.47	-	18,914.47
03/01/2034	18,914.47	-	18,914.47
06/01/2034	18,914.47	-	18,914.47
09/01/2034	18,914.47	-	18,914.47
12/01/2034	18,914.47	-	18,914.47
03/01/2035	18,914.47	-	18,914.47
06/01/2035	18,914.47	-	18,914.47
09/01/2035	18,914.47	-	18,914.47
12/01/2035	18,914.47	-	18,914.47
03/01/2036	18,914.47	-	18,914.47
06/01/2036	18,914.47	-	18,914.47
09/01/2036	18,914.47	-	18,914.47
12/01/2036	18,914.47	-	18,914.47
03/01/2037	18,914.47	-	18,914.47
06/01/2037	18,914.47	-	18,914.47
09/01/2037	18,914.47	-	18,914.47
12/01/2037	18,914.47	-	18,914.47
03/01/2038	18,914.47	-	18,914.47
06/01/2038	18,914.47	-	18,914.47
09/01/2038	18,914.47	-	18,914.47
12/01/2038	18,914.47	-	18,914.47

$2,875,000

Shady Spring Public Service District
40 Years from Closing Date; 0% Interest Rate
Closing Date: December 19, 2005

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2039	18,914.47	-	18,914.47
06/01/2039	18,914.47	-	18,914.47
09/01/2039	18,914.47	-	18,914.47
12/01/2039	18,914.47	-	18,914.47
03/01/2040	18,914.47	-	18,914.47
06/01/2040	18,914.47	-	18,914.47
09/01/2040	18,914.47	-	18,914.47
12/01/2040	18,914.47	-	18,914.47
03/01/2041	18,914.47	-	18,914.47
06/01/2041	18,914.47	-	18,914.47
09/01/2041	18,914.47	-	18,914.47
12/01/2041	18,914.47	-	18,914.47
03/01/2042	18,914.47	-	18,914.47
06/01/2042	18,914.47	-	18,914.47
09/01/2042	18,914.47	-	18,914.47
12/01/2042	18,914.47	-	18,914.47
03/01/2043	18,914.47	-	18,914.47
06/01/2043	18,914.47	-	18,914.47
09/01/2043	18,914.47	-	18,914.47
12/01/2043	18,914.47	-	18,914.47
03/01/2044	18,914.47	-	18,914.47
06/01/2044	18,914.47	-	18,914.47
09/01/2044	18,914.47	-	18,914.47
12/01/2044	18,914.47	-	18,914.47
03/01/2045	18,914.47	-	18,914.47
06/01/2045	18,914.47	-	18,914.47
09/01/2045	18,914.47	-	18,914.47
12/01/2045	18,914.47	-	18,914.47
Total	**$2,875,000.00**	-	**$2,875,000.00**

Yield Statistics

Bond Year Dollars	$60,638.53
Average Life	21.092 Years
Average Coupon	-
Net Interest Cost (NIC)	-
True Interest Cost (TIC)	2.49E-10
Bond Yield for Arbitrage Purposes	2.49E-10
All Inclusive Cost (AIC)	2.49E-10

IRS Form 8038

Net Interest Cost	-
Weighted Average Maturity	21.092 Years

(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 said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

SPECIMEN

ATTORNEY JOHN T. POFFENBARGER
AT LAW
213 HALE STREET
CHARLESTON, WV 25301
PHONE: (304) 342-1678
FAX: (304) 345-0375
EMAIL: JTPOFF57@YAHOO.COM

December 19, 2005

Shady Springs Public Service District
Beaver, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Shady Springs Public Service District
Sewer Revenue Bonds, Series 2005 A
(West Virginia Infrastructure Fund)

Ladies and Gentlemen:

I have served as bond counsel to Shady Springs Public Service District (the "Issuer') in connection with the issuance of its Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), dated the date hereof (the "Bonds").

I have examined certified copies of proceedings and other papers relating to the authorization of (i) a loan agreement for the Bonds, dated December 13, 2005, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and (ii) the Bonds to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are issued in the principal amount of $2,875,000.00 in the form of one bond, registered as to principal only to the Authority, bearing no interest, with principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2008, all as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of improvements to the public sewer facilities of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and a Bond Resolution duly adopted by the Issuer on December 13, 2005, as supplemented by a Supplemental Resolution duly adopted by the Issuer on December 13, 2005 (collectively, the "Resolution"), pursuant to and under which Act and Resolution the Bonds are authorized and issued, and the Loan Agreement is entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Resolution and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution and the Loan Agreement when used herein.

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

1. The Issuer is a duly created and validly existing public service district and is a public corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt a Resolution and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

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

3. The Loan Agreement inures to the benefit of the Authority and the Council and cannot be amended so as to affect adversely the rights of the Authority and the Council or diminish the obligations of the Issuer without the written consent of the Authority and the Council.

4. The Issuer has legally and effectively adopted the Resolution and all other necessary resolutions in connection with the issuance and sale of the Bonds. The Resolution constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms thereof and contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on a pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Series 2005 B Bonds issued simultaneously herewith and the Prior Bonds, all in accordance with the terms of the Bonds and the Resolution.

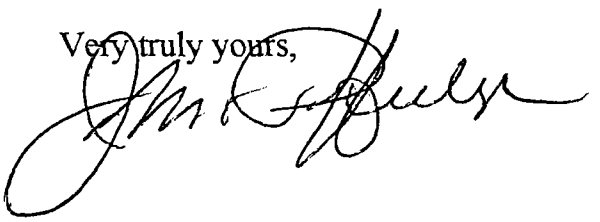
6. Under the Act, the Bonds and the interest thereon are exempt from taxation by the State of West Virginia and other taxing bodies of the State.

7. The Bonds have not been issued on the basis that the interest thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest, if any, from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

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

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

Very truly yours,



SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2005 B
(STATE REVOLVING FUND)

No. BR-1 $3,078,043.00

KNOW ALL MEN BY THESE PRESENTS: That SHADY SPRINGS PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Raleigh County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefore, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of THREE MILLION SEVENTY-EIGHT THOUSAND FORTY-THREE DOLLARS ($3,078,043.00) 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 as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year commencing March 1, 2008, as set forth on the " Debt Service Schedule" attached as EXHBIT B hereto and incorporated herein by reference. The SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2005, as set forth on EXHIBIT B attached hereto.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Bond Purchase Agreement by and among the Issuer, the Authority and the DEP, dated December 19, 2005.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of new public sewer facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. The existing public sewerage facilities of the Issuer, the improvements and extensions designed by the Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 22C,

SPECIMEN

Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Bond Resolution duly adopted by the Issuer on December 13, 2005, and a Supplemental Resolution duly adopted by the Issuer on December 13, 2005, (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. This Bond is being issued simultaneously with the Issuer's Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund) (the "Series 2005 A Bonds"). The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Bond Legislation.

THIS BOND IS ISSUED ON PARITY AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL OTHER RESPECTS, WITH THE ISSUER'S SERIES 2005 A BONDS AND THE "PRIOR BONDS" DESCRIBED IN THE BOND LEGISLATION.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the System, on a parity with the pledge of Net Revenues in favor of the holders of the Prior Bonds, and from moneys in the reserve account created under the Bond Legislation for the Bonds (the "Series 2005 B Bonds Reserve Account") and unexpended proceeds of this Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the moneys in the Series 2005 B Bonds Reserve Account and unexpended Bond Proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Series 2005 A Bonds and the Prior Bonds; provided however, that so long as there exists in the Series 2005 B Bonds Reserve Account, an amount at least equal to the maximum amount of principal and interest, if any, which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Series 2005 A Bonds and the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of 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 (as defined in the Bond Legislation) by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

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

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

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, this Bond will be in default should any proceeds be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

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

SPECIMEN

IN WITNESS WHEREOF, SHADY SPRINGS PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated December 19, 2005.

[SEAL]

M. Leon Lucas
Chairperson

SPECIMEN

ATTEST:

Connie L. Parker
Secretary

SPECIMEN

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2005 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: December 19, 2005.

City National Bank,
as Registrar

By _____
Its Authorized Officer

SPECIMEN

EXHIBIT A

RECORD OF ADVANCES

AMOUNT	DATE
AMOUNT	DATE
(1) $232,468.00	December 19, 2005
(2) $	
(3) $	
(4) $	
(5) $	
(6) $	
(7) $	
(8) $	
(9) $	
(10) $	
(11) $	
(12) $	

SPECIMEN

TOTAL

$_____

Exhibit B

$3,078,043

Shady Spring Public Service District
0% Interest Rate, 1/2% Administrative Fee, 40 Years
Closing Date: December 19, 2005

SPECIMEN

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2006	-	-	-
06/01/2006	-	-	-
09/01/2006	-	-	-
12/01/2006	-	-	-
03/01/2007	-	-	-
06/01/2007	-	-	-
09/01/2007	-	-	-
12/01/2007	-	-	-
03/01/2008	20,251.00	-	20,251.00
06/01/2008	20,251.00	-	20,251.00
09/01/2008	20,251.00	-	20,251.00
12/01/2008	20,251.00	-	20,251.00
03/01/2009	20,251.00	-	20,251.00
06/01/2009	20,251.00	-	20,251.00
09/01/2009	20,251.00	-	20,251.00
12/01/2009	20,251.00	-	20,251.00
03/01/2010	20,251.00	-	20,251.00
06/01/2010	20,251.00	-	20,251.00
09/01/2010	20,251.00	-	20,251.00
12/01/2010	20,251.00	-	20,251.00
03/01/2011	20,251.00	-	20,251.00
06/01/2011	20,251.00	-	20,251.00
09/01/2011	20,251.00	-	20,251.00
12/01/2011	20,251.00	-	20,251.00
03/01/2012	20,251.00	-	20,251.00
06/01/2012	20,251.00	-	20,251.00
09/01/2012	20,251.00	-	20,251.00
12/01/2012	20,251.00	-	20,251.00
03/01/2013	20,251.00	-	20,251.00
06/01/2013	20,251.00	-	20,251.00
09/01/2013	20,251.00	-	20,251.00
12/01/2013	20,251.00	-	20,251.00
03/01/2014	20,251.00	-	20,251.00
06/01/2014	20,251.00	-	20,251.00
09/01/2014	20,251.00	-	20,251.00
12/01/2014	20,251.00	-	20,251.00
03/01/2015	20,251.00	-	20,251.00
06/01/2015	20,251.00	-	20,251.00
09/01/2015	20,251.00	-	20,251.00
12/01/2015	20,251.00	-	20,251.00
03/01/2016	20,251.00	-	20,251.00
06/01/2016	20,251.00	-	20,251.00
09/01/2016	20,251.00	-	20,251.00
12/01/2016	20,251.00	-	20,251.00

$3,078,043

Shady Spring Public Service District
0% Interest Rate, 1/2% Administrative Fee, 40 Years
Closing Date: December 19, 2005

SPECIMEN

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2017	20,251.00	-	20,251.00
06/01/2017	20,251.00	-	20,251.00
09/01/2017	20,251.00	-	20,251.00
12/01/2017	20,251.00	-	20,251.00
03/01/2018	20,251.00	-	20,251.00
06/01/2018	20,251.00	-	20,251.00
09/01/2018	20,251.00	-	20,251.00
12/01/2018	20,250.00	-	20,250.00
03/01/2019	20,250.00	-	20,250.00
06/01/2019	20,250.00	-	20,250.00
09/01/2019	20,250.00	-	20,250.00
12/01/2019	20,250.00	-	20,250.00
03/01/2020	20,250.00	-	20,250.00
06/01/2020	20,250.00	-	20,250.00
09/01/2020	20,250.00	-	20,250.00
12/01/2020	20,250.00	-	20,250.00
03/01/2021	20,250.00	-	20,250.00
06/01/2021	20,250.00	-	20,250.00
09/01/2021	20,250.00	-	20,250.00
12/01/2021	20,250.00	-	20,250.00
03/01/2022	20,250.00	-	20,250.00
06/01/2022	20,250.00	-	20,250.00
09/01/2022	20,250.00	-	20,250.00
12/01/2022	20,250.00	-	20,250.00
03/01/2023	20,250.00	-	20,250.00
06/01/2023	20,250.00	-	20,250.00
09/01/2023	20,250.00	-	20,250.00
12/01/2023	20,250.00	-	20,250.00
03/01/2024	20,250.00	-	20,250.00
06/01/2024	20,250.00	-	20,250.00
09/01/2024	20,250.00	-	20,250.00
12/01/2024	20,250.00	-	20,250.00
03/01/2025	20,250.00	-	20,250.00
06/01/2025	20,250.00	-	20,250.00
09/01/2025	20,250.00	-	20,250.00
12/01/2025	20,250.00	-	20,250.00
03/01/2026	20,250.00	-	20,250.00
06/01/2026	20,250.00	-	20,250.00
09/01/2026	20,250.00	-	20,250.00
12/01/2026	20,250.00	-	20,250.00
03/01/2027	20,250.00	-	20,250.00
06/01/2027	20,250.00	-	20,250.00
09/01/2027	20,250.00	-	20,250.00
12/01/2027	20,250.00	-	20,250.00

$3,078,043

Shady Spring Public Service District
0% Interest Rate, 1/2% Administrative Fee, 40 Years
Closing Date: December 19, 2005

SPECIMEN

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2028	20,250.00	-	20,250.00
06/01/2028	20,250.00	-	20,250.00
09/01/2028	20,250.00	-	20,250.00
12/01/2028	20,250.00	-	20,250.00
03/01/2029	20,250.00	-	20,250.00
06/01/2029	20,250.00	-	20,250.00
09/01/2029	20,250.00	-	20,250.00
12/01/2029	20,250.00	-	20,250.00
03/01/2030	20,250.00	-	20,250.00
06/01/2030	20,250.00	-	20,250.00
09/01/2030	20,250.00	-	20,250.00
12/01/2030	20,250.00	-	20,250.00
03/01/2031	20,250.00	-	20,250.00
06/01/2031	20,250.00	-	20,250.00
09/01/2031	20,250.00	-	20,250.00
12/01/2031	20,250.00	-	20,250.00
03/01/2032	20,250.00	-	20,250.00
06/01/2032	20,250.00	-	20,250.00
09/01/2032	20,250.00	-	20,250.00
12/01/2032	20,250.00	-	20,250.00
03/01/2033	20,250.00	-	20,250.00
06/01/2033	20,250.00	-	20,250.00
09/01/2033	20,250.00	-	20,250.00
12/01/2033	20,250.00	-	20,250.00
03/01/2034	20,250.00	-	20,250.00
06/01/2034	20,250.00	-	20,250.00
09/01/2034	20,250.00	-	20,250.00
12/01/2034	20,250.00	-	20,250.00
03/01/2035	20,250.00	-	20,250.00
06/01/2035	20,250.00	-	20,250.00
09/01/2035	20,250.00	-	20,250.00
12/01/2035	20,250.00	-	20,250.00
03/01/2036	20,250.00	-	20,250.00
06/01/2036	20,250.00	-	20,250.00
09/01/2036	20,250.00	-	20,250.00
12/01/2036	20,250.00	-	20,250.00
03/01/2037	20,250.00	-	20,250.00
06/01/2037	20,250.00	-	20,250.00
09/01/2037	20,250.00	-	20,250.00
12/01/2037	20,250.00	-	20,250.00
03/01/2038	20,250.00	-	20,250.00
06/01/2038	20,250.00	-	20,250.00
09/01/2038	20,250.00	-	20,250.00
12/01/2038	20,250.00	-	20,250.00

$3,078,043

Shady Spring Public Service District
0% Interest Rate, 1/2% Administrative Fee, 40 Years
Closing Date: December 19, 2005

SPECIMEN

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2039	20,250.00	-	20,250.00
06/01/2039	20,250.00	-	20,250.00
09/01/2039	20,250.00	-	20,250.00
12/01/2039	20,250.00	-	20,250.00
03/01/2040	20,250.00	-	20,250.00
06/01/2040	20,250.00	-	20,250.00
09/01/2040	20,250.00	-	20,250.00
12/01/2040	20,250.00	-	20,250.00
03/01/2041	20,250.00	-	20,250.00
06/01/2041	20,250.00	-	20,250.00
09/01/2041	20,250.00	-	20,250.00
12/01/2041	20,250.00	-	20,250.00
03/01/2042	20,250.00	-	20,250.00
06/01/2042	20,250.00	-	20,250.00
09/01/2042	20,250.00	-	20,250.00
12/01/2042	20,250.00	-	20,250.00
03/01/2043	20,250.00	-	20,250.00
06/01/2043	20,250.00	-	20,250.00
09/01/2043	20,250.00	-	20,250.00
12/01/2043	20,250.00	-	20,250.00
03/01/2044	20,250.00	-	20,250.00
06/01/2044	20,250.00	-	20,250.00
09/01/2044	20,250.00	-	20,250.00
12/01/2044	20,250.00	-	20,250.00
03/01/2045	20,250.00	-	20,250.00
06/01/2045	20,250.00	-	20,250.00
09/01/2045	20,250.00	-	20,250.00
12/01/2045	20,250.00	-	20,250.00
Total	**$3,078,043.00**	**-**	**$3,078,043.00** *

Yield Statistics

Bond Year Dollars	$64,920.47
Average Life	21.091 Years
Average Coupon	-
Net Interest Cost (NIC)	-
True Interest Cost (TIC)	2.49E-10
Bond Yield for Arbitrage Purposes	2.49E-10
All Inclusive Cost (AIC)	0.4509948%

IRS Form 8038

Net Interest Cost	-
Weighted Average Maturity	21.091 Years

*Plus $1,936.42 one-half percent administrative fee paid quarterly. Total fee over life of loan is $294,335.53.

File | Shady Spring Loans.sf | SRF 11-16-05 | 11/16/2005 | 9:16 AM

SPECIMEN

(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 said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

ATTORNEY JOHN T. POFFENBARGER
AT LAW
213 HALE STREET
CHARLESTON, WV 25301
PHONE: (304) 342-1678
FAX: (304) 345-0375
EMAIL: JTPOFF57@YAHOO.COM

December 19, 2005

Shady Springs Public Service District
Beaver, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Shady Springs Public Service District
Sewer Revenue Bonds, Series 2005 B
(State Revolving Fund)

Ladies and Gentlemen:

I have served as bond counsel to Shady Springs Public Service District (the "Issuer') in connection with the issuance of its Sewer Revenue Bonds, Series 2005 B (State Revolving Fund), dated the date hereof (the "Bonds").

I have examined certified copies of proceedings and other papers relating to the authorization of (i) a loan agreement for the Bonds, dated December 13, 2005, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and (ii) the Bonds to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are issued in the principal amount of $3,078,043.00 in the form of one bond, registered as to principal only to the Authority, bearing no interest, with principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2008, all as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13A and Chapter 22, Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of improvements to the public sewer facilities of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and a Bond Resolution duly adopted by the Issuer on December 13, 2005, as supplemented by a Supplemental Resolution duly adopted by the Issuer on December 13, 2005 (collectively, the "Resolution"), pursuant to and under which Act and Resolution the Bonds are authorized and issued, and the Loan Agreement is entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Resolution and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution and the Loan Agreement when used herein.

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

1. The Issuer is a duly created and validly existing public service district and is a public corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt a Resolution and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

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

3. The Loan Agreement inures to the benefit of the Authority and the Council and cannot be amended so as to affect adversely the rights of the Authority and the Council or diminish the obligations of the Issuer without the written consent of the Authority and the Council.

4. The Issuer has legally and effectively adopted the Resolution and all other necessary resolutions in connection with the issuance and sale of the Bonds. The Resolution constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms thereof and contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on a pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Series 2005 B Bonds issued simultaneously herewith and the Prior Bonds, all in accordance with the terms of the Bonds and the Resolution.

6. Under the Act, the Bonds and the interest thereon are exempt from taxation by the State of West Virginia and other taxing bodies of the State.

7. The Bonds have not been issued on the basis that the interest thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest, if any, from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

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

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

Very truly yours,

ATTORNEY JOHN T. POFFENBARGER
AT LAW
213 HALE STREET
CHARLESTON, WV 25301
PHONE: (304) 342-1678
FAX: (304) 345-0375
EMAIL: JTPOFF57@YAHOO.COM

December 19, 2005

Shady Springs Public Service District
Beaver, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Shady Springs Public Service District
Sewer Revenue Bonds, Series 2005 A
(West Virginia Infrastructure Fund)

Ladies and Gentlemen:

I have served as bond counsel to Shady Springs Public Service District (the "Issuer') in connection with the issuance of its Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), dated the date hereof (the "Bonds").

I have examined certified copies of proceedings and other papers relating to the authorization of (i) a loan agreement for the Bonds, dated December 13, 2005, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and (ii) the Bonds to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are issued in the principal amount of $2,875,000.00 in the form of one bond, registered as to principal only to the Authority, bearing no interest, with principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2008, all as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of improvements to the public sewer facilities of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and a Bond Resolution duly adopted by the Issuer on December 13, 2005, as supplemented by a Supplemental Resolution duly adopted by the Issuer on December 13, 2005 (collectively, the "Resolution"), pursuant to and under which Act and Resolution the Bonds are authorized and issued, and the Loan Agreement is entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Resolution and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution and the Loan Agreement when used herein.

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

1. The Issuer is a duly created and validly existing public service district and is a public corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt a Resolution and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

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

3. The Loan Agreement inures to the benefit of the Authority and the Council and cannot be amended so as to affect adversely the rights of the Authority and the Council or diminish the obligations of the Issuer without the written consent of the Authority and the Council.

4. The Issuer has legally and effectively adopted the Resolution and all other necessary resolutions in connection with the issuance and sale of the Bonds. The Resolution constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms thereof and contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on a pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Series 2005 B Bonds issued simultaneously herewith and the Prior Bonds, all in accordance with the terms of the Bonds and the Resolution.

6. Under the Act, the Bonds and the interest thereon are exempt from taxation by the State of West Virginia and other taxing bodies of the State.

7. The Bonds have not been issued on the basis that the interest thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest, if any, from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

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

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

Very truly yours,

RICHMOND LAW OFFICE
304 SOUTH HEBER ST.
BECKLEY, WEST VIRGINIA 25801

WILLIAM F. RICHMOND, JR
ATTORNEY AT LAW
WV STATE BAR ID# 3095

TELEPHONE (304) 255-4091
FAX (304) 929-2200

December 13, 2005

Shady Spring Public Service District
P.O. Box 235
Beaver, WV 25813-0235

John T. Poffenbarger
Bank One Center, Suite 910
Charleston, WV 25301

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

West Virginia Development of Environmental Protection
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Shady Spring Public Service District Sewer Revenue Bonds,
Series 2005 A (West Virginia Infrastructure Bond)
Sewer Revenue Bonds, Series 2005 B (State Revolving Fund)

Dear Ladies and Gentlemen:

As counsel for the Shady Spring Public Service District, which is hereinafter referred to as "Issuer", I have examined the copies of the approving opinions of John T. Poffenbarger, Esquire, as bond counsel, relating to the above-captioned bonds of the Issuer, which is hereinafter referred to as "Bonds", a loan agreement for the Series 2005 A Bonds, dated December 13, 2005, including all schedules and exhibits attached thereto, hereinafter referred to as "Loan Agreement" by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council, hereinafter referred to as "Council", a Bond Purchase Agreement for the Series 2005 Bonds, including all schedules and exhibits attached thereto, hereinafter referred to as the "Bond Purchase Agreement" by and among the Issuer, the Authority and the West Virginia Department of Environmental Protection, a Bond Resolution duly adopted by the Public Service Board of the Issuer, hereinafter referred to as the "Board" on December 13, 2005, as supplemented by a Supplemental Resolution duly adopted on December 13, 2005, hereinafter collectively called the "Resolution", order of the County Commission of Raleigh County relating to the Issuer and the appointment of members of the Board, and

other documents relating to the Bonds and the Issuer. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Loan Agreement, the Bond Purchase Agreement and the Resolution when used herein.

Accordingly, upon the review of the above, I am of the opinion that:

1. The Issuer was duly and legally created and is a validly existing public service district and is a public corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System and to adopt the Resolution, all under the Act and other applicable provisions of law.

2. The members of the Board have been duly and properly appointed and elected, have taken the requisite oaths and are thereby authorized to act on behalf of the Issuer in their respective capacities.

3. The Loan Agreement and the Bond Purchase Agreement have been duly authorized, executed and delivered by the Issuer and, assuming due authorizations, execution and delivery by the other parties thereto, constitutes a valid and binding agreement of the Issuer, enforceable in accordance with its terms.

4. The Resolution has been duly adopted by the Board and is in full force and effect;

5. The execution and delivery of the Bonds, the Bond Purchase Agreement and the Loan Agreement and the consummation of the transactions contemplated by the Bonds, the Bond Purchase Agreement, the Loan Agreement and the Resolution, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any resolution, agreement or other instrument to which the Issuer is a party or any existing law, regulation, court order or consent decree to which the Issuer is subject;

6. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates, registrations and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for the use of the System, including, without limitation, all requisite permits, approvals, orders and certificates from the Council and the Public Service Commission of West Virginia (the "PSC").

7. All successful bidders have made the required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy. Based upon my review of the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, I am of the opinion that such surety bonds and policies: (1) are in compliance with the contracts; (2) are adequate in form, substance and amount to protect the various interest of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Resolution and the Loan Agreements; and (5) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

8. To the best of my knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Loan Agreement, the Bond Purchase Agreement, the Bonds and the Resolution, the acquisition and construction of the Project, the operation of the System, the validity of the Bonds, the collection of the Gross Revenues or the pledge of the Net Revenues for the payment of the Bonds.

Please note that all counsel to this transaction may rely upon my opinion as if specifically addressed to them.

Should you have any questions or comments, please do not hesitate to contact me at your earliest convenience.

Sincerely,

W. F. Richmond, Jr.

WFR/trf

RICHMOND LAW OFFICE
304 SOUTH HEBER ST.
BECKLEY, WEST VIRGINIA 25801

WILLIAM F. RICHMOND, JR
ATTORNEY AT LAW
WV STATE BAR ID# 3095

TELEPHONE (304) 255-4091
FAX (304) 929-2200

December 14, 2005

John T. Poffenbarger
Bank One Center, Suite 910
Charleston, WV 25301

Re: Ghent / Flat Top Wastewater Collection System and Disposal Project, Phase 1, Construction Contract No. 1 at Flat Top, West Virginia

Dear Mr. Poffenbarger:

As counsel for the Shady Spring Public Service District, I have examined the Contract for the Wastewater Collection System and Disposal Project, Phase 1, Construction Contract No. 1 dated December 13, 2005 by and between the Shady Spring Public Service District, as Owner, and Diversified Enterprises, Inc. as Contractor and the Performance Bond pursuant thereto for the contract by and between Diversified Enterprises, Inc. of St. Albans, Inc. and Selective Insurance Company of America, a New Jersey Corporation, and found the contract and the performance bond in proper legal form and have determined that Selective Insurance Company of America is a bonding company licensed to do business in the State of West Virginia and, therefore, this contract and performance bond appear to be proper and binding with respect to this project for which the contract and performance bond was issued.

Sincerely,

W. F. Richmond

W. F. Richmond, Jr.

cc: Shady Spring Public Service District

RICHMOND LAW OFFICE
304 SOUTH HEBER ST.
BECKLEY, WEST VIRGINIA 25801

WILLIAM F. RICHMOND, JR
ATTORNEY AT LAW
WV STATE BAR ID# 3095

TELEPHONE (304) 255-4091
FAX (304) 929-2200

December 19, 2005

Shady Spring Public Service District
P.O. Box 235
Beaver, West Virginia 25813

Re: Ghent / Flat Top Wastewater Collection System and Disposal Project, Phase 1, Construction Contract No. 2 at Flat Top, West Virginia

Dear Sirs:

I have examined the Contract for the Wastewater Collection System and Disposal Project, Phase 1, Construction Contract No. 2 dated December 13, 2005 by and between the Shady Spring Public Service District, as Owner, and Diversified Enterprises, Inc. as Contractor and the Performance Bond pursuant thereto for the contract by and between Diversified Enterprises, Inc. of St. Albans, Inc. and Selective Insurance Company of America, a New Jersey Corporation, and found the contract and the performance bond in proper legal form and have determined that Selective Insurance Company of America is a bonding company licensed to do business in the State of West Virginia and, therefore, this contract and performance bond appear to be proper and binding with respect to this project for which the contract and performance bond was issued.

Sincerely,

W. F. Richmond

W. F. Richmond, Jr.

H. Wyatt Hanna, III

ATTORNEY AT LAW

512 D STREET • P.O. BOX 8070 • SOUTH CHARLESTON, WEST VIRGINIA 25303
(304) 744-3150 • FAX (304) 744-3157

December 13, 2005

Shady Spring Public Service District
Shady Spring, West Virginia

WV Water Development Authority
Charleston, West Virginia

WV Department of Environmental Protection
Charleston, West Virginia

WV Infrastructure and Jobs Development Council
Charleston, West Virginia

John T. Poffenbarger, Esquire
Charleston, West Virginia

RE: SHADY SPRING PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS
SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND) AND SERIES 2005 B (STATE REVOLVING FUND)

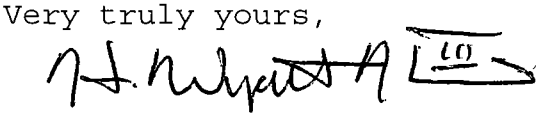
Ladies and Gentlemen:

I am special counsel to Shady Spring Public Service District in Raleigh County, West Virginia (the "Issuer"). As such counsel, I have represented the Issuer before the Public Service Commission of West Virginia in connection with the issuance of the above referenced bonds (the "Bonds") and the acquisition of a certificate of public convenience and necessity for the Project. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Legislation and the Bond Purchase Agreement when used herein.

I am of the opinion that the Issuer has received all orders and approvals from the Public Service Commission of West Virginia, including the Final Order entered on December 12, 2005, in Case No. 05-0314-PSD-CN, among other things, granting the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for rehearing and appeal of such Order has not expired prior to the date hereof, however, the only parties in this proceeding are the Issuer and Public Service Commission Staff. Upon information and belief, it is believed that neither of these parties will request a rehearing or appeal said Order.

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

Very truly yours,



H. Wyatt Hanna, III

HWHIII/rb

H. Wyatt Hanna, III

ATTORNEY AT LAW

512 D STREET • P.O. BOX 8070 • SOUTH CHARLESTON, WEST VIRGINIA 25303
(304) 744-3150 • FAX (304) 744-3157

December 19, 2005

Shady Spring Public Service District
Shady Spring, West Virginia

WV Water Development Authority
Charleston, West Virginia

WV Department of Environmental Protection
Charleston, West Virginia

WV Infrastructure and Jobs Development Council
Charleston, West Virginia

John T. Poffenbarger, Esquire
Charleston, West Virginia

RE: SHADY SPRING PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS
SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND) AND SERIES 2005 B (STATE REVOLVING FUND)

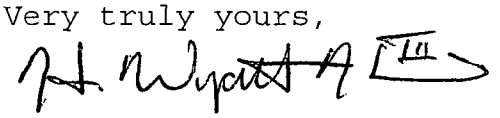
Ladies and Gentlemen:

I am special counsel to Shady Spring Public Service District in Raleigh County, West Virginia (the "Issuer"). As such counsel, I have represented the Issuer before the Public Service Commission of West Virginia in connection with the issuance of the above referenced bonds (the "Bonds") and the acquisition of a certificate of public convenience and necessity for the Project. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Legislation and the Bond Purchase Agreement when used herein.

I am of the opinion that the Issuer has received all orders and approvals from the Public Service Commission of West Virginia, including a Final Order entered on December 12, 2005, in Case No. 05-0314-PSD-CN, among other things, granting the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for rehearing and appeal of such Order has not expired prior to the date hereof, however, the only parties in this proceeding are the Issuer and Public Service Commission Staff. Upon information and belief, it is believed that neither of these parties will request a rehearing or appeal said Order.

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

Very truly yours,



H. Wyatt Hanna, III

HWHIII/rb

SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS,
SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND) AND
SERIES 2005 B (STATE REVOLVING FUND)

GENERAL CERTIFICATE ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES AND DELIVERY
6. PUBLIC SERVICE COMMISSION ORDER
7. RATES
8. INCUMBENCY AND OFFICIAL NAME
9. LAND AND RIGHTS-OF-WAY
10. MEETINGS
11. INSURANCE
12. LOAN AGREEMENT/BOND PURCHASE AGREEMENT
13. SPECIMEN BONDS
14. BOND PROCEEDS
15. CONFLICTS OF INTEREST
16. VERIFICATION OF SCHEDULE
17. PROCUREMENT OF ENGINEERING SERVICES
18. GRANTS
19. COUNTERPARTS

We, the undersigned CHAIRPERSON and the undersigned SECRETARY of the Public Service Board of Shady Springs Public Service District (the "Issuer") and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the Shady Springs Public Service District Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund) and Sewer Revenue Bonds, Series 2005 B (State Revolving Fund), dated the date hereof (collectively, the "Series 2005 Bonds" or the "Bonds" or individually, the "Series 2005 A Bonds" and the "Series 2005 B Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning set forth in the Bond Resolution duly adopted by the Issuer on December 13, 2005, the Supplemental Resolution duly adopted by the Issuer on December 13, 2005 (collectively, the "Resolution"), the loan agreement for the Series 2005 A Bonds by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development

Council (the "Council"), dated December 13, 2005 (the "Loan Agreement"), and the bond purchase agreement for the Series 2005 B Bonds among the Issuer, the Authority and the West Virginia Department of Environmental Protections dated December 13, 2005 (the "Bond Purchase Agreement"; and collectively with the Loan Agreement, the "Loan Agreements").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the authorization, issuance, sale and delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection or use of the revenues of the System, or the pledge and security of the Net Revenues for the Bonds; nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the Issuer or the title of the members or officers of the Issuer or the Board thereof to their respective offices; nor questioning any proceedings of the Issuer taken with respect to the authorization, issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection or use of the revenues of the System, or the pledge and security of the Net Revenues for the Bonds.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable approvals, permits, exemptions, consents, authorizations, registrations, licenses, orders and certificates required by law for the creation and existence of the Issuer, the acquisition and construction of the Project, the operation of the System, the imposition of rates and charges and the issuance of the Bonds have been duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project have been solicited by the Issuer in accordance with Chapter 5, Article 22, Section 1 of the Code of West Virginia, 1931, as amended, which bids remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval, execution and delivery of the Loan Agreements. The Issuer has met all conditions set forth in the Loan Agreements and will provide the financial, institutional, legal and managerial capabilities necessary to complete and operate the Project.

There are outstanding obligations of the Issuer which will rank on a parity with the Series 2005 Bonds as to liens, pledge, source of and security for payment, being the sewer revenue bonds set forth in Section 1.02 E of the Resolution (collectively, the "Prior Bonds").

The Series 2005 Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. The Issuer has obtained (i) the certificate of an Independent Certified Public Accountant stating

that the coverage and parity tests of the Prior Bonds are met; and (ii) the written consent of the Registered Owners of the Prior Bonds to the issuance of the Series 2005 Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. Simultaneously with the issuance of the Series 2005 Bonds, the Issuer will pay in full the Series 2003 Bonds, as defined in the Resolution.

5. SIGNATURES AND DELIVERY: The undersigned Chairperson and Secretary are the duly elected or appointed, qualified and acting officers of the Issuer as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bonds for the Issuer. The seal impressed upon the Bonds and this Certificate is the duly authorized, proper and only seal of the Issuer. On the date hereof, the undersigned Chairperson did officially sign all of the Bonds, consisting upon original issuance of a single Bond for each series, dated the date hereof, by his or her manual signature; the undersigned Secretary did officially cause the seal of the Issuer to be affixed upon the Bonds and to be attested by his or her manual signature; the Registrar did officially authenticate and deliver the Series 2005 Bonds to a representative of the Authority as the original purchaser of such Bonds under the Loan Agreements.

6. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the orders of the Public Service Commission of West Virginia entered on December 12, 2005, in Case No. 05-0314-PSD-CN, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the rates for the System and the financing for the Project. The time for appeal of the PSC order has expired prior to the date hereof without any appeal having been filed. However, the parties to such order have stated that they do not intend to appeal such order. The Issuer hereby certifies that it will not appeal such order. All such orders remain in full force and effect.

The Issuer has duly published the required notice with respect to, among other things, the amount of the Bonds to be issued, the interest rate and terms of the Bonds, the Project to be acquired or constructed, the cost of the Project, the anticipated user rates and charges and the date that a formal application for a certificate of public convenience and necessity is to be filed with the PSC in accordance with Chapter 16, Article 13A, Section 25 of the Code of West Virginia, 1931, as amended.

7. RATES: The rates for the System, as approved by the PSC, will become effective when the Project is placed in service.

8. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "Shady Springs Public Service District," and it is a public service district organized and existing under the laws of, and a public corporation and political subdivision

of, the State of West Virginia in Raleigh County of said State. The governing body of the Issuer is its Board, consisting of three members, whose names and dates of commencement and termination of their current terms are as follows:

Name	Date of Commencement of Office	Date of Termination of Office

The duly elected or appointed officers of the Board for 2005 Are as follows:

M. Leon Lucas - Chairperson
Ronnie L. Barker - Secretary/Treasurer

The duly appointed and acting attorney for the Issuer is W. F. Richmond, Jr., Esquire, of Beckley, West Virginia.

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

10. MEETINGS: All actions, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the acquisition, construction, operation and financing of the Project or the System were authorized or adopted at meetings of the Board duly and regularly or specifically called and held pursuant to all applicable statutes and the rules of procedure of the Board, and a quorum of duly appointed, qualified and acting members of the Board was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

11. INSURANCE: The Issuer will maintain or, as appropriate, will require all contractors to maintain worker's compensation, public liability insurance, and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and

business interruption insurance, where applicable, in accordance with the Resolution, the Loan Agreements. All insurance for the System required by the Resolution and the Loan Agreements are in full force and effect.

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

13. SPECIMEN BONDS: Attached hereto as Exhibit A are specimens of the Bonds which, except as to execution and authentication, are identical in all respects with the Bonds this day delivered to the Authority and being substantially in the form prescribed in the Resolution.

14. BOND PROCEEDS: On the date hereof, the Issuer received (a) $205,329.00 from the Authority and the Council, being a portion of the principal amount of the Series 2005 A Bonds and (b) $232,467.99 from the SRF, being a portion of the principal amount of the Series 2005 B Bonds. The balance of the respective principal amounts of the Bonds will be advanced to the Issuer from time to time as acquisition and construction of the Project progresses.

15. CONFLICTS OF INTEREST: No member, officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or the sale of any land, materials, supplies or services to the Issuer, or to any contractor supplying the Issuer, relating to the Bonds, the Resolution and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

16. VERIFICATION OF SCHEDULE: The final amended Schedule B attached to the Certificate of Consulting Engineer, with the signature of the Chairperson and the Consulting Engineer, accurately represents the estimated costs of the Project, the sources of funds available to pay the costs of the Project and the costs of financing of the Bonds.

17. PROCUREMENT OF ENGINEERING SERVICES: The Issuer has complied with all the requirements of Chapter 5G, Article 1 of the Code of West Virginia,

1931, as amended, in the procurement of the engineering services of the Consulting Engineer.

18. GRANTS: As of the date hereof, the grant from the ACOE in the amount of $2,700,000, and the grant from the Flat Top Lake Association in the amount of $204,000 are committed for the Project and are in full force and effect.

19. COUNTERPARTS: This Certificate may be executed in counterparts and all counterparts shall be deemed to be the Certificate.

WITNESS our signatures and the official corporate seal of Shady Springs Public Service District on this 19th day of December, 2005.

[SEAL]

Signature	Official Title
_____	Chairperson
_____	Secretary
_____	Attorney

EXHIBIT A

See Specimen Bonds (Tab Nos. __ and __).

(12)

SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS,
SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND) AND
SERIES 2005 B (STATE REVOLVING FUND)

CERTIFICATE OF CONSULTING ENGINEER

I, Jerry W Cantley Jr, Registered Professional Engineer, West Virginia License No. 12188, of L. A. Gates Company, Consulting Engineers, Beckley, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain improvements and extensions (the "Project") to the existing public Sewer facilities (the "System") of Shady Springs Public Service District (the "Issuer"), to be constructed primarily in Raleigh County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (collectively, the "Bonds" or individually, the "Series 2005 A Bonds" and the "Series 2005 B Bonds") of the Issuer. All capitalized words used herein and not defined herein shall have the same meaning set forth in the Bond Resolution adopted by the Issuer on December 13, 2005 (the "Resolution"), the loan agreement for the Series 2005 A Bonds by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), dated December 13, 2005 (the "Loan Agreement"), and the bond purchase agreement by and among the Issuer, the Authority and the West Virginia Department of Environmental Protection, dated December 19, 2005 (the "Bond Purchase Agreement").

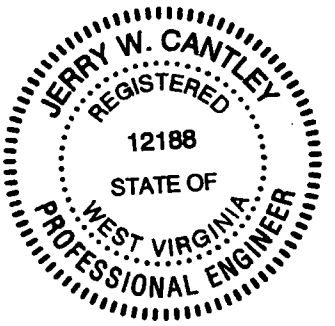
2. The Bonds are being issued for the purposes of (i) paying a portion of the costs of acquisition and construction of the Project; (ii) funding the reserve fund for the Series 2005 B Bonds; and (iii) paying certain costs of issuance of the Bonds and related costs.

3. To the best of my knowledge, information and belief (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the West Virginia Department of Environmental Protection (the "DEP") and any change orders approved by the Issuer, the Council, the DEP and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 40 years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project

which are in an amount and otherwise compatible with the plan of financing set forth in the Schedule B attached hereto as Exhibit A, and in reliance upon the opinion of Issuer's counsel, W F Richmond, Jr Esquire, of even date herewith, all successful bidders have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the DEP and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) in reliance upon the certificate of Michael D. Cornbleth, CPA, of even date herewith, as of the effective date thereof, the rates and charges for the System as approved by the Public Service Commission of West Virginia and adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement, the Bond Purchase Agreement and the Resolution; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the the Council and the DEP; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Final Total Cost of Project, Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this ~~13th~~ 19th day of December, 2005.

[SEAL]



L. A. GATES & COMPANY

Jerry W Cantley Jr

12/19/05

West Virginia License No. 12188

Shady Spring Public Service District

SCHEDULE B

A. COST OF PROJECT	[illegible]	[illegible]	US COE	CWSRF	FLATROCK
1 Construction					
Contract 1 - Diversified	3,618,569.64		2,580,000.00	1,038,569.64	0.00
Contract 2 - Diversified	3,053,516.87	2,887,849.00	0.00	1,215,668.87	0.00
2 Engineering Services - LA Gates					
a. Design (Portion paid by Flat Top)	204,000.00		0.00	0.00	204,000.00
b. Design - UDC design loan payoff	186,651.00	186,651.00	0.00	0.00	0.00
c. Eng During Construction	99,000.00		0.00	99,000.00	0.00
d. Special services	70,000.00		0.00	70,000.00	0.00
e. Inspection	175,000.00		0.00	175,000.00	0.00
3 Legal & Fiscal					
a. Legal	20,000.00		0.00	20,000.00	0.00
b. Accounting	10,000.00		0.00	10,000.00	0.00
4 Administrative - COE	40,000.00		40,000.00	0.00	0.00
5 Sites & Other Lands	80,000.00		80,000.00	0.00	0.00
6 Contingency	317,485.49		0.00	317,485.49	0.00
7 TOTAL of Lines 1 through 6	8,664,243.00	2,654,500.00	2,700,000.00	2,905,743.00	204,000.00
B. COST OF FINANCING					
11 Other Costs					
a. Registrar fees	500.00	500.00	0.00	0.00	0.00
b. CWSRF prefunded reserves	152,300.00	0.00	0.00	152,300.00	0.00
c. Bond Counsel - Pettinbanger	40,000.00	20,000.00	0.00	20,300.00	0.00
12 Cost of Issuance	192,800.00	20,500.00	0.00	172,300.00	0.00
13 TOTAL PROJECT COST line 10 plus line 11	8,857,043.00	2,675,000.00	2,700,000.00	3,078,043.00	204,000.00
C. SOURCES OF OTHER FUNDS					
14 Federal Grant (COE)	2,700,000.00	0.00	2,700,000.00	0.00	2,700,000.00
15 Other grant	204,000.00	0.00	0.00	0.00	204,000.00
16 TOTAL GRANTS Lines 13 through 15	2,904,000.00	0.00	2,700,000.00	0.00	2,904,000.00
17 Size of Bond Issue	5,953,043.00	2,675,000.00	0.00	3,078,043.00	(2,700,000.00)

Draft - do not sign Jerry L. Smith 12-19-05
Shady Spring PSD Date

LA Gates 12/19/05
Date

Griffith & Associates Certified Public Accountants & Consultants

CERTIFICATE OF CERTIFIED PUBLIC ACCOUNTANT

December 19, 2005

Shady Spring Public Service District
Sewer Revenue Bonds,
Series 2005 A (West Virginia Infrastructure Fund) and
Series 2005 B (Clean Water State Revolving Fund)

Shady Spring Public Service District
Beaver, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Department of Environmental Protection
Charleston, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

Ladies and Gentlemen:

I have reviewed the sewer rates of Shady Spring Public Service District (the "Issuer"), as approved by the Order of the Public Service Commission of West Virginia, entered December 12, 2005 in Case No. 05-0314-PSD-CN, and the projected operating expenses and anticipated customer usage provided by the District and from L. A. Gates & Company, the consulting engineer of the Issuer. It is my opinion that such rates are sufficient (i) to provide for all operating expenses of the sewer facilities of the Issuer 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 Issuer's Prior Bonds as defined in the Bond Resolution, the Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund) and Sewer Revenue Bonds, Series 2005 B (State Revolving Fund) (collectively, the "Series 2005 Bonds").

It is further my opinion that the Net Revenues for the fiscal year following the year in which the Series 2005 Bonds are to be issued will be at least 115% of the average annual debt service requirements on the Prior Bonds and the Series 2005 Bonds.

Very truly yours,

Michael D. Griffith, CPA

Michael D. Griffith, CPA
michaelgriffithcpa@verizon.net
950 Little Coal River Road Alum Creek, WV 25003
Phone: (304) 756.3600 Facsimile: (304) 756.2911

SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS,
SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND) AND
SERIES 2005 B (STATE REVOLVING FUND)

CERTIFICATE OF SECRETARY
AS TO TRUTH AND ACCURACY OF DOCUMENTS DELIVERED

The undersigned duly appointed Secretary of Shady Springs Public Service District (the "Issuer") hereby certifies that the copies of the following documents being delivered in connection with the closing of the sale of the Shady Springs Public Service District Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund) and Sewer Revenue Bonds, Series 2005 B (State Revolving Fund), are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the Issuer and delivered in the transcript of proceedings, that said documents have been duly adopted or approved by the Public Service Board (the "Board") of the Issuer and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

1. Orders of The County Commission of Raleigh County Creating and Enlarging the Issuer.

2. Orders of The County Commission of Raleigh County Appointing the Members of the Board.

3. Oaths of Office of the Board Members.

4. Rules of Procedure.

5. Minutes of Current Year Organizational Meeting.

6. Public Service Commission Order.

7. Infrastructure Council Approval Letter.

8. Infrastructure Council Loan Agreement.

9. SRF Bond Purchase Agreement.

10. Bond Resolution.

11. Supplemental Resolution.

12. Minutes of Board Meeting regarding Adoption of Bond Resolution and Supplemental Resolution.

13. Affidavits of Publication regarding Notice of Borrowing and Notice of Meeting to Adopt Bond Resolution and Supplemental Resolution.

14. Prior Bonds Resolutions.

15. Consent to Issuance of Parity Bonds.

16. NPDES Permit.

17. Evidence of Insurance.

18. ACOE Grant Agreement.

19. Flat Top Grant Letter.

WITNESS my signature and the official seal of the Issuer on this 19th day of December, 2005.

[SEAL]

Secretary

SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS,
SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND) AND
SERIES 2005 B (STATE REVOLVING FUND)

CERTIFICATE AS TO USE OF PROCEEDS

The undersigned Chairperson of the Public Service Board of Shady Springs Public Service District in Raleigh County, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of $2,875,000 Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), and $3,078,043 Sewer Revenue Bonds, Series 2005 B (State Revolving Fund), of the Issuer, both dated December 13, 2005 (collectively, the "Bonds" and individually, the "Series 2005 A Bonds" and "Series 2005 B Bonds"), hereby certify as follows:

1. I am one of the officers of the Issuer duly charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Resolution duly adopted by the Issuer on December 13, 2005 (the "Bond Resolution"), authorizing the Bonds.

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

3. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on December 19, 2005, the date on which the Bonds are being physically delivered in exchange for an initial advance of the respective principal amount of the Series 2005 A Bonds and the Series 2005 B Bonds, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. In the Bond Resolution pursuant to which the Bonds are issued, the Issuer has covenanted that it shall not take, or permit or suffer to be taken, any action with respect to Issuer's use of the proceeds of the Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Internal Revenue Code of 1986, as amended, and the temporary and permanent regulations promulgated thereunder or under any predecessor thereto (collectively, the "Code"), issued by the West Virginia Water Development Authority (the "Authority") or the West Virginia Infrastructure and Jobs Development Council (the "Council"), as the case may be, from which the proceeds of the Bonds are derived, to lose their status as tax-exempt bonds. The Issuer hereby covenants to take all actions necessary to comply with such covenant.

5. The Series 2005 A Bonds were sold on December 19, 2005, to the Authority, pursuant to a loan agreement dated December 19, 2005, by and between the Issuer and the Authority, on behalf of the Council, for an aggregate purchase price of $2,875,000 (100% of par), at which time, the Issuer received $205,329.00 from the Authority and the Council, being the first advance of the principal amount of the Series 2005 A Bonds. The Series 2005 B Bonds were sold on December 13, 2005, to the Authority on behalf of the State Revolving Fund, pursuant to a bond purchase agreement dated December 19, 2005, for an aggregate purchase price of $3,078,043 (100% of par), at which time, the Issuer received $232,477.99 from the Authority, being the first advance of the principal amount of the Series 2005 B Bonds. No accrued interest has been or will be paid on the Bonds. The balance of the respective principal amounts of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

6. The Bonds are being delivered simultaneously with the delivery of this Certificate and are issued for the purposes of (i) paying a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public Sewer facilities of the Issuer (the "Project"); (ii) funding a reserve account for the 2005 B Bonds; and (iii) paying certain costs of issuance of the Bonds and related costs.

7. The Issuer shall on the date hereof or immediately hereafter enter into agreements which require the Issuer to expend at least 5% of the net sale proceeds of the Bonds for the acquisition and construction of the Project, constituting a substantial binding commitment. The acquisition and construction of the Project and the allocation of the net sale proceeds of the Bonds to expenditures of the Project shall commence immediately and shall proceed with due diligence to completion, and with the exception of proceeds deposited in the Reserve Accounts for the Bonds, if any, all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before December 1, 2007. The acquisition and construction of the Project is expected to be completed by December 1, 2007.

8. The total cost of the Project is estimated at $8,857,043. Sources and uses of funds for the Project are as follows:

SOURCES

Proceeds of Series 2005 A Bonds	$ 2,875,000
Proceeds of Series 2005 B Bonds	3,078,043
ACOE Grant	2,700,000
Flat Top Grant	204,000
Total Sources	$ 8,857,043

USES

Costs of the Project	$8,664,243	(includes payment of $186,651 to retire Series 2003 Bonds)
Costs of Issuance	40,500	
Prefund SRF Reserve	152,300	
Total Uses	$8,857,043	

9. Pursuant to Article V of the Bond Resolution, the following special funds or accounts have been created or continued:

(1) Revenue Fund;

(2) Renewal and Replacement Fund;

(3) Series 2005 Bonds Construction Trust Fund;

(4) Series 2005 A Bonds Sinking Fund;

(5) Series 2005 A Bonds Reserve Account;

(6) Series 2005 B Bonds Sinking Fund; and

(7) Series 2005 B Bonds Reserve Account.

10. Pursuant to Article VI of the Bond Resolution, the proceeds of the Bonds will be deposited as follows:

(1) Series 2005 A Bonds proceeds in the amount of $-0- will be deposited in the Series 2005 A Bonds Reserve Account.

(2) Series 2005 B Bonds proceeds in the amount of $152,300 will be deposited in the Series 2005 B Bonds Reserve Account.

(3) The balance of the proceeds of the Bonds will be deposited in the Series 2005 Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of the Project, including costs of issuance of the Bonds and related costs.

11. Moneys held in the Series 2005 A Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Series 2005 A Bonds and will not be

available to meet costs of acquisition and construction of the Project. All investment earnings on moneys in the Series 2005 A Bonds Sinking Fund and Series 2005 A Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Series 2005 Bonds Construction Trust Fund during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Resolution.

12. Moneys held in the Series 2005 B Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Series 2005 B Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on moneys in the Series 2005 B Bonds Sinking Fund and Series 2005 B Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Series 2005 Bonds Construction Trust Fund during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Resolution.

13. Work with respect to the acquisition and construction of the Project will proceed with due diligence to completion. The acquisition and construction of the Project is expected to be completed within 24 months of the date hereof.

14. The Issuer will take such steps as requested by the Authority to ensure that the Authority's bonds meet the requirements of the Code.

15. With the exception of the amount deposited in the Series 2005 A Bonds Reserve Account, if any, all of the proceeds of the Series 2005 A Bonds will be expended on the Project within 12 months from the date of issuance thereof.

16. With the exception of the amount deposited in the Series 2005 B Bonds Reserve Account all of the proceeds of the Series 2005 B Bonds will be expended on the Project within 12 months from the date of issuance thereof.

17. The Issuer does not expect to sell or otherwise dispose of the Project in whole or in part prior to the last maturity date of the Bonds.

18. The amount designated as costs of issuance of the Bonds consists only of costs which are directly related to and necessary for the issuance of the Bonds.

19. All property financed with the proceeds of the Bonds will be owned and held by (or on behalf of) a qualified governmental unit.

20. No proceeds of the Bonds will be used, directly or indirectly, in any trade or business carried on by any person who is not a governmental unit.

21. The original proceeds of the Bonds will not exceed the amount necessary for the purposes of the issue. The Issuer covenants that it shall maintain thorough and accurate accounting records, in conformance with generally accepted accounting principles, relative to the proceeds of the Bonds so that use of proceeds from each series of the Bonds can be accounted for.

22. The Issuer shall use the Bond proceeds solely for the costs of the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the Issuer.

23. The Bonds are not federally guaranteed.

24. The Issuer has retained the right to amend the Bond Resolution authorizing the issuance of the Bonds if such amendment is necessary to assure that the Bonds remain governmental or public purpose bonds.

25. The Issuer has either (a) funded the Series 2005 A Bonds Reserve Account at the maximum amount of principal and interest, if any, which will mature and become due on the Series 2005 A Bonds in the then current or any succeeding year with the proceeds of the Series 2005 A Bonds, or (b) created the Series 2005 A Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2005 A Bonds Reserve Account hold an amount equal to the maximum amount of principal and interest, if any, which will mature and become due on the Series 2005 A Bonds in the then current or any succeeding year. Moneys in the Series 2005 A Bonds Reserve Account and the Series 2005 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 2005 A Bonds and will not be available to pay costs of the Project.

26. The Issuer has either (a) funded the Series 2005 B Bonds Reserve Account at the maximum amount of principal and interest, if any, which will mature and become due on the Series 2005 B Bonds in the then current or any succeeding year with the proceeds of the Series 2005 B Bonds, or (b) created the Series 2005 B Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2005 B Bonds Reserve Account hold an amount equal to the maximum amount of principal and interest, if any, which will mature and become due on the Series 2005 B Bonds in the then current or any succeeding year. Moneys in the Series 2005 B Bonds Reserve Account and the Series 2005 B Bonds Sinking Fund will be used solely to

pay principal of and interest on the Series 2005 B Bonds and will not be available to pay costs of the Project.

27. There are no other obligations of the Issuer which (a) are to be issued at substantially the same time as the Bonds, (b) are to be sold pursuant to a common plan of financing together with the Bonds and (c) will be paid out of substantially the same sources of funds or will have substantially the same claim to be paid out of substantially the same sources of funds as the Bonds.

28. To the best of my knowledge, information and belief, there are no other facts, estimates and circumstances which would materially change the expectations herein expressed.

29. The Issuer will comply with instructions as may be provided by the Authority, at any time, regarding use and investment of proceeds of the Bonds, rebates and rebate calculations.

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

WITNESS my signature on this 19th day of December, 2005.

M. Lear Lucas

Chairperson

(16)

WEST VIRGINIA
Water Development Authority
Celebrating 31 Years of Service 1974 - 2005

December 19, 2005

SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS,
SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND) AND
SERIES 2005 B (STATE REVOLVING FUND)

TO WHOM IT MAY CONCERN:

In reliance upon the certificate of the Griffith & Associates, independent certified public accountants, the undersigned duly authorized representative for the West Virginia Water Development Authority, the registered owner of the entire outstanding aggregate principal amount of bonds set forth in the Bond Resolution and as noted on Exhibit A attached hereto and incorporated herein by reference (collectively, the "Prior Bonds"), of Shady Springs Public Service District (the "Issuer"), hereby consents to the issuance of the Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund) and Sewer Revenue Bonds, Series 2005 B (State Revolving Fund), (the "Bonds"), by the Issuer, under the terms of the resolution authorizing the Bonds, on a parity, with respect to liens, pledge and source of and security for payment, with the Prior Bonds.

Authorized Representative

180 Association Drive, Charleston, WV 25311-1217
phone (304) 558-3612 / fax (304) 558-0299
www.wwda.org

EXHIBIT A

1. Sewer Revenue Bonds, Series 1982 B, dated August 12, 1982, issued in the original principal amount of $795,515.

2. Sewer Revenue Bonds, Series 1994 A , dated June 8, 1994, issued in the original principal amount of $170,532.

3. Sewer Revenue Bonds, Series 1996 A, dated April 25, 1996, issued in the original principal amount of $151,800.

4. Sewer Revenue Bonds, Series 1997 C, dated June 24, 1997, issued in the original principal amount of $2,197,304.

5. Sewer Revenue Refunding Bonds, Series 1997 D, dated June 24, 1997, issued in the original principal amount of $3,056,955.

6. Sewer Revenue Bonds, Series 1998 A, dated November 25, 1998, issued in the original principal amount of $1,202,100.

7. Sewer Revenue Bonds, Series 1998 B, dated December 17, 1998, issued in the original principal amount of $839,000.

8. Sewer Revenue Bonds, Series 1999 A, dated March 18, 1999, issued in the original principal amount of $752,000.

9. Sewer Revenue Bonds, Series 1999 B, dated March 18, 1999, issued in the original principal amount of $165,000.

10. Sewer Revenue Bonds, Series 2002 A, dated March 8, 2002, issued in the original principal amount of $2,419,905.

EST VIRGINIA:

At a regular session of the County Court of Raleigh County, West Virginia, held on e 5th day of May, 1959 in the County Courtroom of the Court House.

PRESENT: H. G. Farmer, President,
A. J. Lilly, Commissioner,
John C. Ward, Commissioner.

-o-

: PUBLIC SERVICE DISTRICT, SHADY SPRINGS DISTRICT 1.

This being the date fixed by prior action of the County Court for conducting the pub- earing on the creation of the proposed Shady Springs Public Service District No. 1 as mplated and provided for in an order heretofore passed by this court on the 7th day of , 1959, the president announced that all persons residing in, or owning, or having any est in property in such proposed public service district desiring to be heard for or st the creation would be heard, and all such interested persons desiring to be heard were full opportunity. Among those present at the meeting were Mr. Bern Wright, director e State Water Commission, and G. O. Fortney, chief engineer with the State Health De- ent. Both said their departments are "very happy" to see the people take it upon them- s to rid their communities of health hazards such as inadequate sewers.

The County Court, having further discussed and considered the feasibility of the ion of the proposed district, is of the opinion that in the public interest, the said ict should be created.

Thereupon, John C. Ward, Commissioner moved the passage of the following resolution rder, which motion was duly seconded by A. J. Lilly, Commissioner, and passed unanimously

NOW, THEREFORE, Be it Resolved and Ordered by the County Court of Raleigh County, West Virginia, as follows:

"SECTION 1. That the said court hereby finds and determines that the following persons, who are residents of Shady Springs Public Service District No. 1 are hereby appointed members of the public service board of said district, and their respective terms of office will be as follows: J. L. Lilly for a term of six years from May 1, 1959; A. G. Wilcox, Sr. for a term of four years from May 1, 1959; and Wiley Shepherd for a term of two years from May 1, 1959.

"SECTION 2. The aforesaid persons shall meet as soon as practicable at the office of the Clerk of said County Court, and shall qualify by taking the oath of office, and thereafter said appointees constituting the initial public service board of Shady Springs Public Service District No. 1 shall meet and organize in compliance with the provisions of Article 1 of Chapter 16 of the Code of West Virginia."

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RE: VACATION PROCEEDINGS.

The Clerk of this Court presented vacation proceedings had by said Clerk in his office since the last session of the Court held on the 7th day of April, 1959, said proceedings being from April 8th, 1959 to April 20th, 1959, inclusive, and no objections having been made to the same and none appearing to the Court the same are hereby approved and confirmed.

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It is ordered that Court be adjourned.

PRESIDENT.

Encl. #1

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EST VIRGINIA:

At a regular session of the County Court of Raleigh County, West Virginia held at he Court House thereof on the 3rd day of March, 1959.

P R E S E N T: H. G. Farmer, President,
A. J. Lilly, Commissioner,
John C. Ward, Commissioner.

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RE: SANITARY DISTRICT BOARD -SHADY SPRING DISTRICT.

Mr. W. H. File and Mr. Lowell Lilly appeared representing citizens of Shady Spring strict relative to a Sanitary District Board for said District. A motion was adopted by e Court that Mr. File and Mr. Lilly confer further with interested persons and that they epare a proper resolution to present to the Court for future consideration.

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WEST VIRGINIA:

At a regular session of the County Court of Raleigh County, West Virginia, held on the 7th day of April, 1959 in the County Courtroom of the Court House thereof.

PRESENT: H. G. Farmer, President,
A. J. Lilly, Commissioner,
John C. Ward, Commissioner.

IN RE: DISTRICT SANITARY BOARD.

Commissioner John C. Ward introduced and caused to be read a proposed resolution and order entitled:

"A Resolution and Order Proposing the Creation of a Public Service District within Raleigh County, West Virginia, and Providing for the Establishment of a Date of a Public Hearing Thereon and for Publication of a Notice of such Public Hearing;"

and moved that all rules otherwise requiring deferred consideration be suspended and the adoption of said proposed resolution and order. A. J. Lilly seconded said motion, and after due consideration the President called for a vote upon said motion with the following result:

For the Motion: H. G. Farmer, President,
A. J. Lilly, Commissioner,
John C. Ward, Commissioner

Against the motion: None

The said resolution and order follows:

"WHEREAS, the County Court of Raleigh County, deeming it to be in the public interest, on its own motion proposes the creation of a public service district within Raleigh County, West Virginia; and

"WHEREAS, pursuant to the provisions of Article 13A of Chapter 16 of the Code of West Virginia, a public hearing is required to be held relative to the creation of the proposed public service district:

"NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the County Court of Raleigh County, West Virginia, as follows:

"Section 1. That the County Court of Raleigh County, West Virginia, deeming it to be in the public interest, hereby proposes the creation of a public service district within Raleigh County, West Virginia, as provided by Article 13A of Chapter 16 of the Code of West Virginia.

"Section 2.

"a) The name and corporate title of said public service district shall be the Shady Springs Public Service District No. 1.

"b) The territory to be embraced in the public service district shall be as follows:

Those certain portions of Shady Springs and Town Districts of Raleigh County, West Virginia, bounded and described as follows:

"c) The purpose of said public service district shall be to construct or acquire by purchase or otherwise and maintain, operate and improve and extend properties supplying sewerage services within such territory.

"d) The territory described above does not include within its limits the territory of any other public service district organized under Article 13A of Chapter 16, Code of West Virginia, nor does such territory include within its limits any city, incorporated town, other municipal corporation, or any part thereof.

"Section 3. That on the 5th day of May, 1959, at the hour of 2:00 P.M. this County Court shall meet in the County Courtroom in the courthouse at Beckley, West Virginia for the purpose of conducting a public hearing on the creation of the proposed public service district, at which time and place all persons residing in or owning or having any interest in property in the proposed public service district may appear and shall have an opportunity to be heard for and against the creation of said district, and, at such hearing, the County Court shall consider and determine the feasibility of the creation of the proposed public service district.

"Section 4. That the Clerk of this Court is hereby authorized and directed to cause notice of such hearing in substantially the form hereinafter set out to be published on April _____, 1959, in The Raleigh Register, a newspaper of general circulation published in Raleigh County."

"NOTICE OF PUBLIC HEARING ON CREATION OF SHADY SPRINGS PUBLIC SERVICE DISTRICT NO. 1

"Notice is hereby given that deeming it to be in the public interest the County Court of Raleigh County, West Virginia, on its own motion, has proposed the creation of a public service district within Raleigh County for the purpose of [illegible] otherwise, [illegible] maintenance, operation [illegible] of public service properties supplying sewerage services within the [illegible] described, to be named Shady Springs Public Service District No. 1, [illegible] the following description:

Those certain portions of Shady Springs and Town Districts of Raleigh County, West Virginia, bounded and described as follows:

Beginning at the intersection of State Highway Route 22 and with its intersection of the center line of Glade Creek, said point being in the common line between Shady Springs and Richmond Districts; thence with the center line of the aforesaid Route 22 in a westerly direction to the village of Crow to its intersection with State Route 22/1; thence with the center line of State Route 22/1 approximately four-tenths of one mile to its intersection with West Virginia State Route 9, commonly referred to as the Old Grandview Road; thence with the center line of State Route 9 in a westerly direction to its intersection of West Virginia State Route 9/7, commonly referred to as the Old Morley Road; thence with the center line of State Route 9/7 in a northwesterly direction, crossing Piney River at the Old Morley Mill and continuing to its intersection with the eastern right-of-way line of the U. S. Highway 19-21 By-Pass; said right-of-way line being the corporation line of the City of Beckley, West Virginia; thence with the said City of Beckley Corporation line in a southerly direction to a point intersecting with a southwesterly extension of the common lot line between lots 37 and 38, Section 14, of the Glen Morgan Addition; thence N. 84° 00' E. with the extension and the lot line of the aforementioned lots 37 and 38, 445 feet more or less to a point in Piney River; thence with Piney River as it meanders in a southeasterly direction 950 feet to a point in the center line of the Raleigh Mine No. 7 Road where it crosses Piney River; thence leaving Piney River and with Raleigh Mine No. 7 Road in a southeasterly direction 410 feet to a point on the outside boundary line of the Glen Morgan Addition where it crosses said Raleigh Mine No. 7 Road; thence leaving said road and with the outside boundary line of the Glen Morgan Addition, S. 42° 02' W. 800 feet to a point in the Raleigh Mine No. 7 Road; thence leaving the outside boundary line and with Raleigh Mine No. 7 Road in a southwesterly direction 700 feet to its intersection with the old original Routes 19-21; thence with the old original Routes 19-21 and behind Raleigh Motor Sales in a southerly direction 700 feet to its intersection with the present Routes 3 and 19-21; thence with the center line of Routes 3 and 19-21 in a northwesterly direction 1550 feet to the point where State Route 3 was abandoned; thence along the old abandoned Route 3, in a northwesterly direction, 400 feet to a point where it intersects with the southern right-of-way line of Virginia Avenue; thence with the

southern right-of-way line of Virginia Avenue and the property lines of James P. White and Thomas W. Turner, N. 14° 00' E. 500 feet to a point where Virginia Avenue intersects Routes 19-21; thence with Routes 19-21 N. 30° 00' E. 870 feet to a point in the corporate line to the City of Beckley at the intersection of Routes 19-21 By-Pass and Routes 19-21 business route; thence continuing with the corporate line of the City of Beckley, in a general westerly direction, to its intersection with the southeast corporation line of the Town of Mabscott; thence with the said Mabscott corporation line, and with the old Soak Creek Road, in a southwesterly direction to the top of Mabscott Hill and to a steel pin at the intersection of the old Soak Creek Road and the Old Eccles Road; thence crossing State Route 16 S. 26° 05' E. 352.10 feet, by a surveyed line, to a lead plug at the intersection of the center line of West Virginia State Route 20, commonly known as the Old Fitzpatrick Road and its intersection with the Old Beckley-Crab Orchard Road; thence with the center line of State Route 20 in a southeasterly direction and passing through the village of Fitzpatrick to its intersection with the center line of State Route 18; thence with the said center line of State Route 18 in a southeasterly direction to its intersection with State Route 19/19 near Cherry Creek; thence with the said center line of State Route 19/19 and continuing in a southeasterly direction to its intersection with the center line of U. S. Routes 19-21; thence in a southerly direction with the center line of U. S. Routes 19-21 to the intersection of the center line of West Virginia State Route 31 at the village of Cool Ridge; thence continuing in a southeasterly direction with State Route 31, to its intersection with the Raleigh-Summers County line, near the Mount View Post Office; thence in a northeasterly direction and with the common line between Raleigh County and Summers County to its intersection with the Shady Springs District line and the Richmond District line; thence with the said Shady Springs and Richmond District line in a general northerly direction to the point of beginning.

"All persons residing in or owning or having any interest in property in said described public service district are hereby notified that the County Court of Raleigh County will conduct a public hearing on the 5th day of May, 1959, at 2:00 P. M. in the County Courtroom in the courthouse at Beckley, West Virginia, at which time and place all interested persons may appear before the County Court and shall have an opportunity, to be heard for and against the creation of the proposed public service district.

Entered of the County Court this 7th day of April, 1959.

ATTEST: C. O. Smith, Jr.
Clerk of the County Court
of Raleigh County, West Virginia"

C E R T I F I C A T I O N

I, Elinor Hurt, County Clerk of the County of Raleigh, State of West Virginia, do hereby certify that the attached is a true and accurate copy of the Minutes of the County Commission of Raleigh.

Given under my hand and seal of the County of Raleigh, State of West Virginia, this 18 day of November, 1982.

Elinor Hurt
County Clerk

in and executed by the Public Service Board, which shall consist of five (5) members, each of whom shall reside within the geographical area covered by the Shady Spring Public Service District. Each member of the Public Service Board shall be appointed by the Raleigh County Commission, and the term of office shall be six (6) years. A vacancy for any unexpired term shall be filled by appointment by the Raleigh County Commission within thirty (30) days. The Raleigh County Commission may remove any member of the Public Service Board for consistent violation of these Rules, Regulations, and By-Laws, or of Article 13A of Chapter 16 of the Code of West Virginia, for reasonable cause which includes, but is not limited to, a continued failure to attend meetings of the board, failu to diligently pursue the objects for which the district was created, failure to perform any other duty prescribed by law, for any misconduct in office, or upon

written petition signed by twenty-five percent (25%) of the registered voters who reside within the geographical limits of the Shady Spring Public Service District.

The members of the the Public Service Board shall receive no salaries until duly authorized by the Public Service Board at a regular meeting of the Board. Each member of the Public Service Board may be reimbursed for the reasonable and necessary expenses actually incurred in performance of his duties, upon his request and upon the written resolution of the majority of the members of the Public Service Board at a regularly monthly meeting.

ARTICLE THREE

OFFICERS

SECTION ONE: At its first meeting after January 1 of each year, the Public Service Board shall organize by selecting one of its members to serve as Chairman and by appointing a Secretary and Treasurer. The Secretary and Treasurer so appointed need not be members of the Public Service Board.

SECTION TWO: The Chairman shall preside at all meetings of the Public Service Board and may vote as any other member of the Board. If the Chairman should be absent from any meeting, the remaining members may select a temporary Chairman to preside at that meeting. If the Chairman resigns as Chairman or for any reason ceases to be a member of the Public Service Board, the Public Service Board shall select one of its members as Chairman to serve until the next annual organization meeting.

SECTION THREE: The Secretary OR CHAIRMAN shall keep a written record of all proceedings of the Public Service Board which shall be available for inspection as all other public records. Duplicate records shall be filed with the Raleigh County Commission and shall include the minutes of all Board Meetings. The Secretary

shall perform such other duties appertaining to the affairs of Shady Spring Public Service District and shall receive such salaries as shall be prescribed by the Board.

SECTION FOUR: The Treasurer shall be the lawful custodian of all of the Shady Spring Public Service District funds and shall pay same out on written orders authorized or approved by the Public Service Board. The Treasurer shall perform such other duties appertaining to the affairs of the Shady Spring Public Service District and shall receive such salaries as shall be prescribed by the Board. The Treasurer shall furnish bond in an amount to be fixed by the Board for the use and benefit of the District.

SECTION FIVE: Public Service Board, the Chairman, the Secretary, and the Treasurer shall make available to the Raleigh County Commission at all times all of its books and records pertaining to the Shady Spring Public Service District's operations, finances, and affairs.

ARTICLE FOUR

MEETINGS OF THE PUBLIC SERVICE BOARD

SECTION ONE: The members of Public Service Board of this district shall hold regular monthly meetings on the ~~first~~ Third Monday of each month at 5:00 p.m. at its office in Beaver, West Virginia. If the day stated shall fall on a legal holiday, the meeting shall be held on the following day. Special meetings of the Public Service Board may be called at any time by the Chairman or by a quorum of the Board.

SECTION TWO: At any meeting of the Public Service Board of the District, ~~two~~ three members shall constitute a quorum. Each member of the Public Service Board shall have one vote at any meeting and if a quorum is not present, those present may adjourn the meeting to a later date. No member may vote by proxy.

SECTION THREE: Notice to members by letter or by telephone shall be required for regular meetings. Notice in writing of each special meeting of the membership shall be given to all members by the Secretary by mailing the same to the last known address of each member at least four days before the date fixed for such meeting. The notice of any special meeting shall state briefly the purposes of such meeting and the nature of the meeting to be transacted thereat, and no business other than that stated in the notice or incidental thereto shall be transacted at any such special meeting.

SECTION FOUR: The Public Service Board shall in all regards comply with the provisions of Article 9A of Chapter 6 of the West Virginia Code of 1931, as amended, with regard to notice of the time and place of all meetings of The Public Board, and these Rules, Regulations, and By-Laws incorporate herein by reference the resolution adopted by the Public Service Board on November 1, 1982, concerning compliance with Article 9A of Chapter 6 of the West Virginia Code of 1931, as amended.

SECTION FIVE: All meetings of the Public Service Board shall be open to the public.

ARTICLE FIVE

EMPLOYEES OF THE PUBLIC SERVICE BOARD

The Public Service Board may in its discretion employ a general manager, an attorney, a fiscal agent, one or more engineers, and such other employees as the Board may determine necessary and expedient, in accordance with Section Five and Six of Article 13A of Chapter 16 of the West Virginia Code of 1931, as amended.

ARTICLE SIX

AMENDMENTS TO RULES, REGULATIONS AND BY-LAWS

The Rules, Regulations and By-Laws may be altered, changed, amended, or added to at any regular or special meeting of the Public Service Board by a majority vote of the members present; but no such change, alteration, amendment, or addition shall be made at any special meeting unless notice with the intention to propose such a change, alteration, amendment, or addition and a clear statement of the substance thereof is included in the written notice calling such meeting.

SHADY SPRING PUBLIC SERVICE DISTRICT

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

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF SHADY SPRING PUBLIC SERVICE DISTRICT:

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

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

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

(B) The Public Service Board of Shady Spring Public Service District (herein called the "Board") is a governing body within the meaning of the Act.

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

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

Rule No. 1. Notice of Regularly Scheduled Meetings. Within thirty (30) days after the effective date of this resolution, and on or before June 30 of each year thereafter, beginning June 1983, the Board shall post, and leave posted throughout the year to which it applies, at the place on or near the main entrance to the regular meeting place of the Board customarily used for posting similar notices and at the place in the county courthouse where notices customarily are posted, notices setting forth the times and places of the Board's regularly scheduled meetings for the ensuing fiscal year. Such notices shall be of size and style sufficient to give notice and shall be of a quality sufficient to withstand deterioration throughout the year to which they apply.

Also within thirty (30) days after the effective date of this resolution, and on or before June 30 of each year thereafter, beginning June 1983, the Board shall distribute to each of the newspapers, television stations, radio stations and other news media listed below a notice identical to those posted.

Newspapers: The Raleigh Register, Beckley, West Virginia; The Beckley Post Herald, Beckley, West Virginia.

Television Stations: WOAY-TV, Oak Hill, West Virginia.

Radio Stations: None

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

In the event of any modification in the time or place of a regularly scheduled meeting of the Board, notice of such modification shall be given to the public and news media by posting at the places and distributing to the news media in the manner set forth above, not less than five (5) days prior to the date of such regularly scheduled meeting, or, if such regularly scheduled meeting has been rescheduled for an earlier time, prior to the date of such rescheduled meeting, notices setting forth such modification in the time or place of such regularly scheduled meeting. Contemporaneously with the distribution of said notices to the news media, a notice identical to that posted and distributed shall be sent to each member of the Board. A copy of such notice shall be attached to and made a part of the minutes of the meeting for which such notice was given.

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

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

Rule No. 2. Notice of Special Meeting. Except as provided in Rule No. 3, notice of any special meeting of the Board shall be given by posting on the door of the regular meeting place of the Board, or at the place near the main entrance to such regular meeting place customarily used for posting similar notices, not less than four (4) but not more than eight (8) days prior to the date set for such special meeting, a notice stating the time, place, including the room, if known, and purpose or purposes of such special meeting. Business at such special meeting shall be limited to the purpose or purposes specified in said notice.

As soon as practical after the posting of said notice, but not less than four (4) days prior to the date set for such special meeting, a notice identical to that posted shall be distributed to each of the newspapers, television stations, radio stations and other news media listed in Rule No. 1 hereof. Amendments made to such list, as provided for in said Rule No. 1, shall be incorporated by reference in this Rule No. 2. A notice shall be considered distributed to a news media when it has been addressed to such news media at the address listed in said Rule No. 1, or at such other address as the news media has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail.

Contemporaneously with the distribution of said notices to the news media, a notice identical to that posted shall be sent to each member of the Board. Also contemporaneously with the distribution of said notices to the news media, a notice identical to that posted shall be sent to the Clerk of the County Commission of Raleigh County, West Virginia, with instructions for the Clerk to post such notice at the place in the courthouse where legal notices customarily are posted. In addition, a notice identical to that posted shall be attached to and made a part of the minutes of the meeting for which such notice was given.

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

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

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

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

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

Adopted and entered into this 1st day of November, 1982.

CHAIRMAN

MEMBER

MEMBER

MEMBER

MEMBER

SPECIAL MEETING

1. Notice must be posted at the door of the regular meeting place.

2. Notice must be posted not less than four (4)days but not more than eight (8) days prior to the meeting.

3. Notice must specify the following:

   1. date set for the special meeting.

   2. time and place of the special meeting.

   3. purpose of the special meeting.

4. Business of the said special meeting shall be limited to the purposes or purpose set out in the special meeting notice.

5. Not less than four (4) days prior, a notice identical to that posted at the place for the meeting shall be distributed to (1) the newspapers and (2) the television stations in Beckley, W.Va.

6. Identical notice must be distributed to each member of the Board.

7. An identical copy of the notice must be attached to the minutes of the meeting.

---oooo---

EST VIRGINIA:

At a regular session of the County Court of Raleigh County, West Virginia, held on he 5th day of May, 1959 in the County Courtroom of the Court House.

PRESENT: H. G. Farmer, President,
A. J. Lilly, Commissioner,
John C. Ward, Commissioner.

---o---

E: PUBLIC SERVICE DISTRICT, SHADY SPRINGS DISTRICT 1.

This being the date fixed by prior action of the County Court for conducting the pub- earing on the creation of the proposed Shady Springs Public Service District No. 1 as mplated and provided for in an order heretofore passed by this court on the 7th day of , 1959, the president announced that all persons residing in, or owning, or having any est in property in such proposed public service district desiring to be heard for or st the creation would be heard, and all such interested persons desiring to be heard were full opportunity. Among those present at the meeting were Mr. Bern Wright, director e State Water Commission, and G. O. Fortney, chief engineer with the State Health De- ent. Both said their departments are "very happy" to see the people take it upon them- s to rid their communities of health hazards such as inadequate sewers.

The County Court, having further discussed and considered the feasibility of the ion of the proposed district, is of the opinion that in the public interest, the said ict should be created.

Thereupon, John C. Ward, Commissioner moved the passage of the following resolution rder, which motion was duly seconded by A. J. Lilly, Commissioner, and passed unanimously

NOW, THEREFORE, Be it Resolved and Ordered by the County Court of Raleigh County, West Virginia, as follows:

"SECTION 1. That the said court hereby finds and determines that the following persons, who are residents of Shady Springs Public Service District No. 1 are hereby appointed members of the public service board of said district, and their respective terms of office shall be as follows: J. L. Lilly for a term of six years from May 1, 1959; A. G. Wilcox, Sr. for a term of four years from May 1, 1959; and Wiley Shepherd for a term of two years from May 1, 1959.

"SECTION 2. The aforesaid persons shall meet as soon as practicable at the office of the Clerk of said County Court, and shall qualify by taking the oath of office, and thereafter said appointees constituting the initial public service board of Shady Springs Public Service District No. 1 shall meet and organize in compliance with the provisions of Article 1 of Chapter 16 of the Code of West Virginia."

-o-

RE: VACATION PROCEEDINGS.

The Clerk of this Court presented vacation proceedings had by said Clerk in his office since the last session of the Court held on the 7th day of April, 1959, said proceedings covering from April 8th, 1959 to April 20th, 1959, inclusive, and no objections having been made to the same and none appearing to the Court the same are hereby approved and confirmed.

-o-

It is ordered that Court be adjourned.

PRESIDENT.

Encl. #1

30 / 115

EST VIRGINIA:

At a regular session of the County Court of Raleigh County, West Virginia held at he Court House thereof on the 3rd day of March, 1959.

PRESENT: H. G. Farmer, President,
A. J. Lilly, Commissioner,
John C. Ward, Commissioner.

-o-

RE: SANITARY DISTRICT BOARD -SHADY SPRING DISTRICT.

Mr. W. H. File and Mr. Lowell Lilly appeared representing citizens of Shady Spring strict relative to a Sanitary District Board for said District. A motion was adopted by e Court that Mr. File and Mr. Lilly confer further with interested persons and that they epare a proper resolution to present to the Court for future consideration.

-o-

---CCO---

WEST VIRGINIA:

At a regular session of the County Court of Raleigh County, West Virginia, held on the 7th day of April, 1959 in the County Courtroom of the Court House thereof.

PRESENT: H. G. Farmer, President,
A. J. Lilly, Commissioner,
John C. Ward, Commissioner.

IN RE: DISTRICT SANITARY BOARD.

Commissioner John C. Ward introduced and caused to be read a proposed resolution and order entitled:

"A Resolution and Order Proposing the Creation of a Public Service District within Raleigh County, West Virginia, and Providing for the Establishment of a Date of a Public Hearing Thereon and for Publication of a Notice of such Public Hearing;"

and moved that all rules otherwise requiring deferred consideration be suspended and the adoption of said proposed resolution and order. A. J. Lilly seconded said motion, and after due consideration the President called for a vote upon said motion with the following result:

For the Motion: H. G. Farmer, President,
A. J. Lilly, Commissioner,
John C. Ward, Commissioner

Against the motion: None

The said resolution and order follows:

"WHEREAS, the County Court of Raleigh County, deeming it to be in the public interest, on its own motion proposes the creation of a public service district within Raleigh County, West Virginia; and

"WHEREAS, pursuant to the provisions of Article 13A of Chapter 16 of the Code of West Virginia, a public hearing is required to be held relative to the creation of the proposed public service district:

"NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the County Court of Raleigh County, West Virginia, as follows:

"Section 1. That the County Court of Raleigh County, West Virginia, deeming it to be in the public interest, hereby proposes the creation of a public service district within Raleigh County, West Virginia, as provided by Article 13A of Chapter 16 of the Code of West Virginia.

"Section 2.

"a) The name and corporate title of said public service district shall be the Shady Springs Public Service District No. 1.

"b) The territory to be embraced in the public service district shall be as follows:

Those certain portions of Shady Springs and Town Districts of Raleigh County, West Virginia, bounded and described as follows:

"c) The purpose of said public service district shall be to construct or acquire by purchase or otherwise and maintain, operate and improve and extend properties supplying sewerage services within such territory.

"d) The territory described above does not include within its limits the territory of any other public service district organized under Article 13A of Chapter 16, Code of West Virginia, nor does such territory include within its limits any city, incorporated town, other municipal corporation, or any part thereof.

"Section 3. That on the 5th day of May, 1959, at the hour of 2:00 P.M. this County Court shall meet in the County Courtroom in the courthouse at Beckley, West Virginia for the purpose of conducting a public hearing on the creation of the proposed public service district, at which time and place all persons residing in or owning or having any interest in property in the proposed public service district may appear and shall have an opportunity to be heard for and against the creation of said district, and, at such hearing, the County Court shall consider and determine the feasibility of the creation of the proposed public service district.

"Section 4. That the Clerk of this Court is hereby authorized and directed to cause notice of such hearing in substantially the form hereinafter set out to be published on April _____, 1959, in The Raleigh Register, a newspaper of general circulation published in Raleigh County."

"NOTICE OF PUBLIC HEARING ON CREATION OF SHADY SPRINGS PUBLIC SERVICE DISTRICT NO. 1

"Notice is hereby given that deeming it to be in the public interest the County Court of Raleigh County, West Virginia, on its own motion, has proposed the creation of a public service district within Raleigh County for the purpose of [illegible] otherwise, [illegible] maintenance, operation [illegible] of public service properties supplying sewerage services within the district hereinafter described, to be named Shady Springs Public Service District No. 1, having the following description:

Those certain portions of Shady Springs and Town Districts of Raleigh County, West Virginia, bounded and described as follows:

Beginning at the intersection of State Highway Route 22 and with its intersection of the center line of Glade Creek, said point being in the common line between Shady Springs and Richmond Districts; thence with the center line of the aforesaid Route 22 in a westerly direction to the village of Crow to its intersection with State Route 22/1; thence with the center line of State Route 22/1 approximately four-tenths of one mile to its intersection with West Virginia State Route 9, commonly referred to as the Old Grandview Road; thence with the center line of State Route 9 in a westerly direction to its intersection of West Virginia State Route 9/7, commonly referred to as the Old Morley Road; thence with the center line of State Route 9/7 in a northwesterly direction, crossing Piney River at the Old Morley Mill and continuing to its intersection with the eastern right-of-way line of the U. S. Highway 19-21 By-Pass; said right-of-way line being the corporation line of the City of Beckley, West Virginia; thence with the said City of Beckley Corporation line in a southerly direction to a point intersecting with a southwesterly extension of the common lot line between lots 37 and 38, Section 14, of the Glen Morgan Addition; thence N. 84° 00' E. with the extension and the lot line of the aforementioned lots 37 and 38, 445 feet more or less to a point in Piney River; thence with Piney River as it meanders in a southeasterly direction 950 feet to a point in the center line of the Raleigh Mine No. 7 Road where it crosses Piney River; thence leaving Piney River and with Raleigh Mine No. 7 Road in a southeasterly direction 410 feet to a point on the outside boundary line of the Glen Morgan Addition where it crosses said Raleigh Mine No. 7 Road; thence leaving said road and with the outside boundary line of the Glen Morgan Addition, S. 42° 02' W. 800 feet to a point in the Raleigh Mine No. 7 Road; thence leaving the outside boundary line and with Raleigh Mine No. 7 Road in a southwesterly direction 700 feet to its intersection with the old original Routes 19-21; thence with the old original Routes 19-21 and behind Raleigh Motor Sales in a southerly direction 700 feet to its intersection with the present Routes 3 and 19-21; thence with the center line of Routes 3 and 19-21 in a northwesterly direction 1550 feet to the point where State Route 3 was abandoned; thence along the old abandoned Route 3, in a northwesterly direction, 400 feet to a point where it intersects with the southern right-of-way line of Virginia Avenue; thence with the

southern right-of-way line of Virginia Avenue and the property lines of James P. White and Thomas A. Turner, N. 14° 00' E. 500 feet to a point where Virginia Avenue intersects Routes 19-21; thence with Routes 19-21 N. 30° 00' E. 870 feet to a point in the corporate line to the City of Beckley at the intersection of Routes 19-21 By-Pass and Routes 19-21 business route; thence continuing with the corporate line of the City of Beckley, in a general westerly direction, to its intersection with the southeast corporation line of the Town of Mabscott; thence with the said Mabscott corporation line, and with the old Soak Creek Road, in a southwesterly direction to the top of Mabscott Hill and to a steel pin at the intersection of the old Soak Creek Road and the Old Eccles Road; thence crossing State Route 16 S. 26° 05' E. 352.10 feet, by a surveyed line, to a lead plug at the intersection of the center line of West Virginia State Route 20, commonly known as the Old Fitzpatrick Road and its intersection with the Old Beckley-Crab Orchard Road; thence with the center line of State Route 20 in a southeasterly direction and passing through the village of Fitzpatrick to its intersection with the center line of State Route 18; thence with the said center line of State Route 18 in a southeasterly direction to its intersection with State Route 19/19 near Cherry Creek; thence with the said center line of State Route 19/19 and continuing in a southeasterly direction to its intersection with the center line of U. S. Routes 19-21; thence in a southerly direction with the center line of U. S. Routes 19-21 to the intersection of the center line of West Virginia State Route 31 at the village of Cool Ridge; thence continuing in a southeasterly direction with State Route 31, to its intersection with the Raleigh-Summers County line, near the Mount View Post Office; thence in a northeasterly direction and with the common line between Raleigh County and Summers County to its intersection with the Shady Springs District line and the Richmond District line; thence with the said Shady Springs and Richmond District line in a general northerly direction to the point of beginning.

"All persons residing in or owning or having any interest in property in said proposed public service district are hereby notified that the County Court of Raleigh County will conduct a public hearing on the 5th day of May, 1959, at 2:00 P. M. in the County Courtroom in the courthouse at Beckley, West Virginia, at which time and place all interested persons may appear before the County Court and shall have an opportunity to be heard for and against the creation of the proposed public service district.

Entered of the County Court this 7th day of April, 1959.

ATTEST: C. O. Smith, Jr.
Clerk of the County Court
of Raleigh County, West Virginia"

C E R T I F I C A T I O N

I, Elinor Hurt, County Clerk of the County of Raleigh, State of West Virginia, do hereby certify that the attached is a true and accurate copy of the Minutes of the County Commission of Raleigh.

Given under my hand and seal of the County of Raleigh, State of West Virginia, this 18 day of November, 1982.

Elinor Hurt
County Clerk

office shall be six (6) years. A vacancy for any unexpired term shall be filled by appointment by the Raleigh County Commission within thirty (30) days. The Raleigh County Commission may remove any member of the Public Service Board for consistent violation of these Rules, Regulations, and By-Laws, or of Article 13A of Chapter 16 of the Code of West Virginia, for reasonable cause which includes, but is not limited to, a continued failure to attend meetings of the board, failu: to diligently pursue the objects for which the district was created, failure to perform any other duty prescribed by law, for any misconduct in office, or upon

written petition signed by twenty-five percent (25%) of the registered voters who reside within the geographical limits of the Shady Spring Public Service District.

The members of the the Public Service Board shall receive no salaries until duly authorized by the Public Service Board at a regular meeting of the Board. Each member of the Public Service Board may be reimbursed for the reasonable and necessary expenses actually incurred in performance of his duties, upon his request and upon the written resolution of the majority of the members of the Public Service Board at a regularly monthly meeting.

ARTICLE THREE

OFFICERS

SECTION ONE: At its first meeting after January 1 of each year, the Public Service Board shall organize by selecting one of its members to serve as Chairman and by appointing a Secretary and Treasurer. The Secretary and Treasurer so appointed need not be members of the Public Service Board.

SECTION TWO: The Chairman shall preside at all meetings of the Public Service Board and may vote as any other member of the Board. If the Chairman should be absent from any meeting, the remaining members may select a temporary Chairman to preside at that meeting. If the Chairman resigns as Chairman or for any reason ceases to be a member of the Public Service Board, the Public Service Board shall select one of its members as Chairman to serve until the next annual organization meeting.

SECTION THREE: The Secretary OR CHAIRMAN shall keep a written record of all proceedings of the Public Service Board which shall be available for inspection as all other public records. Duplicate records shall be filed with the Raleigh County Commission and shall include the minutes of all Board Meetings. The Secretary

shall perform such other duties appertaining to the affairs of Shady Spring Public Service District and shall receive such salaries as shall be prescribed by the Board.

SECTION FOUR: The Treasurer shall be the lawful custodian of all of the Shady Spring Public Service District funds and shall pay same out on written orders authorized or approved by the Public Service Board. The Treasurer shall perform such other duties appertaining to the affairs of the Shady Spring Public Service District and shall receive such salaries as shall be prescribed by the Board. The Treasurer shall furnish bond in an amount to be fixed by the Board for the use and benefit of the District.

SECTION FIVE: Public Service Board, the Chairman, the Secretary, and the Treasurer shall make available to the Raleigh County Commission at all times all of its books and records pertaining to the Shady Spring Public Service District's operations, finances, and affairs.

ARTICLE FOUR

MEETINGS OF THE PUBLIC SERVICE BOARD

SECTION ONE: The members of Public Service Board of this district shall hold regular monthly meetings on the ~~first~~ Third Monday of each month at 5:00 p.m. at its office in Beaver, West Virginia. If the day stated shall fall on a legal holiday, the meeting shall be held on the following day. Special meetings of the Public Service Board may be called at any time by the Chairman or by a quorum of the Board.

SECTION TWO: At any meeting of the Public Service Board of the District, ~~two~~ three members shall constitute a quorum. Each member of the Public Service Board shall have one vote at any meeting and if a quorum is not present, those present may adjourn the meeting to a later date. No member may vote by proxy.

SECTION THREE: Notice to members by letter or by telephone shall be required for regular meetings. Notice in writing of each special meeting of the membership shall be given to all members by the Secretary by mailing the same to the last known address of each member at least four days before the date fixed for such meeting. The notice of any special meeting shall state briefly the purposes of such meeting and the nature of the meeting to be transacted thereat, and no business other than that stated in the notice or incidental thereto shall be transacted at any such special meeting.

SECTION FOUR: The Public Service Board shall in all regards comply with the provisions of Article 9A of Chapter 6 of the West Virginia Code of 1931, as amended, with regard to notice of the time and place of all meetings of The Public Board, and these Rules, Regulations, and By-Laws incorporate herein by reference the resolution adopted by the Public Service Board on November 1, 1982, concerning compliance with Article 9A of Chapter 6 of the West Virginia Code of 1931, as amended.

SECTION FIVE: All meetings of the Public Service Board shall be open to the public.

ARTICLE FIVE

EMPLOYEES OF THE PUBLIC SERVICE BOARD

The Public Service Board may in its discretion employ a general manager, an attorney, a fiscal agent, one or more engineers, and such other employees as the Board may determine necessary and expedient, in accordance with Section Five and Six of Article 13A of Chapter 16 of the West Virginia Code of 1931, as amended.

ARTICLE SIX

AMENDMENTS TO RULES, REGULATIONS AND BY-LAWS

The Rules, Regulations and By-Laws may be altered, changed, amended, or added to at any regular or special meeting of the Public Service Board by a majority vote of the members present; but no such change, alteration, amendment, or addition shall be made at any special meeting unless notice with the intention to propose such a change, alteration, amendment, or addition and a clear statement of the substance thereof is included in the written notice calling such meeting.

SHADY SPRING PUBLIC SERVICE DISTRICT

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

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF SHADY SPRING PUBLIC SERVICE DISTRICT:

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

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

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

(B) The Public Service Board of Shady Spring Public Service District (herein called the "Board") is a governing body within the meaning of the Act.

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

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

Rule No. 1. Notice of Regularly Scheduled Meetings. Within thirty (30) days after the effective date of this resolution, and on or before June 30 of each year thereafter, beginning June 1983, the Board shall post, and leave posted throughout the year to which it applies, at the place on or near the main entrance to the regular meeting place of the Board customarily used for posting similar notices and at the place in the county courthouse where notices customarily are posted, notices setting forth the times and places of the Board's regularly scheduled meetings for the ensuing fiscal year. Such notices shall be of size and style sufficient to give notice and shall be of a quality sufficient to withstand deterioration throughout the year to which they apply.

Also within thirty (30) days after the effective date of this resolution, and on or before June 30 of each year thereafter, beginning June 1983, the Board shall distribute to each of the newspapers, television stations, radio stations and other news media listed below a notice identical to those posted.

Newspapers: The Raleigh Register, Beckley, West Virginia; The Beckley Post Herald, Beckley, West Virginia.

Television Stations: WOAY-TV, Oak Hill, West Virginia.

Radio Stations: None

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

In the event of any modification in the time or place of a regularly scheduled meeting of the Board, notice of such modification shall be given to the public and news media by posting at the places and distributing to the news media in the manner set forth above, not less than five (5) days prior to the date of such regularly scheduled meeting, or, if such regularly scheduled meeting has been rescheduled for an earlier time, prior to the date of such rescheduled meeting, notices setting forth such modification in the time or place of such regularly scheduled meeting. Contemporaneously with the distribution of said notices to the news media, a notice identical to that posted and distributed shall be sent to each member of the Board. A copy of such notice shall be attached to and made a part of the minutes of the meeting for which such notice was given.

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

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

Rule No. 2. Notice of Special Meeting. Except as provided in Rule No. 3, notice of any special meeting of the Board shall be given by posting on the door of the regular meeting place of the Board, or at the place near the main entrance to such regular meeting place customarily used for posting similar notices, not less than four (4) but not more than eight (8) days prior to the date set for such special meeting, a notice stating the time, place, including the room, if known, and purpose or purposes of such special meeting. Business at such special meeting shall be limited to the purpose or purposes specified in said notice.

As soon as practical after the posting of said notice, but not less than four (4) days prior to the date set for such special meeting, a notice identical to that posted shall be distributed to each of the newspapers, television stations, radio stations and other news media listed in Rule No. 1 hereof. Amendments made to such list, as provided for in said Rule No. 1, shall be incorporated by reference in this Rule No. 2. A notice shall be considered distributed to a news media when it has been addressed to such news media at the address listed in said Rule No. 1, or at such other address as the news media has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail.

Contemporaneously with the distribution of said notices to the news media, a notice identical to that posted shall be sent to each member of the Board. Also contemporaneously with the distribution of said notices to the news media, a notice identical to that posted shall be sent to the Clerk of the County Commission of Raleigh County, West Virginia, with instructions for the Clerk to post such notice at the place in the courthouse where legal notices customarily are posted. In addition, a notice identical to that posted shall be attached to and made a part of the minutes of the meeting for which such notice was given.

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

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

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

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

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

Adopted and entered into this 1st day of November, 1982.

CHAIRMAN

MEMBER

MEMBER

MEMBER

MEMBER

SPECIAL MEETING

1. Notice must be posted at the door of the regular meeting place.
2. Notice must be posted not less than four (4)days but not more than eight (8) days prior to the meeting.
3. Notice must specify the following:
    1. date set for the special meeting.
    2. time and place of the special meeting.
    3. purpose of the special meeting.
4. Business of the said special meeting shall be limited to the purposes or purpose set out in the special meeting notice.
5. Not less than four (4) days prior, a notice identical to that posted at the place for the meeting shall be distributed to (1) the newspapers and (2) the television stations in Beckley, W.Va.
6. Identical notice must be distributed to each member of the Board.
7. An identical copy of the notice must be attached to the minutes of the meeting.

County Commission of Raleigh County

P O BOX 2518
116 1/2 NORTH HEBER STREET
BECKLEY, WEST VIRGINIA 25802-2518

RECEIVED
OCT 5 2005
OW

October 4, 2005

Mr. Jim Wood
161 Kimberly Street
Shady Spring, WV 25918

Dear Mr. Wood:

We are pleased to inform you that on October 4, 2005, in a regular meeting, the Raleigh County Commission appointed you to the Shady Spring Public Service District Board to fill a vacancy created by a resignation. The appointment is effective immediately and your term will expire on December 31, 2007.

Please stop by the County Clerk's office at your earliest convenience to take the oath of office.

We appreciate your willingness to serve the citizens of Raleigh County in this manner.

Respectfully,

John L. Aliff, President

Pat Reed, Commissioner

John D. Humphrey, Commissioner

cc: Shady Spring PSD

Phone (304) 255-9146 Fax (304) 255-9166 ralcom@raleighcounty.com

County Commission of Raleigh County

P O DRAWER AN
116 1/2 NORTH HEBER STREET
BECKLEY, WEST VIRGINIA 25802-2836

January 18, 2000

RECEIVED

Mr. Ronnie Barker
P O Box 583
Mabscott, WV 25871

Dear Mr. Barker:

We are pleased to inform you that the County Commission, at a their meeting on January 18, 2000, has reappointed you to the Shady Spring Public Service District and your new term will expire December 31, 2005.

Please stop by the County Clerk's office at your earliest convenience to take the oath of office.

We appreciate your past service and continued willingness to serve the citizens of Raleigh County in this manner.

Respectfully

William H. Baker, President

Vernon F. Barley, Commissioner

cc: Shady Spring Public Service District

Phone (304) 255-9146 Fax (304) 255-9166 ralcom@cwv.net

County Commission of Raleigh County

P O BOX 2518
116 1/2 NORTH HEBER STREET
BECKLEY, WEST VIRGINIA 25802-2518

JAN 16 2004

January 6, 2004

Mr. Leon Lucas
P O Box 287
Beaver, WV 25813

Dear Mr. Lucas:

We are pleased to inform you that the County Commission, at their meeting on December 23, 2003, reappointed you to the Shady Spring Public Service District and your new term will expire December 31, 2009.

Please stop by the County Clerk's office at your earliest convenience to take the oath of office.

We appreciate your past service and continued willingness to serve the citizens of Raleigh County in this manner.

Respectfully,

John D. Humphrey, President

John L. Aliff, Commissioner

Pat Reed, Commissioner

cc: Shady Spring Public Service District

Phone (304) 255-9146 Fax (304) 255-9166 ralcom@raleighcounty.com

OATH

STATE OF WEST VIRGINIA
COUNTY OF RALEIGH } ss.

I, Leon Lucas, do solemnly swear that I will support the constitution of the United States and the constitution of this State and that I will faithfully discharge the duties of my office of Shady Spring Public Service District to the best of my skill and judgment, so help me God.

Leon Lucas

Subscribed and sworn to before the undersigned, this the 27th day of January

Betty Pifer, Clerk
Clerk County Commission, Raleigh

OATH

STATE OF WEST VIRGINIA
COUNTY OF RALEIGH } ss.

I, RONNIE BARKER, do solemnly swear that I will support the constitution of the United States and the constitution of this State and that I will faithfully discharge the duties of my office of SHADY SPRING PSD TREASURER to the best of my skill and judgment, so help me God.

Ronnie L Barker

Subscribed and sworn to before the undersigned, this the 8TH day of FEBRUARY, 19 2000.

Betty Riffe

Clerk County Commission, Raleigh County, W. Va.

OATH

RECEIVED
NOV 07 2005
ow

STATE OF WEST VIRGINIA
COUNTY OF RALEIGH } ss.

I, JIM WOOD, do solemnly swear that I will support the constitution of the United States and the constitution of this State and that I will faithfully discharge the duties of my office of SHADY SPRING PSD

to the best of my skill and judgment, so help me God.

/S/ JIM WOOD Jim Wood

Subscribed and sworn to before the undersigned, this the 6TH day of OCTOBER 2005.

Betty Riffe
Clerk County Commission, Raleigh County, W. Va.

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RULES OF PROCEDURE

PUBLIC SERVICE DISTRICT

ARTICLE I

NAME AND PLACE OF BUSINESS

Section 1. The name of this Public Service District shall be SHADY SPRING PUBLIC SERVICE DISTRICT (the "District").

Section 2. The principal office of the District will be located in Glen Morgan, West Virginia.

Section 3. The official seal of the District shall consist of two (2) concentric circles between which circles shall be inscribed SHADY SPRING PUBLIC SERVICE DISTRICT, and in the center "seal" as follows:

Section 4. The fiscal year of the District shall begin on the 1st day of July each year and shall end on the 30th day of June of the following year.

ARTICLE II

PURPOSE

Section 1. The District is organized and operated exclusively for the purposes set forth in Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act").

ARTICLE III

MEMBERSHIP

Section 1. The members of the Public Service Board of the District (the "Board") shall be those persons appointed by The County Commission of County, West Virginia (the "County Commission"), or otherwise appointed pursuant to the Act, who shall serve for such terms as may be specified in the order of the County Commission or otherwise.

Section 2. Should any member of the Board resign or otherwise become legally disqualified to serve as a member of the Board, the District shall immediately notify the County Commission or other entity provided under the Act and request the appointment of a qualified person to fill such vacancy. Prior to the end of the term of any member of the Board, the District shall notify the County Commission or other entity provided under the Act of the pending termination and request the County Commission or other entity provided under the Act to enter an order of appointment or re-appointment to maintain a fully qualified membership of the Board.

Section 3. The District shall provide to the Public Service Commission of West Virginia, within 30 days of the appointment, the following information: the new board member*s name, home address, home and office phone numbers, date of appointment, length of term, who the new member replaces and if the new appointee has previously served on the board, and such other information required under the Act.

Section 4. Each board member shall, within 6 months of taking office, successfully complete the training program established and administered by the Public Service Commission of West Virginia in conjunction with the West Virginia Division of Environmental Protection and the West Virginia Bureau for Public Health.

Section 5. Board members shall not be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service, or in furnishing any supplies or

materials to the District, nor shall a former board member be hired by the District in any capacity within a minimum of 12 months after such board member*s term has expired or after such board member has resigned from the Board.

Section 6. Salaries of the board members shall be established as provided in Chapter 16, Article 13A, Section 4 of the Act. The District shall certify the number of customers served to the Public Service Commission of West Virginia on the first day of July each year. Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties.

Section 7. The members of the Board are not personally liable or responsible for any obligations of the District or the Board but are answerable only for willful misconduct in the performance of their duties.

ARTICLE IV

MEETINGS OF THE BOARD

Section 1. The members of the Board shall hold regular monthly meetings on such days of each month and at such place and hour as the members shall determine from time to time. If the day stated shall fall on a legal holiday, the meeting shall be held on the following day. Special meetings of the Board may be called at any time by the Chairperson or by a quorum of the Board.

Section 2. At any meeting of the Board, a majority of the members of the Board shall constitute a quorum. Each member of the Board shall have one vote at any meeting and if a quorum is not present, those present may adjourn the meeting to a later date.

Section 3. Unless otherwise waived, notice to members of regular meetings shall be by letter or telephone. Unless otherwise waived, notice to members of each special meeting shall be by letter or telephone not less than 48 hours before the date fixed for such special meeting. The notice of any special meeting shall state briefly the purposes of such meeting and the nature of the business to be transacted at such meeting, and no business other than that stated in the notice shall be transacted at such special meeting.

Section 4. Pursuant to Chapter 6, Article 9A, Section 3 of the Code of West Virginia, 1931, as amended, notice of the date, time, place and agenda of all regularly scheduled meetings of the Board, and the date, time, place and purpose of all special meetings of the Board, shall be made available, in advance, to the public and news media as follows:

Rule No. 1. Notice of Regularly Scheduled Meetings. Immediately after adoption of these

Rules of Procedure and in July of each year thereafter, the Board shall instruct the Secretary to, and the Secretary shall, post, and leave posted throughout the year to which it applies, at the regular meeting place of the Board and at the County Courthouse, where notices customarily are posted, a notice setting forth the date, time and place of the Board*s regularly scheduled meetings for the ensuing year. In addition, a copy of the agenda for each regularly scheduled meeting shall also be posted at the same location by the Secretary not less than 48 hours before such regular meeting is to be held.

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

News Media Address

A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed above, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail. In July of each year after the adoption of these Rules of Procedure, the Board shall review the above list and shall amend such list as needed, in the opinion of the Board, to reflect properly all the newspapers and other news media that customarily cover news of the area served by the Board. In addition, a copy of the agenda for each regularly scheduled meeting shall also be distributed to the news media by the Secretary not less than 48 hours before such regular meeting is to be held.

In the event of any modification to the date, time, place or agenda of a regularly scheduled meeting of the Board, notice of such modification shall immediately be given to the public and news media by posting at the places and distributing to the news media in the manner set forth above. A copy of the notice of such modification shall be attached to and made a part of the minutes of the meeting for which such notice was given.

Rule No. 2. Notice of Special Meetings. Not less than 48 hours prior to the date set for any special meeting of the Board, the Board shall instruct the Secretary to, and the Secretary shall, post at the regular meeting place of the Board and at the County Courthouse, where notices customarily are posted, a notice setting forth the date, time, place and purpose or purposes of such special meeting. Business at such special meeting shall be limited to the purpose or purposes specified in said notice.

As soon as practical after the posting of said notice, but not less than 48 hours prior to the

date set for such special meeting, the Secretary shall distribute to each of the newspapers and other news media listed in Rule No. 1 hereof, a notice identical to that posted. Amendments made to such news media list, as provided for in said Rule No. 1, shall be incorporated by reference in this Rule No. 2. A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed in said Rule No. 1, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail.

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

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

Rule No. 4. Executive Sessions. The Board may hold an executive session during a regular, special or emergency meeting in accordance with Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended. During the open portion of the meeting, prior to convening an executive session, the Chairperson shall identify the authorization under Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended, for holding the executive session and present it to the Board and to the general public, but no decision may be made in the executive session. An executive session may be held only upon a majority affirmative vote of the Board members present. The Board may hold an executive session and exclude the public only when a closed session is required for any of the actions permitted under Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended.

Rule No. 5. Minutes. The Board shall provide for the preparation of written minutes of all of its meetings. Subject to the exceptions set forth in Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended, minutes of all meetings except minutes of executive sessions, if any are taken, shall be available to the public within a reasonable time after the meeting and shall include, at least, the following information:

(1) The date, time and place of the meeting;

(2) The name of each Board member present and absent;

(3) All motions, proposals, resolutions, orders, ordinances and measures proposed, the name of the person proposing the same and their disposition; and

(4) The results of all votes and, upon the request of a Board member, the vote

of each Board member, by name.

Rule No. 6. No Actions by Reference. Except as otherwise expressly provided by law, the Board may not deliberate, vote, or otherwise take official action upon any matter by reference to a letter, number or other designation or other secret device or method, which may render it difficult for persons attending a meeting to understand what is being deliberated, voted or acted upon. However, this rule does not prohibit the Board from deliberating, voting or otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted or acted upon, are available for public inspection at the meeting. The Board may not vote by secret or written ballot.

Rule No. 7. Broadcasting of Meetings. Except as otherwise provided in this rule, any radio or television station is entitled to broadcast all or any part of a Board meeting required to be open. The Board may regulate the placement and use of equipment necessary for broadcasting, photographing, filming or recording a meeting, so as to prevent undue interference with the meeting. The Board shall allow the equipment to be placed within the meeting room in such a way as to permit its intended use, and the ordinary use of the equipment may not be declared to constitute undue interference; provided, that if the Board, in good faith, determines that the size of the meeting room is such that all the members of the public present and the equipment and personnel necessary for broadcasting, photographing, filming and tape-recording the meeting cannot be accommodated in the meeting room without unduly interfering with the meeting and an adequate alternative meeting room is not readily available, then the Board, acting in good faith and consistent with the purposes of this rule, may require the pooling of the equipment and the personnel operating it.

Rule No. 8. Telephonic Meetings. Board meetings may be held by telephone conference or other electronic means. All Board members participating by telephone or other electronic means must be audible to all those personally present.

Section 5. All meetings of any committee of the Board shall be subject to the Rules of Procedure set forth in Section 4 above.

ARTICLE V

OFFICERS

Section 1. The officers of the Board shall be a Chairperson, Secretary and Treasurer. The

Chairperson shall be elected from the members of the Board. The Secretary and Treasurer need not be members of the Board.

Section 2. The officers of the Board shall be elected each year by the members at the first meeting after the first day of January of each year. The officers so elected shall serve until the next annual election by the membership and until their successors are duly elected and qualified. Any vacancy occurring among the officers shall be filled by the members of the Board at a regular or special meeting. Persons selected to fill vacancies shall serve until the next annual organizational meeting of the Board when their successors shall be elected as hereinabove provided.

ARTICLE VI

DUTIES OF OFFICERS

Section 1. When present, the Chairperson shall preside as Chairperson at all meetings of the Board. He/She shall, together with the Secretary, sign the minutes of all meetings at which he/she shall preside. He/She shall attend generally to the executive business of the Board and exercise such powers as may be conferred upon him/her by the Board, by these Rules of Procedure, or prescribed by law. He/She shall execute, and if necessary, acknowledge for record, any deeds, deeds of trust, contracts, notes, bonds, agreements, or other documents necessary, requisite, proper or convenient to be executed by or on behalf of the Board when and if directed by the members of the Board.

Section 2. If the Chairperson is absent from any meeting, the remaining members of the Board shall select a temporary chairperson.

Section 3. The Secretary shall keep a record of all proceedings of the Board which shall be available for inspection as other public records. Duplicate records shall be filed with the County Commission and shall include the minutes of all Board meetings. He/She shall, together with the Chairperson, sign the minutes of the meetings at which he/she is present. The Secretary shall have charge of the minute book, be the custodian of deeds and other documents and papers of the Board. He/She shall also perform such other duties as may be required of him/her by law or as may be conferred upon him/her from time to time by the members of the Board.

Section 4. The Treasurer shall be the lawful custodian of all funds of the District and shall pay same out on orders authorized or approved by the Board. The Treasurer shall keep or cause to be kept proper and accurate books of accounts and proper receipts and vouchers

for all disbursements made by or through him/her and shall prepare and submit such reports and statements of the financial condition of the Board as the members may from time to time prescribe. The Treasurer shall keep and preserve all financial records of the District for 10 years and shall at all times have such records readily available for public inspection. At the end of his/her term of office, the Treasurer shall promptly deliver all financial records of the District to his successor in office. He/She shall also perform such other duties as may be required of him/her by law or as may be conferred upon him/her from time to time by the members of the Board. The Treasurer shall furnish bond in an amount to be fixed by the Board for the use and benefit of the District.

Section 5. No money may be paid out by the District except upon an order signed by the Chairperson and Secretary, or such other person or persons authorized by the Chairperson or the Secretary, as the case may be, to sign such orders on their behalf. Each order for the payment of money shall specify the purposes for which the amount thereof is to be paid, with sufficient clearness to indicate the purpose for which the order is issued, and there shall be endorsed thereon the name of the particular fund out of which it is payable and it shall be payable from the fund constituted for such purpose, and no other. All such orders shall be reflected in the minutes of the next meeting of the Board.

Section 6. The members and officers of the Board shall make available to the County Commission, at all times, all of its books and records pertaining to the District*s operation, finances and affairs, for inspection and audit.

ARTICLE VII

AMENDMENTS TO RULES OF PROCEDURE

Section 1. These Rules of Procedure may be altered, changed, amended or added to at any regular or special meeting of the Board when a quorum is present and a majority of those present vote for the alteration, change, amendment or addition; but no such alteration, change, amendment or addition shall be made at any special meeting unless notice of the intention to propose such alteration, change, amendment or addition and a clear statement of the substance thereof be included in the written notice calling such special meeting.

Adopted this day of , . 1/10/02

Chairperson and Member

Member

Member

Member

CERTIFICATION

Certified a true copy of the Rules of Procedure duly adopted by the Board of Public Service District on , .

Dated this day of , . 1/10/02

[SEAL]

Secretary

SHADY SPRING PUBLIC SERVICE DISTRICT
POST OFFICE BOX 235
BEAVER, WEST VIRGINIA 25813-0235

MINUTES

Semi-Monthly Board Meeting
January 3, 2005

~~DRAFT~~

In Attendance:

Joseph S. Scheff, Chairman
Ronnie L. Barker, Secretary/Treasurer
M. Leon Lucas, Commissioner

Jerry D. Smith, General Manager
Ona Wickline, Office Manager

1. This duly called, semi-monthly board meeting was held in the district's office at 220 C&O Shop Road, Glen Morgan, WV, on the third day of January 2005. The meeting was called to order at 5:00 PM by Chairman Joseph Scheff.

2. The Chairman opened the floor to the election of new officers for Calendar Year 2005. Ronnie Barker made a motion to nominate Leon Lucas to be the Chairman. This motion was seconded by Joseph Scheff and unanimously carried. Joseph Scheff made the motion to nominate Ronnie Barker to serve as Secretary/Treasurer; the motion was seconded by Leon Lucas and also unanimously carried.

   Both Leon Lucas and Ronnie Barker accepted their nominations to serve as officers in the respective capacities to which they were unanimously elected.

3. Minutes from the last meeting were presented for approval. Motion for their approval was made by Leon Lucas, seconded by Ronnie Barker, and carried.

4. There were no guests/visitors in attendance at this meeting.

5. Old Business:

   A. Flat Top/Cool Ridge sewer project:

   Jerry Smith updated the commissioners on the status of the financing for this project. He told them CPA Michael Griffith was working on the financing possibilities as to whether the district will be able to get a loan with a payoff period of 30 years or one for 40 years. Mr. Griffith is in process completing required paperwork and having it ready for review.

   It is possible that Rosalie Brodersen of the WVDEP may waive the 90% participation for customer hook-ups. Ms. Brodersen might also waive the requirement for having a Median Household Income (MHI) study completed for this project.

There will be about 263 hot taps made within Flat Top Lake; Winter Place will also be a large user. Elbert Morton (WVDEP) told Jerry he needs a letter from the Flat Top Homeowners referencing this matter. Jerry said a letter is in process of being prepared for Elbert.

The district will need to enter into a water termination agreement with the Cool Ridge/ Flat Top PSD whereby the SSPSD will receive authority from the CR/FT PSD to terminate water service to those residences/business where non-payment of sewer service billings exist. The district has a similar termination agreement with the Beckley Water Company and the Raleigh County PSD. A draft of this termination agreement should be completed by the end of next week.

B. Status of the Grandview Project was discussed.
The Raleigh County Commission recently completed a new canvass of households in the Grandview Project area where questionable results were received earlier from the counting of signatures placed on the for/against sheets posted in several Grandview area business locations; the newly gleaned results of the RCC canvass were not favorable toward the continuation of our efforts to get this project off the ground. The project is "dead" for now, however, the RCC plans to continue with its efforts to get public sewer service to the Grandview area.

C. The sewer line to service Phase I of the Edwards Crossing Apartments is complete. The district's lines foreman, Bobby Redden, turned in rental equipment this morning. An over run of the costs associated with installation of the duplex pump system was due to having to install two 5 hp pumps instead of one pump.

Edwards Crossing is expected to have rented all fifty-one apartments out by the end of March. 2005.

D. Construction of the new hotel at Glade Springs is progressing well. The district will be installing a new 6" line which, along with the old existing 6" line, will provide sewer services to the hotel area.

In the near future, this district will be required to look at upgrading the Little Beaver Lift Station at Glade Springs. With all the construction underway at Glade Springs, the current lift station will have to be outfitted with larger pumps. This will only be a temporary solution, at best. The district will have to do a complete lift station upgrade within the next three to five years to take care of Glade's planned expansion.

E. Other old business discussed:
Jerry told the board that David McCormack's housing development off Division Street

in Shady Spring is picking up momentum. Property owner, Vaughn York is reported to be willing to provide an easement through his property for the path of a sewer lateral to service the McCormack sub-division.

No other old business was discussed.

6. New Business:
   A. Jerry told the board that Jimmy Songer is planning to implement Phase II of the South Gate Subdivision housing development in Shady Spring. In order to be able to provide public sewer services to this new construction phase, a lift station will be required in the vicinity of a hollow on the northeast end of the Songer's property boundary.

   B. No other new business was brought up for discussion.

7. There being no further business requiring the board's review or action at this time, a motion for adjournment was made by Ronnie Barker, seconded by Leon Lucas and carried. The meeting was adjourned at 6:00 PM.

   The next regular semi-monthly board meeting is scheduled for Friday, January 14, 2005, at 8:00 AM in the district's office at Glen Morgan, WV.

M. Leon Lucas, Chairman

Ronnie L Barker Secretary/Treasurer

No Enclosures

SHADY SPRING PUBLIC SERVICE DISTRICT
POST OFFICE BOX 235
BEAVER, WEST VIRGINIA 25813-0235

MINUTES

Special Meeting of the SSPSD Board
December 13, 2005

In Attendance:

M. Leon Lucas, Chairman
Ronnie L. Barker, Secretary/Treasurer
Jim Wood, Commissioner
John T. Poffenbarger, Bond Counsel
Jerry D. Smith, General Manager
Ona Wickline, Office Manager
Jerry Cantley, PE , Project Engineer

1. This Special Meeting on December 13, 2005, of the Shady Spring PSD's board was called for the purposes of review, adoption, and execution of the documents required for the district's 2005-A and the 2005-B bonds closings. The meeting was held in the district's office at 220 C&O Shop Road, Glen Morgan, WV, and was called to order at 9:40 AM by the Chairman. The Chairman declared that a quorum was present.

2. The meeting was then turned over to our bond counsel, Mr. John Poffenbarger, who will be presenting required bond closing documents for the board's adoption/execution. He first presented the Loan Agreement Resolution which authorizes the acquisition and construction of facilities of Shady Spring PSD and the financing of the cost thereof, not otherwise provided, through the issuance by the district of not more than $2,875,000 in aggregate principal amount of sewer revenue bonds, Series 2005-A (WV Infrastructure Fund); and not more than $3,078,043 in aggregate principal amount of sewer revenue bonds, Series 2005-B (State Revolving Fund) providing for the rights and remedies of and security for the registered owners of such bonds; authorizing execution and delivery of all documents relating to the issuance of such bonds; approving loan agreements relating to such bonds; authorizing the sale and providing for the terms and provisions of such bonds and adopting other provisions relating thereto.

   Motion was made by Ronnie Barker and seconded by Jim Wood to approve the resolution; the motion carried and the document was signed by each commissioner and the seal affixed to same.

3. The next document presented by Mr. Poffenbarger for the board's action was the Supplemental Resolution providing as to the principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Shady Spring Public Service District sewer revenue bonds, Series 2005-A (WV Infrastructure Fund); authorizing and approving the sale and delivery of the Series 2005-A Bonds to the WV Water Development Authority;

1. At one o'clock in the afternoon of December 16, 2005, the recessed meeting of December 13, 2005, was reconvened to continue with the purposes of adopting/executing the remaining documents needed for the bonds closings on December 19, 2005. In attendance were Leon Lucas, Ronnie Barker and Jim Wood, who make up Shady Spring PSD's board of commissioners; also present were the Bond Counselor John Poffenbarger, Project Engineer Jerry Cantley, Jerry D. Smith, the district's General Manager, and Ona Wickline, the Office Manager.

2. The Contract Agreements, (for both Contracts No. 1 and No. 2), between the Shady Spring PSD and Diversified Enterprise, Inc. were acknowledged and properly signed, sealed and notarized.

3. The Change Order documents No. 1 and No. 2 for Contract 1, and Change Orders No. 1 and No. 2 for Contract 2, were signed by the Chairman and the General Manager.

4. The City National Bank agreement to serve as our Bank Registrar was acknowledged and signed.

5. All documents approved at the December 13, 2005 meeting, and all other documents required for the bonds closings on Monday, December 19, 2005, in Charleston, WV were given to Mr. Poffenbarger who will deliver same to the WDA.

6. A copy of these Minutes will also be made available to the bond counselor before the bonds closings.

7. The motion to adjourn the meeting was made by Ronnie Barker, seconded by Leon Lucas and carried.

M. Leon Lucas, Chairman

Ronnie L. Barker, Treasurer

#23

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS INC.

BECKLEY, WEST VIRGINIA 25801

June 03, 2005

STATE OF WEST VIRGINIA
COUNTY OF RALEIGH, to wit:

I, Tara Meyer, being duly sworn upon my oath, do depose and say that I am Legal Clerk for Beckley Newspapers, Inc., a corporation, publisher of the newspaper entitled The Register-Herald, an Independent newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published daily for at least fifty weeks during the calendar year, in the municipality of Beckley, Raleigh County, West Virginia; that such newspaper is a newspaper of "general circulation" as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price of consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices; that the annexed notice

of ADVERTISEMENT FOR BIDS
(Description of notice)

was duly published in said newspaper once a week for one successive weeks (Class 1), commencing with the issue of the 3rd day of June, 2005, and ending with the issue of the 3rd day of June, 2005, (and was posted at the Raleigh County Courthouse on the 3rd day of June, 2005); that said annexed notice was published on the following dates: 06/03/05 and that the cost of publishing said annexed notice as aforesaid was $ 191.59

Signed Tara Meyer
Tara Meyer
Legal Clerk
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
3rd day of June, 2005

My commission expires March 27, 2011

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
DIANA L. SLONE
BECKLEY NEWSPAPERS
P. O. BOX 2306
BECKLEY, WV 25802
My commission expires March 27, 2011

Notary Public of Raleigh County, West Virginia

COPY OF PUBLICATION

ADVERTISEMENT FOR BIDS

Shady Spring Public Service District,
Owner
Post Office Box 235,
Address
Beaver, West Virginia 25813

Separate sealed BIDS for the construction of Cool Ridge / Flat Top Wastewater Collection and Disposal Project consisting of: *CONTRACT No. 1* - Furnish materials, labor and equipment to construct a 0.2 MGD SBR Wastewater Treatment Plant and appurtenances including but not limited to: Force mains, process piping, valves, recirculation pump station, headworks building, influent channels, mechanical screen, grit tank, SBR Basins, sludge holding basin, UV Vault, UV disinfection equipment, non potable water system, aeration equipment, mixers, decanters, sludge pumps, control building, equalization basin, parshall flume, blowers, generator, electrical wiring, lighting, heating, ventilation, instrumentation and control, access road, fencing, testing, erosion control, 11,420 L.F. of Videotaping, 214 L.F. of 20" Steel Casing Bored, 55 L.F. of 20" Steel Casing Open Cut, 54 L.F. of 14" Steel Casing Bored, 75 L.F. of 8" Steel Casing Bored, 65 L.F. of 6" Steel Casing Bored, 5,200 L.F. of 8" C/900 Force Main (FM) DR-18, 1,260 L.F. of 6" C / 900 FM DR-18, 2,140 L.F. of 2" FM SDR-21 PVC, 7 Each FM to FM Connections, 36 L.F. 6" DIP CL-50, 162 L.F. 8" DIP CL-50, 8,000 L.F. Lawn Seeding, 1 each 10 H.P. Duplex Pump Station at Winterplace with 1 Each 30 KW Generator and Propane Fuel Tank, 1 Each 7.5 H.P. Duplex Pump Station at Assemblies of God with 1 Each 30 KW Generator and Propane Fuel Tank, 1 Each 5.0 HP Duplex Pump Station at Excel Homes with 1 Each 30 KW Generator and Propane Fuel Tank, 8 Each Air Release Value Assemblies, Type "A"; 1 Each Air Release Valve Assemblies, Type "B"; 3 Each Air / Vac. Valve Assemblies, Type "C," 27 C.Y. Access Road Cut/fill, 30 L.F. of 24" CMP with 2 Each Flared Ends, 1 Each Pipe Gate, 330 L.F. HP Duplex Pump Stations at Flat Top Lake with 2 Each 60 KW Generators and 2 Each Propane Fuel Tanks, 1 Each 88 HP Duplex Pump Station at Flat Top Lake with 1 Each 300 KW Generator and 1 Each Diesel Fuel Tank, 20 Each Grinder Pump Spare Part Kits, 1 Each FM to Fm Connections, 149 Each PVC Sewer markets, 60 L.F. of 15" CMP with Flared Ends, and 200 Tons of Riprap Stone. *Alternate Bid for Contract No. 2 Consists of:* 25,000 L.F. Burn Replacement Stone, Install 1 Each Simplex (E-One) Grinder Pump Station with Basin, Type "A"; Furnish and Install of 1 Each Simplex (E-One) Grinder Pump Station with Basin, Type "B" 100 L.F. of 1 1/2" SDR9 HDPE, 125 L.F. of 2: SDR-21 Service Line, and 225 L.F. of Seeding and Strawing will be received by *Shady Spring Public Service District* at the office of Shady Spring *Public Service District. Bids for Contract No. 1* will be received until 10:00 a.m., (local prevailing time) July 8, 2005, and then at said office publicly opened and read aloud. *Bids for Contract No. 2* will be received until 2:00 p.m., (local prevailing time) on July 8, 2005, and then at said office publicly opened and read aloud. A two-envelope Bid system is being utilized.

The CONTRACT DOCUMENTS may be examined at the following locations: Shady Spring Public Service District, 220 C & O Shop Road, Glen Morgan, West Virginia

L.A. Gates Company, 2302 South Fayette Street, Beckley, West Virginia

F.W. Dodge, Plans Room, Charleston, West Virginia

Contractor's Association of West Virginia, 2114 Kanawha Boulevard East, Charleston, West Virginia.

Copies of the CONTRACT DOCUMENTS may be obtained at the office of L.A. Gates Company located at 2302 South Fayette Street, West Virginia upon payment of $150.00 for each set of Contract No. 1 and $125.00 for each set of Contract No. 2, plus shipping.

Upon returning the CONTRACT DOCUMENTS promptly and in good condition $50.00 will be refunded. A geotechnical report is available. There

Waterline, 1 Each Meter Service Complete for Potable Water, Hot Tap Existing Waterline, 2 each 8" Gates Valves with Valve Boxes, 1 Each 6" Gate Valves with Valve Box, WWTP Office Equipment, 36 Each PVC Sewer Markers. *Alternate Bid Items for Contract No. 1 Consist of:* 580 L.F. of 2" SDR-17, PVC, Force Main; 80 L.F. of 3" DR-18, C-900 Force Main; 860 L.F. of 4" SDR / 35 PVC Gravity Sewer, 2 Each Grinder Pump Stations Type "C," 2 Electrical Panel Installations, 1 Each 7.5 HP Pump Station at Econo Lodge with 1 Each 30 KW Generator and Propane Fuel Tank, 1,520 L.F. of Seeding and Strawing, 2 FM to FM Connections and 1 Each Cascade Aerator at Laurel Creek. *CONTRACT NO. 2* - Furnish Materials, Labor and Equipment to Construct a Grinder Pump Pressure Sewer System Consisting of: 84,040 L.F. of Videotaping, 8,750 L.F. of Silt Fence, 1,400 L.F. 8" C-900 DR-18 Force Main (FM), 120 L.F. 8" PVC SDR - 21 FM, 17,000 L.F. 6" PVC SDR-21 FM, 42,200 L.F. 4" PVC SDR-21 FM, 13,000 L.F. 3" PVC SDR-21 FM, 8,500 L.F. 2" PVC SDR-21 FM, 12,575 L.F. 2" PVC SDR 21 Service Line, 17,220 L.F. 1 1/2" HDPE SDR-9 Service Line, 36 L.F. 3" DIP CL-50, 108 L.F. 4" DIP CL-50, 72 L.F. 6" DIP CL-50, 18 L.F. 8" DIP CL-50, 2,672 L.F. Asphalt Replacement, 666 L.F. of Asphalt Repairs (Open Cuts), Furnish 300 Each Simplex (E-One) Grinder Pump Stations with Basins, Type "A"; Install 263 Each Simplex (E-One) Grinder Pump Stations with Basins, Type "A"; 18 Each 2" Isolation Valves, 15 Each 3" Isolation Valves, 8 Each 4" Isolation Valve, 18 Each 6" Isolation Valve, 1 Each 8" Isolation Valve, 36 Air Release Valves, 91 L.F. 4" Steel Casing (Open Cut), 153 L.F. 6" Steel Casing (Open Cut), 75 L.F. 8" Steel Casing (Open Cut), 165 L.F. 12" Steel Casing (Open Cut), 145 L.F. 14" Steel Casing (Open Cut) 75 L.F. 16" Steel Casing (Open Cut) 65,000 L.F. of Lawn Seeding, 2 Each 23

purchasers of the Contract Documents for this report.

"DISADVANTAGED BUSINESS ENTERPRISE"

Each bidder must fully comply with the Disadvantaged Business Enterprise, and Affirmative Action requirements, as identified in the contract documents.

The Bidder agrees that he/she shall make "positive efforts" to subcontract at least (8) percent DBE of the total value of the contract.

The fair share shall be obtained in conformance with the six (6) affirmative steps as outlined in 40 CFR. Failure to obtain the fair share or demonstrate positive efforts to do so many lead to rejection of bids. For the purpose of this program, the term "subcontract" include all construction, modification, and service work contracted for by the bidder in the execution of the work under this contract.

"NONDISCRIMINATION IN EMPLOYMENT"

Bidders on this work will be required to comply with the President's Executive Order No. 11246 and the provisions of Executive Order 10925 as included therein. The requirements for bidders and contractors under this order are explained in the specifications.

All prospective Bidders are required to attend a Pre-Bid Conference to be held at the Office of Shady Spring Public Service District on June 23, 2005 at 2:00 p.m. for the purpose of discussing the project and touring the project site.

Dated: June 1, 2005

Jerry Smith,
General Manager

6-3-FRI-1-RH; LG 8822

WEST VIRGINIA MUNICIPAL BOND COMMISSION
Suite 500
8 Capitol Street, Charleston, WV 25301
(304) 558-3971

3.13(A)
NEW ISSUE REPORT FORM
Date of Report: December 13, 2005

ISSUE: Shady Springs Public Service District Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund)

ADDRESS: P.O. Box 235, Beaver, WV 26280 COUNTY: Raleigh

PURPOSE OF ISSUE: New Money X
Refunding ____ Refunds issue(s) dated: ____

ISSUE DATE: December 13, 2005 CLOSING DATE: December 13, 2005

ISSUE AMOUNT: $2,875,000 RATE: 0%

1st DEBT SERVICE DUE: March 1, 2008 1st PRINCIPAL DUE: March 1, 2008

1st DEBT SERVICE AMOUNT: $ ____ PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: John T. Poffenbarger, Esq.
Contact Person: John T. Poffenbarger, Esq.
Phone: (304) 342-1678

UNDERWRITERS COUNSEL: Jackson Kelly PLLC
Contact Person: Samme L. Gee, Esq.
Phone: (304) 340-1318

CLOSING BANK: ____
Contact Person: ____
Phone: (304) ____

ESCROW TRUSTEE: ____
Contact Person: ____
Phone: ____

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: Jerry Smith
Position: Manager
Phone: (304) 255-1565

OTHER: WV Infrastructure & Jobs Development Council
Contact Person: Katy Mallory, P.E.
Function: Executive Secretary
Phone: (304) 558-4607

DEPOSITS TO MBC AT CLOSE: ____
By ____ Wire
____ Check

Accrued Interest: $____
Capitalized Interest: $____
Reserve Account: $____
Other: ____ $____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By ____ Wire
____ Check
____ IGT

To Escrow Trustee: $____
To Issuer: $____
To Cons. Invest. Fund $____
To Other: ____ $____

NOTES: $186,651 will be used to prepay the Series 2003 Bonds

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: ____
Transfers Required: ____

{C1021942.1}

WEST VIRGINIA MUNICIPAL BOND COMMISSION
Suite 500
8 Capitol Street, Charleston, WV 25301
(304) 558-3971

3.13 (B)
NEW ISSUE REPORT FORM
Date of Report: December 13, 2005

ISSUE: Shady Springs Public Service District Sewer Revenue Bonds, Series 2005 B (State Revolving Fund)

ADDRESS: P.O. Box 235, Beaver, WV 25802 COUNTY: Raleigh

PURPOSE OF ISSUE: New Money X
Refunding ___ Refunds issue(s) dated: _____

ISSUE DATE: December 13, 2005 CLOSING DATE: December 13, 2005

ISSUE AMOUNT: $3,078,043 RATE: 0/ ½% Administrative

1st DEBT SERVICE DUE: March 1, 2008 1st PRINCIPAL DUE: March 1, 2008

1st DEBT SERVICE AMOUNT: $20,251 PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: John T. Poffenbarger, Esq.
Contact Person: John T. Poffenbarger, Esq.
Phone: (304) 342-1678

UNDERWRITERS COUNSEL: Jackson Kelly PLLC
Contact Person: Samme L. Gee, Esq.
Phone: (304) 340-1318

CLOSING BANK: _____
Contact Person: _____
Phone: (304) _____

ESCROW TRUSTEE: _____
Contact Person: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: Jerry Smith
Position: Manager
Phone: (304) 255-1565

OTHER: WV Dept. of Environmental Protection
Contact Person: Rosalie Brodersen
Function: Program Manager
Phone: (304) 926-0440

DEPOSITS TO MBC AT CLOSE: _____
By X Wire
___ Check

Accrued Interest: $ _____
Capitalized Interest: $ _____
Reserve Account: $ 152,300
Other: _____ $ _____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By ___ Wire
___ Check
___ IGT

To Escrow Trustee: $ _____
To Issuer: $ _____
To Cons. Invest. Fund $ _____
To Other: _____ $ _____

NOTES: _____

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS,
SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND) AND
SERIES 2005 B (STATE REVOLVING FUND)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

City National Bank, Beckley, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Resolution and a Supplemental Resolution adopted by Shady Springs Public Service District (the "Issuer") on December 19, 2005 (collectively, the "Resolution"), authorizing the issuance of the Issuer's Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund) and Sewer Revenue Bonds, Series 2005 B (State Revolving Fund), in the respective aggregate principal amounts of $2,875,000 and $3,078,043, both dated December 19, 2005, and agrees to serve as Depository Bank, all as set forth in the Resolution.

WITNESS my signature on this 19th day of December, 2005.

City National Bank

EVP

Authorized Officer

SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS,
SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND) AND
SERIES 2005 B (STATE REVOLVING FUND)

ACCEPTANCE OF APPOINTMENT AS REGISTRAR

City National Bank, Beckley, West Virginia, hereby accepts appointment as Registrar in connection with a Bond Resolution and a Supplemental Resolution adopted by Shady Springs Public Service District (the "Issuer") on December 13, 2005 (collectively, the "Resolution"), authorizing the issuance of the Issuer's Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund) and Sewer Revenue Bonds, Series 2005 B (State Revolving Fund), in the respective aggregate principal amounts of $2,875,000 and $3,078,043, both dated December 13, 2005, and agrees to serve as Registrar, all as set forth in the Resolution.

WITNESS my signature on this 13th day of December, 2005.

D. L. Hauch EVP
Authorized Officer

SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS,
SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND)
SEWER REVENUE BONDS,
SERIES 2005 B (STATE REVOLVING FUND)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 13th day of December, 2005, by and between SHADY SPRINGS PUBLIC SERVICE DISTRICT, a public corporation (the "Issuer"), and City National Bank, Beckley, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its $2,875,000 Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund) (the "Bonds"), each in the form of one bond, and $3,078,043 Sewer Revenue Bonds, Series 2005 B (State Revolving Fund) in fully registered form, pursuant to a Bond Resolution and a Supplemental Resolution adopted by the Issuer on December 13, 2005 (collectively, the "Resolution");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Resolution, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Resolution provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Resolution and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Resolution and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Resolution, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest, if any, on the Bonds from gross income for federal income tax purposes, in accordance with any rules and regulations

promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation for services rendered as provided in the annexed schedule.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Resolution with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Resolution, the terms of the Resolution shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Resolution will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective address:

ISSUER:

Shady Springs Public Service District
P.O. Box 235
Beaver, WV 25802
Attention: Chairperson

REGISTRAR:
City National Bank
Beckley, WV 26241
Attention: President

The Issuer and the Registrar shall notify the other in writing of any change of address.

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Resolution.

IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the date first above-written.

SHADY SPRINGS PUBLIC SERVICE DISTRICT

M. Lear Lucas

Chairperson

EVP

City National Bank
AuthorizedOfficer

EXHIBIT A

See Bond Resolution (Tab No. __)

See Supplemental Resolution (Tab No. __)

SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS,
SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND)
SEWER REVENUE BONDS,
SERIES 2005 B (STATE REVOLVING FUND)

CERTIFICATE OF REGISTRATION OF SERIES 2005 BONDS

City National Bank, Beckley, West Virginia, as Registrar (the "Registrar"), hereby certifies that on the date hereof, the single, fully registered Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), of Shady Springs Public Service District (the "Issuer"), dated December 19, 2005, in the principal amount of $2,815,000, and numbered AR-1,was registered as to principal only in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of the Registrar and Sewer Revenue Bonds, Series 2005 B (State Revolving Fund), of the Issuer, dated December 19, 2005, in the principal amount of $3,078,043, and numbered BR-1, was registered as to principal only in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of the Registrar.

WITNESS my signature on this 19th day of December, 2005.

City National Bank, as Registrar

EVP

Authorized Officer

{C1021938.1}

[See Prior Transcripts]

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RECEIVED
NOV 17 2005

west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
Telephone: (304) 926-0495
Fax: (304) 926-0496

Joe Manchin III, Governor
Stephanie R. Timmermeyer, Cabinet Secretary
www.wvdep.org

November 15, 2005

Jerry D. Smith, General Manager
Shady Spring PSD
P.O. Box 235
Beaver, WV 25813-0235

RE: WV/NPDES Permit No. WV0080403
Raleigh County

Dear Mr. Smith:

This letter serves as an extension of WV/NPDES Water Pollution Control Permit No. WV0080403 until the 30th day of June 2006. This extension is being granted in order to give additional time to complete the review and reissuance of your WV/NPDES permit.

This action is necessary to maintain permit status during this process. Please be advised that the terms and conditions of your existing permit shall remain in effect throughout the permit extension period.

Very truly yours,

Lisa A. McClung
Director

LAM:rab

CC: Env. Insp. Supervisor
Env. Inspector, Raleigh County

ACORD CERTIFICATE OF LIABILITY INSURANCE #31

DATE (MM/DD/YY) 3/29/05

RODUCER

Acordia of WV-Beckley
41 Eagles Road
Beckley WV 25801
(304) 252-6375

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY A Natl Union Fire Ins Co Pgh PA

COMPANY B

COMPANY C

COMPANY D

SURED

Shady Spring Public Service District
P.O. Box 235
Beaver, WV 25813-0235

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO .TR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY	GL4806295	7/01/04	7/01/05	GENERAL AGGREGATE	$ 1,000,000
	X COMMERCIAL GENERAL LIABILITY				PRODUCTS-COMP/OP AGG	$ 1,000,000
	CLAIMS MADE OCCUR				PERSONAL & ADV INJURY	$ 1,000,000
	OWNER'S & CONTRACTOR'S PROT				EACH OCCURRENCE	$ 1,000,000
					FIRE DAMAGE (Any one fire)	$ 5,000
					MED EXP (Any one person)	$ 50,000
A	AUTOMOBILE LIABILITY	GL4806295	7/01/04	7/01/05	COMBINED SINGLE LIMIT	$ 1,000,000
	X ANY AUTO				BODILY INJURY (Per person)	$
	ALL OWNED AUTOS				BODILY INJURY (Per accident)	$
	SCHEDULED AUTOS				PROPERTY DAMAGE	$
	HIRED AUTOS					
	NON-OWNED AUTOS					
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	$
	ANY AUTO				OTHER THAN AUTO ONLY:	
					EACH ACCIDENT	$
					AGGREGATE	$
	EXCESS LIABILITY				EACH OCCURRENCE	$
	UMBRELLA FORM				AGGREGATE	$
	OTHER THAN UMBRELLA FORM					$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WV STOP GAP LIABILITY	7/01/04	7/01/05	WC STATUTORY LIMITS / OTHER	
	THE PROPRIETOR/ PARTNERS/EXECUTIVE OFFICERS ARE: INCL / EXCL				EL EACH ACCIDENT	$ 1,000,000
					EL DISEASE-POLICY LIMIT	$
					EL DISEASE-EA EMPLOYEE	$
	OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

vidence of Insurance as respects to Flat Top Project.

CERTIFICATE HOLDER

Shady Spring Public Service District
Jerry Smith
P.O. Box 235
Beaver, WV 25813-0235

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Acordia of WV - Beckley

© ACORD CORPORATION 1988

CERTIFICATE: 006/001/ 00006

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

State of West Virginia

Certificate

I, Betty Ireland, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13A OF THE WEST VIRGINIA CODE, AND CHAPTER 16, ARTICLE 13A OF THE 2005 SUPPLEMENT TO THE WEST VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS OFFICE.

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

December 6, 2005

Betty Ireland
Secretary of State

jurisdiction and authority provided by this section does not extend to highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways and no rates, fees or charges for stormwater services or costs of compliance may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways. (1955, c. 135; 1967, c. 105; 1994, c. 61; 2001, c. 212.)

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

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

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

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

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

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

Sec.
16-13A-1. Legislative findings.
16-13A-1a. Jurisdiction of the public service commission.
16-13A-1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts.
16-13A-1c. General purpose of districts.
16-13A-2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the secretary of state.
16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.
16-13A-3a. Removal of members of public service board.
16-13A-4. Board chairman; members' compensation; procedure; district name.
16-13A-5. General manager of board.
16-13A-6. Employees of board.
16-13A-7. Acquisition and operation of district properties.
16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.
16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.
16-13A-9a. Limitations with respect to foreclosure.

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.
Sec.
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.

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

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

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

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

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

Cited in Berkeley County Pub. Serv. Dist. v. Vitro Corp. of Am., 152 W. Va. 252, 162 S.E.2d 189 (1968); State v. Neary, 179 W. Va. 115, 365 S.E.2d 395 (1987); McClung Invs., Inc. v. Green Valley Community Pub. Serv. Dist, 199 W. Va. 490, 485 S.E.2d 434 (1997).

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§ 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.)

Authority of county commissions. — The county courts (now county commissions) may not supersede the authority delegated by them to public service districts created in accordance with the provisions of this article. Op. Att'y Gen., June 27, 1973.

Public service district — Authority. — A public service district, which was created only for the purposes of furnishing water services, has no power to condemn real estate for sewerage facilities. Canyon Pub. Serv. Dist. v. Tasa Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).

Public service district — Purpose. — The purpose for the creation of a public service district may be ascertained by a review of the order establishing the district and the history behind the creation of the district (the notice of hearing and hearings held prior to the creation of the district). Op. Att'y Gen., July 8, 1976.

Cited in State ex rel. APCO v. Gainer, 149 W. Va. 740, 143 S.E.2d 351 (1965); Shobe v. Latimer, 162 W. Va. 779, 253 S.E.2d 54 (1979).

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

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

(a) To study, modify, approve, deny or amend the plans created under section one-b [§ 16-13A-1b] of this article for consolidation or merger of public service districts and their facilities, personnel or administration;

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

(c) To create by general order a separate division within the public service commission to provide assistance to public service districts in technological, operational, financial and regulatory matters. (1986, c. 81.)

Cited in State ex rel. Water Dev. Auth. v. Northern Wayne County Pub. Serv. Dist., 195 W. Va. 135, 464 S.E.2d 777 (1995).

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

Each county commission shall conduct a study of all public service districts which have their principal offices within its county and shall develop a plan relating to the creation, consolidation, merger, expansion or dissolution of such districts or the consolidation or merger of management and administrative services and personnel and shall present such plan to the public service commission for approval, disapproval, or modification: Provided, That within ninety days of the effective date of this section each county commission in this state shall elect either to perform its own study or request that the public service commission perform such study. Each county commission electing to perform its own study has one year from the date of election to present such plan to the public service commission. For each county wherein the county commission elects not to perform its own study, the public service commission shall conduct a study of such county. The public service commission shall establish a schedule for such studies upon a priority basis, with those counties perceived to have the greatest need of creation or consolidation of public service districts receiving the highest priority. In establishing the priority schedule, and in the performance of each study, the bureau of public health and the division of environmental protection shall offer their assistance and cooperation to the public service commission. Upon completion by the public service commission of each study, it shall be submitted to the appropriate county commission for review and comment. Each county commission has six months in which to review the study conducted by the public service commission, suggest changes or modifications thereof, and present such plan to the public service commission. All county plans, whether conducted by the county commission itself or submitted as a result of a public service commission study, shall, by order, be approved, disapproved or modified by the public service commission in accordance with rules promulgated by the public service commission and such order shall be implemented by the county commission. (1986, c. 81; 1994, c. 61.)

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

Any territory constituting the whole or any part of one or more counties in the state so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of, properties supplying water or sewerage services or gas distribution services or all of these within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may be constituted a public service district under and in the manner provided by this article. The words "public service properties," when used in this article, shall mean and include any facility used or to be used for or in connection with (1) the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or

other uses (herein sometimes referred to as "water facilities"), (2) the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (herein sometimes referred to as "sewer facilities" or "landfills") or (3) the distribution or the furnishing of natural gas to the public for industrial, public, private or other uses (herein sometimes referred to as "gas utilities or gas system"). (1986, c. 81.)

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

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

(b) The petition shall be filed in the office of the clerk of the county commission of the county in which the territory to constitute the proposed district is situated, and if the territory is situated in more than one county then the petition shall be filed in the office of the clerk of the county

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

(c) When the county commission of any county enters an order on its own motion proposing the creation, enlargement, reduction, merger, dissolution or consolidation of a public service district, as aforesaid, or when a petition for the creation is presented, as aforesaid, the county commission shall at the same session fix a date of hearing in the county on the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed public service district, which date so fixed shall be not more than forty days nor less than twenty days from the date of the action. If the territory proposed to be included is situated in more than one county, the county commission, when fixing a date of hearing, shall provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county commission of each county in which any territory in the proposed public service district is located shall cause notice of the hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for the publication shall be by publication in each city, incorporated town or municipal corporation if available in each county in which any territory in the proposed public service district is located. The publication shall be at least ten days prior to the hearing.

(d) In all cases where proceedings for the creation, enlargement, reduction, merger, dissolution or consolidation of the public service districts are initiated by petition as aforesaid, the person filing the petition shall advance or satisfactorily indemnify the payment of the cost and expenses of publishing the hearing notice, and otherwise the costs and expenses of the notice shall be paid in the first instance by the county commission out of contingent funds or any other funds available or made available for that purpose. In addition to the notice required herein to be published, there shall also be posted in at least five conspicuous places in the proposed public service district, a notice containing the same information as is contained in the published notice. The posted notices shall be posted not less than ten days before the hearing.

(e) All persons residing in or owning or having any interest in property in the proposed public service district shall have an opportunity to be heard for and against its creation, enlargement, reduction, merger, dissolution or consolidation. At the hearing the county commission before which the hearing is conducted shall consider and determine the feasibility of the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed district. If the county commission determines that the construction or acquisition by purchase or otherwise and maintenance, operation, improvement and

extension of public service properties by the public service district will be conducive to the preservation of public health, comfort and convenience of such area, the county commission shall by order create, enlarge, reduce, merge, dissolve or consolidate such public service district. If the county commission, after due consideration, determines that the proposed district will not be conducive to the preservation of public health, comfort or convenience of the area or that the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed district as set forth and described in the petition or order is not feasible, it may refuse to enter an order creating the district or it may enter an order amending the description of the proposed district and create, enlarge, reduce, merge, dissolve or consolidate the district as amended.

(f) If the county commission determines that any other public service district or districts can adequately serve the area of the proposed public service district, whether by enlargement, reduction, merger, dissolution or consolidation, it shall refuse to enter the order, but shall enter an order creating, enlarging, reducing, merging, dissolving or consolidating the area with an existing public service district, in accordance with rules adopted by the public service commission for such purpose: Provided, That no enlargement of a public service district may occur if the present or proposed physical facilities of the public service district are determined by the appropriate county commission or the public service commission to be inadequate to provide such enlarged service. The clerk of the county commission of each county into which any part of such district extends shall retain in his office an authentic copy of the order creating, enlarging, reducing, merging, dissolving or consolidating the district: Provided, however, That within ten days after the entry of an order creating, enlarging, reducing, merging, dissolving or consolidating a district, such order must be filed for review and approval by the public service commission. The public service commission shall provide a hearing in the affected county on the matter and may approve, reject or modify the order of the county commission if it finds it is in the best interests of the public to do so. The public service commission shall adopt rules relating to such filings and the approval, disapproval or modification of county commission orders for creating, enlarging, merging, dissolving or consolidating districts. The provisions of this section shall not apply to the implementation by a county commission of an order issued by the public service commission pursuant to this section and section one-b [§ 16-13A-1b] of this article.

(g) The county commission may, if in its discretion it deems it necessary, feasible and proper, enlarge the district to include additional areas, reduce the area of the district, where facilities, equipment, service or materials have not been extended, or dissolve the district if inactive or create or consolidate two or more such districts. If consolidation of districts is not feasible, the county commission may consolidate and centralize management and administration of districts within its county or multi-county area to achieve efficiency of operations: Provided, That where the county commission determines on its own motion by order entered of record, or there is a petition to enlarge the district, merge and consolidate districts, or the management and administration thereof, reduce the area of the district or dissolve the district if inactive,

all of the applicable provisions of this article providing for hearing, notice of hearing and approval by the public service commission shall apply. The commission shall at all times attempt to bring about the enlargement or merger of existing public service districts in order to provide increased services and to eliminate the need for creation of new public service districts in those areas which are not currently serviced by a public service district: Provided, however, That where two or more public service districts are consolidated pursuant to this section, any rate differentials may continue for the period of bonded indebtedness incurred prior to consolidation. The districts may not enter into any agreement, contract or covenant that infringes upon, impairs, abridges or usurps the duties, rights or powers of the county commission, as set forth in this article, or conflicts with any provision of this article.

(h) A list of all districts and their current board members shall be filed by the county commission with the secretary of state and the public service commission by the first day of July of each year. (1953, c. 147; 1965, c. 134; 1967, c. 105; 1975, c. 140; 1980, c. 60; 1981, c. 124; 1986, c. 81; 1995, c. 125.)

Editor's notes. — Concerning the reference in (a) to "the effective date of this section," this language was added by Acts 1986, c. 81, and became effective June 6, 1986.

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

Constitutionality. — There is no unlawful delegation of legislative power to the county courts (now county commissions) of this State under this section in violation of W. Va. Const., art. V, § 1, and art. VI, § 1. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

There is no unconstitutional delegation of judicial functions to the county court (now county commission) made by this section. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Authority of commission and voters. — (1) Only the county commission has the affirmative authority to create, enlarge or reduce a public service district; (2) in the absence of any action by a county commission, the requisite number of qualified voters in the affected geographic area may petition a county commission to create, enlarge or reduce a public service district, and, that upon the filing of such petition, a hearing shall be held thereon; (3) the county commission may, in its discretion, refuse to act in an affirmative manner upon such formal petition for creation, enlargement or reduction of such public service district, which action is not subject to protest or public referendum; (4) the county commission may, on its own motion or on the basis of such proper petition, enter an order creating, enlarging or reducing a public service district, which such action and order are subject to a hearing requiring proper notice, and a formal protest and public referendum depending upon the number of qualified voters who protest such action. Op. Att'y Gen., Nov. 13, 1975.

Authority of court. — A county court (now county commission) has authority to add sewerage services to the facilities of a public service district which was created for the purpose of furnishing water services, under appropriate proceedings. Canyon Pub. Serv. Dist. v. Tasa Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).

Compliance. — The provisions of this section relating to the filing of the petition or motion of the county court (now county commission), the description of the territory to be embraced and like provisions are mandatory, but the use of the word "shall," in relation to the requirements for the posting and publication of notice and the time of setting the hearing are directory and require only substantial compliance. Canyon Pub. Serv. Dist. v. Tasa Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).

Merger or consolidation of districts. — This section authorizes either merger or consolidation of public service districts. Op. Att'y Gen., June 12, 1985, No. 9.

A merger or consolidation results in one corporation which, in the case of merger, will be the corporation designated by the commissioners as the surviving corporation, and with respect to a consolidation, will be a new corporate entity. Op. Att'y Gen., June 12, 1985, No. 9.

Overlapping districts. — Where there is no bond indebtedness outstanding to be paid by a public service district, the county commission creating a public service district may undertake to enlarge or reduce the areas of various overlapping districts or may even consolidate the overlapping districts into one district. Op. Att'y Gen., July 8, 1976.

Public corporation. — A public service

district is a public corporation and does not come within the constitutional inhibition requiring all corporations to be created by general law. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Referendum. — There is no authority for voters, by written protest or otherwise, to force a referendum upon the issue of whether or not a created public service district should be continued or abolished. 52 Op. Att'y Gen. 33 (1966).

"Shall apply with like effect," etc. — Because a protest against creation triggers a referendum, the language "shall apply with like effect as if a district were being created" can mean only that a protest against enlargement or reduction likewise triggers a referendum. Op. Att'y Gen., Nov. 13, 1975.

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

Cited in State v. Neary, 179 W. Va. 115, 365 S.E.2d 395 (1987).

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

From and after the date of the adoption of the order creating any public service district, it is a public corporation and political subdivision of the state, but without any power to levy or collect ad valorem taxes. Each district may acquire, own and hold property, both real and personal, in its corporate name, and may sue, may be sued, may adopt an official seal and may enter into contracts necessary or incidental to its purposes, including contracts with any city, incorporated town or other municipal corporation located within or without its boundaries for furnishing wholesale supply of water for the distribution system of the city, town or other municipal corporation, and contract for the operation, maintenance, servicing, repair and extension of any properties owned by it or for the operation and improvement or extension by the district of all or any part of the existing municipally owned public service properties of any city, incorporated town or other municipal corporation included within the district: Provided, That no contract shall extend beyond a maximum of forty years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

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

Each city, incorporated town or other municipal corporation having a population of more than three thousand but less than eighteen thousand is

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

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

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

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

Notwithstanding any provision of this code to the contrary, whenever a district is consolidated or merged pursuant to section two [§ 16-13A-2] of this article, the terms of office of the existing board members shall end on the effective date of the merger or consolidation. The county commission shall appoint a new board according to rules promulgated by the public service commission. Whenever districts are consolidated or merged no provision of this code prohibits the expansion of membership on the new board to five.

The respective terms of office of the members of the first board shall be fixed by the county commission and shall be as equally divided as may be, that is approximately one third of the members for a term of two years, a like number for a term of four years, the term of the remaining member or members for six years, from the first day of the month during which the appointments are made. The first members of the board appointed as aforesaid shall meet at the office of the clerk of the county commission which entered the order creating the district as soon as practicable after the appointments and shall qualify by taking an oath of office: Provided, That any member or members of the board may be removed from their respective office as provided in section three-a [§ 16-13A-3a] of this article.

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

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

The members of the board, and the chair, secretary and treasurer thereof, shall make available to the county commission, at all times, all of its books and records pertaining to the district's operation, finances and affairs, for inspection and audit. The board shall meet at least monthly. (1953, c. 147; 1965, c. 134; 1971, c. 72; 1981, c. 124; 1983, c. 166; 1986, c. 81; 1994, c. 61; 1997, c. 159.)

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

W. Va. Law Review. — Fisher, "The Scope of Title Examination in West Virginia: Can Reasonable Minds Differ?," 98 W. Va. L. Rev. 449 (1996).

Authority of districts. — Public service districts are agents of the county commission by which they were created, having no authority other than that expressly set out in this article. Op. Att'y Gen., July 8, 1976.

Compensation for additional duties. — Board members of a public service district could not be compensated for performing the duties of treasurer and/or secretary, or for reading

meters for the public service district. Op. Att'y Gen., July 14, 1988, No. 2.

Exemptions. — Public service districts of West Virginia are political subdivisions of the State, and as such, they are specifically, by express statute, exempted from the duty of paying registration fees (provided by § 17A-10-8), the privilege tax (imposed by § 17A-3-4), and the certificate of title charge (required by § 17A-3-4). 49 Op. Att'y Gen. 131 (1961).

Furnishing water to another state. — A public service district may furnish water wholesale in bulk quantities to a municipal corporation in another state. 51 Op. Att'y Gen. 739 (1966).

Applied in McCloud v. Salt Rock Water Pub. Serv. Dist., 207 W. Va. 453, 533 S.E.2d 679 (2000).

Cited in State v. Neary, 179 W. Va. 115, 365 S.E.2d 395 (1987).

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

The county commission or the public service commission or any other appointive body creating or establishing a public service district under the provisions of this article, or any group of five percent or more of the customers of a public service district, may petition the circuit court of the county in which the district maintains its principal office for the removal of any member of the governing board thereof for consistent violations of any provisions of this article, for reasonable cause which includes, but is not limited to, a continued failure to attend meetings of the board, failure to diligently pursue the objectives for which the district was created, or failure to perform any other duty either prescribed by law or required by a final order of the public service commission or for any malfeasance in public office. Any board member charged with a violation under this section who offers a successful defense against such charges shall be reimbursed for the reasonable costs of such defense from district revenues. Such costs shall be considered as costs associated with rate determination by the public service district and the public service commission. If the circuit court judge hearing the petition for removal finds that the charges are frivolous in nature, the judge may assess all or part of the court costs, plus the reasonable costs associated with the board member's defense, against the party or parties who petitioned the court for the board member's removal. (1963, c. 75; 1971, c. 72; 1981, c. 124; 1986, c. 81.)

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

Quoted in State v. Neary, 179 W. Va. 115, 365 S.E.2d 395 (1987).

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

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

(b) Salaries of the board members are:

(1) For districts with fewer than six hundred customers, up to seventy-five dollars per attendance at regular monthly meetings and fifty dollars per

attendance at additional special meetings, total salary not to exceed fifteen hundred dollars per annum;

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

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

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

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

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

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

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

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

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

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

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

(e) The board shall by resolution determine its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings

may be called. Public notice of meetings shall be given in accordance with section three [§ 6-9A-3], article nine-a, chapter six of this code. Emergency meetings may be called as provided for by said section. A majority of the members constituting the board also constitute a quorum to do business.

(f) The members of the board are not personally liable or responsible for any obligations of the district or the board, but are answerable only for willful misconduct in the performance of their duties. At any time prior to the issuance of bonds as hereinafter provided, the board may by resolution change the official or corporate name of the public service district and the change is effective from the filing of an authenticated copy of such resolution with the clerk of the county commission of each county in which the territory embraced within such district or any part thereof is located and with the public service commission. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located. (1953, c. 147; 1981, c. 124; 1986, c. 81; 1997, c. 159; 2000, c. 199.)

Effect of amendment of 2000. — Acts 2000, c. 199, effective June 9, 2000, rewrote the section.

Compensation for performing additional duties. — Board members of a public service district could not be compensated for performing the duties of treasurer and/or secretary, or for reading meters for the public service district. Op. Att'y Gen., July 14, 1988, No. 2.

§ 16-13A-5. General manager of board.

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

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

The board of any public service district which purchases water or sewer service from a municipal water of sewer system or another public service district may, as an alternative to hiring its own general manager, elect to permit the general manager of the municipal water or sewer system or public service district from which such water or sewer service is purchased provide professional management to the district, if the appropriate municipality or public service board agrees to provide such assistance. The general manager shall receive reasonable compensation for such service. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

§ 16-13A-6. Employees of board.

The board may in its discretion from time to time by resolution passed by a majority vote provide for the employment of an attorney, fiscal agent, one or more engineers and such other employees as the board may determine necessary and expedient. The board shall in and by such resolution fix the term of employment and compensation and prescribe the duties to be performed by such employees. (1953, c. 147; 1981, c. 124.)

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

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same. All contracts involving the expenditure by the district of more than fifteen thousand dollars for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provision of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two [§ 16-13A-2] of this article in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years. (1953, c. 147; 1967, c. 105; 1981, c. 124; 1982, c. 24; 1986, c. 81; 1997, c. 159.)

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

The board may acquire any publicly or privately owned public service properties located within the boundaries of the district regardless of whether or not all or any part of such properties are located within the corporate limits

of any city, incorporated town or other municipal corporation included within the district and may purchase and acquire all rights and franchises and any and all property within or outside the district necessary or incidental to the purpose of the district.

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

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

For the purpose of acquiring any public service properties or lands, rights or easements deemed necessary or incidental for the purposes of the district, each such district has the right of eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by cities, incorporated towns and other municipal corporations: Provided, That such board may not acquire all or any substantial part of a privately owned waterworks system unless and until authorized so to do by the public service commission of West Virginia, and that this section shall not be construed to authorize any district to acquire through condemnation proceedings either in whole or substantial part an existing privately owned waterworks plant or system or gas facilities located in or furnishing water or gas service within such district or extensions made or to be made by it in territory contiguous to such existing plant or system, nor may any such board construct or extend its public service properties to supply its services into areas served by or in competition with existing waterworks or gas facilities or extensions made or to be made in territory contiguous to such existing plant or system by the owner thereof. (1953, c. 147; 1980, c. 60; 1981, c. 124.)

Eminent domain. — The grant of power of eminent domain to public service districts by this section is valid. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

If a facility creates a nuisance this harm is simply an element of just compensation in an eminent domain proceeding. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

Public service commission, in the absence of specific statutory authority, is not empowered to determine whether particular property interests acquired or to be acquired by a utility are compensable in an eminent domain action, or to render any type of monetary judgment for such property interests. Affixing the value of the property taken is the function of the trier of fact in an eminent domain proceeding. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

Superior right of municipality to extend public services. — If a tract of real estate located within a public service district has been annexed into a municipality, then, as between the municipality and the public service district, the municipality has the superior right under this section to extend public services, such as water and/or sewer service, which were not being previously furnished to the tract by the public service district. Berkeley County Pub. Serv. Sewer Dist. v. West Va. Pub. Serv. Comm'n, 204 W. Va. 279, 512 S.E.2d 201 (1998).

When consent of municipality needed. — Where municipality has superior right to extend social services, a public service district would need the consent of the municipality and the public service commission in order to provide such services. Berkeley County Pub. Serv. Sewer Dist. v. West Va. Pub. Serv. Comm'n, 204 W. Va. 279, 512 S.E.2d 201 (1998).

Cited in 45 Op. Att'y Gen. 506 (1953).

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

The board may make, enact and enforce all needful rules and regulations in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district, and the board shall establish rates and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of such public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds hereunder. The schedule of such rates and charges may be based upon either (a) the consumption of water or gas on premises connected with such facilities, taking into consideration domestic, commercial, industrial and public use of water and gas; or (b) the number and kind of fixtures connected with such facilities located on the various premises; or (c) the number of persons served by such facilities; or (d) any combination thereof; or (e) may be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. Where water, sewer and gas services are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate thereof. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. All new applicants for service shall

deposit a minimum of fifty dollars with the district to secure the payment of service rates and charges in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another minimum deposit of fifty dollars has been remitted to the district. Whenever any rates, rentals or charges for services or facilities furnished remain unpaid for a period of thirty days after the same become due and payable, the property and the owner thereof, as well as the user of the services and facilities provided are delinquent and the owner, user and property are liable at law until such time as all such rates and charges are fully paid: Provided, That the property owner shall be given notice of any said delinquency by certified mail, return receipt requested. The board may, under reasonable rules promulgated by the public service commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both: Provided, however, That upon written request of the owner or owners of the premises, the board shall shut off and discontinue water and gas services where any rates, rentals, or charges for services or facilities remain unpaid by the user of the premises for a period of sixty days after the same became due and payable.

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

Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the bureau of public health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any such sewer facilities, where sewage will flow by gravity or be

transported by such other methods approved by the bureau of public health including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine [§ 16-1-9], article one, chapter sixteen of this code, from such houses, dwellings or buildings into such sewer facilities, to connect with and use such sewer facilities, and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such houses, dwellings and buildings where there is such gravity flow or transportation by such other methods approved by the bureau of public health including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code, and such houses, dwellings and buildings can be adequately served by the sewer facilities of the district, and it is hereby found, determined and declared that the mandatory use of such sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of such districts and of the state: Provided, That if the public service district determines that the property owner must connect with the sewer facilities even when sewage from such dwellings may not flow to the main line by gravity and the property owner must incur costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for such changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump, or any other method approved by the bureau of public health; maintenance and operation costs for such extra installation should be reflected in the users charge for approval of the public service commission. The circuit court shall adjudicate the merits of such petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near such sewer facility, and the engineer for the district has certified that such sewer facilities are available to and are adequate to serve such owner, tenant or occupant, and sewage will flow by gravity or be transported by such other methods approved by the bureau of public health from such house, dwelling or building into such sewer facilities, the district may charge, and such owner, tenant or occupant shall pay the rates and charges for services established under this article only after thirty-day notice of the availability of the facilities has been received by the owner.

All delinquent fees, rates and charges of the district for either water facilities, sewer facilities or gas facilities are liens on the premises served of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes. In addition to the other remedies provided in this section, public service districts are hereby granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of delinquent water, sewer or gas bills. If the district collects the delinquent account, plus reasonable costs, from its customer or other responsible party, the district shall pay to the magistrate the

normal filing fee and reasonable costs which were previously deferred. In addition, each public service district may exchange with other public service districts a list of delinquent accounts.

Anything in this section to the contrary notwithstanding, any establishment, as defined in section three [§ 22-11-3], article eleven, chapter twenty-two, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the division of environmental protection, as prescribed by section eleven [§ 22-11-11], article eleven, chapter twenty-two of this code, is exempt from the provisions of this section. (1953, c. 147; 1965, c. 134; 1980, c. 60; 1981, c. 124; 1986, c. 81; 1989, c. 174; 1994, c. 61.)

W. Va. Law Review. — Fisher, "The Scope of Title Examination in West Virginia: Can Reasonable Minds Differ?," 98 W. Va. L. Rev. 449 (1996).

Abandonment of private systems. — Where a public service district requires a property owner, tenant, or occupant to connect onto its sewer system and to abandon a private sewer system located on the property, such person cannot recover from the public service district the value of the private system on the ground that such abandonment constitutes a taking of private property without just compensation within the meaning of W. Va. Const., art. III, § 9. Kingmill Valley Pub. Serv. Dist. v. Riverview Estates Mobile Home Park, 182 W. Va. 116, 386 S.E.2d 483 (1989).

Buffer-zone requirements. — Public Service Commission did not err in finding that the proposed sewage lagoons site satisfied the buffer-zone requirements. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

Duty to pay. — Owners, tenants, or occupants have a duty under this section to pay rates and charges for the district sewer facilities from and after the date of receipt of notice (now 30 days after receipt) that such facilities are available. Rhodes v. Malden Pub. Serv. Dist, 171 W. Va. 645, 301 S.E.2d 601 (1983) (construing this section prior to 1980 and 1981 amendments).

Liens. — The provision that delinquent fixed rates and charges for services rendered by a public service district shall be a lien on the premises served of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes, does not deprive the owners of their property without due process of law. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Public service district liens created and enforceable under this section are subject to the recordation requirements of § 38-10C-1 so that such liens must be docketed to be enforceable against a purchaser of the property for valuable consideration, without notice. McClung Invs., Inc. v. Green Valley Community Pub. Serv. Dist, 199 W. Va. 490, 485 S.E.2d 434 (1997).

Sewer connection requirements. — The boards of public service districts have no authority to require potential users who live outside the boundaries of the districts, but within the 10-mile limit, to hook onto the district's sewer facilities. Op. Att'y Gen., July 8, 1976.

Quoted in State ex rel. Water Dev. Auth. v. Northern Wayne County Pub. Serv. Dist., 195 W. Va. 135, 464 S.E.2d 777 (1995).

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

No public service district shall foreclose upon the premises served by such district for delinquent fees, rates or charges for which a lien is authorized by sections nine or nineteen [§§ 16-13A-9 or 16-13A-19] of this article except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county wherein the district lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that the district prior to the bringing of such action had exhausted all other remedies for the collection of debts with respect to such delinquencies. In no event shall foreclosure procedures be instituted by any such district or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought. (1982, c. 74.)

§ 16-13A-10. Budget.

The board shall establish the beginning and ending of its fiscal year, which period shall constitute its budget year, and at least thirty days prior to the beginning of the first full fiscal year after the creation of the district and annually thereafter the general manager shall prepare and submit to the board a tentative budget which shall include all operation and maintenance expenses, payments to a capital replacement account and bond payment schedules for the ensuing fiscal year. Such tentative budget shall be considered by the board, and, subject to any revisions or amendments that may be determined by the board, shall be adopted as the budget for the ensuing fiscal year. Upon adoption of the budget, a copy of the budget shall be forwarded to the county commission. No expenditures for operation and maintenance expenses in excess of the budget shall be made during such fiscal year unless unanimously authorized and directed by the board. (1953, c. 147; 1981, c. 124.)

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

§ 16-13A-11. Accounts; audit.

The general manager, under direction of the board, shall install and maintain a proper system of accounts, in accordance with all rules, regulations or orders pertaining thereto by the public service commission, showing receipts from operation and application of the same, and the board shall at least once a year cause such accounts to be properly audited: Provided, That such audit may be any audit by an independent public accountant completed within one year of the time required for the submission of the report: Provided, however, That if the district is required to have its books, records and accounts audited annually by an independent certified public accountant as a result of any covenant in any board resolution or bond instrument, a copy of such audit may be submitted in satisfaction of the requirements of this section, and is hereby found, declared and determined to be sufficient to satisfy the requirements of article nine [§§ 6-9-1 et seq.], chapter six of this code pertaining to the annual audit report by the state tax commission. A copy of the audit shall be forwarded within thirty days of submission to the county commission and to the public service commission.

The treasurer of each public service district shall keep and preserve all financial records of the public service district for ten years, and shall at all times have such records readily available for public inspection. At the end of his term of office, the treasurer of each public service district shall promptly deliver all financial records of the public service district to his successor in office. Any treasurer of a public service district who knowingly or willfully violates any provision of this section is guilty of a misdemeanor, and shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned in the county jail not more than ten days, or both. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

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

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

No money may be paid out by a district except upon an order signed by the chairman and secretary of such board, or such other person or persons authorized by the chairman or secretary, as the case may be, to sign such orders on their behalf. Each order for the payment of money shall specify the purposes for which the amount thereof is to be paid, with sufficient clearness to indicate the purpose for which the order is issued, and there shall be endorsed thereon the name of the particular fund out of which it is payable and it shall be payable from the fund constituted for such purpose, and no other. All such orders shall be reflected in the minutes of the next meeting of the board. (1953, c. 147; 1981, c. 124.)

§ 16-13A-13. Revenue bonds.

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

tion or resolutions providing for the issuance of such bonds may contain such covenants and restrictions upon the issuance of additional bonds thereafter as may be deemed necessary or advisable for the assurance of the payment of the bonds thereby authorized. (1953, c. 147; 1970, cc. 11, 12; 1970, 1st Ex. Sess., c. 2; 1980, c. 33; 1981, 1st Ex. Sess., c. 2; 1989, c. 174.)

Cross references. — Procedure for borrowing and issuing bonds, § 16-13A-25.

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

The cost of any public service properties acquired under the provisions of this article shall be deemed to include the cost of the acquisition or construction thereof, the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses for estimates of cost and of revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the construction or acquisition of the properties and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof. (1953, c. 147.)

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

In the discretion and at the option of the board such bonds may be secured by a trust indenture by and between the district and a corporate trustee, which may be a trust company or bank having powers of a trust company within or without the State of West Virginia, but no such trust indenture shall convey, mortgage or create any lien upon the public service properties or any part thereof. The resolution authorizing the bonds and fixing the details thereof may provide that such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the district and the members of its board and officers in relation to the construction or acquisition of public service properties and the improvement, extension, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that all or any part of the construction work shall be contracted for, constructed and paid for, under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, their successors, assignees or nominees, who may be given the right to require the security given by contractors and by any depository of the proceeds of bonds or revenues of the public service properties or other money pertaining thereto be satisfactory to such purchasers, their successors, assignees or

nominees. Such indenture may set forth the rights and remedies of the bondholders and such trustee. (1953, c. 147.)

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

At or before the time of the issuance of any bonds under this article the board shall by resolution or in the trust indenture provide for the creation of a sinking fund and for monthly payments into such fund from the revenues of the public service properties operated by the district such sums in excess of the cost of maintenance and operation of such properties as will be sufficient to pay the accruing interest and retire the bonds at or before the time each will respectively become due and to establish and maintain reserves therefor. All sums which are or should be, in accordance with such provisions, paid into such sinking fund shall be used solely for payment of interest and for the retirement of such bonds at or prior to maturity as may be provided or required by such resolutions. (1953, c. 147.)

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

The board of any such district shall have power to insert enforceable provisions in any resolution authorizing the issuance of bonds relating to the collection, custody and application of revenues of the district from the operation of the public service properties under its control and to the enforcement of the covenants and undertakings of the district. In the event there shall be default in the sinking fund provisions aforesaid or in the payment of the principal or interest on any of such bonds or, in the event the district or its board or any of its officers, agents or employees, shall fail or refuse to comply with the provisions of this article, or shall default in any covenant or agreement made with respect to the issuance of such bonds or offered as security therefor, then any holder or holders of such bonds and any such trustee under the trust indenture, if there be one, shall have the right by suit, action, mandamus or other proceeding instituted in the circuit court for the county or any of the counties wherein the district extends, or in any other court of competent jurisdiction, to enforce and compel performance of all duties required by this article or undertaken by the district in connection with the issuance of such bonds, and upon application of any such holder or holders, or such trustee, such court shall, upon proof of such defaults, appoint a receiver for the affairs of the district and its properties, which receiver so appointed shall forthwith directly, or by his agents and attorneys, enter into and upon and take possession of the affairs of the district and each and every part thereof, and hold, use, operate, manage and control the same, and in the name of the district exercise all of the rights and powers of such district as shall be deemed expedient, and such receiver shall have power and authority to collect and receive all revenues and apply same in such manner as the court shall

direct. Whenever the default causing the appointment of such receiver shall have been cleared and fully discharged and all other defaults shall have been cured, the court may in its discretion and after such notice and hearing as it deems reasonable and proper direct the receiver to surrender possession of the affairs of the district to its board. Such receiver so appointed shall have no power to sell, assign, mortgage, or otherwise dispose of any assets of the district except as hereinbefore provided. (1953, c. 147.)

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

As to receivers, see Rule 66.

As to application of rules to writ of mandamus, see Rule 81(a)(5).

As to effect of rules on jurisdiction and venue, see Rule 82.

Mandamus. — Mandamus is a proper remedy to be pursued by the holder of a municipal revenue bond to require a municipal corporation to comply with rate covenants in its revenue bonds. State ex rel. Allstate Ins. Co. v. Union Pub. Serv. Dist., 151 W. Va. 207, 151 S.E.2d 102 (1966).

Under this section, any holder of the bonds of the Union public service district shall have the right by mandamus to enforce and compel the performance of all the duties required by statute or undertaken by the district in connection with the issuance of bonds by such district. State ex rel. Allstate Ins. Co. v. Union Pub. Serv. Dist., 151 W. Va. 207, 151 S.E.2d 102 (1966).

§ 16-13A-18. Operating contracts.

The board may enter into contracts or agreements with any persons, firms or corporations for the operation and management of the public service properties within the district, or any part thereof, for such period of time and under such terms and conditions as shall be agreed upon between the board and such persons, firms or corporations. The board shall have power to provide in the resolution authorizing the issuance of bonds, or in any trust indenture securing such bonds, that such contracts or agreements shall be valid and binding upon the district as long as any of said bonds, or interest thereon, are outstanding and unpaid. (1953, c. 147.)

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

In any case where a public service district owns a water, sewer or gas system and a majority of not less than sixty percent of the members of the public service board thereof deem it for the best interests of the district to sell, lease or rent such water, sewer or gas system to any municipality or privately-owned water, sewer or gas system, or to any water, sewer or gas system owned by an adjacent public service district, the board may so sell, lease or rent such water, sewer or gas system upon such terms and conditions as said board, in its discretion, considers in the best interests of the district: Provided, That such sale, leasing or rental may be made only upon: (1) The publication of notice of a hearing before the board of the public service district, as a Class I legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, in a newspaper published and of general circulation in the county or counties wherein the district is located, such publication to be made not earlier than twenty days and not later than seven days prior to the hearing; (2) approval by the county commission or commis-

sions of the county or counties in which the district operates; and (3) approval by the public service commission of West Virginia.

In the event of any such sale, the proceeds thereof, if any, remaining after payment of all outstanding bonds and other obligations of the district, shall be ratably distributed to any persons who have made contributions in aid of construction of such water, sewer or gas system, such distribution not to exceed the actual amount of any such contribution, without interest, and any balance of funds thereafter remaining shall be paid to the county commission of the county in which the major portion of such water, sewer or gas system is located to be placed in the general funds of such county commission. (1963, c. 75; 1981, c. 124; 1986, c. 81; 1997, c. 160.)

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

There shall be and is hereby created a statutory mortgage lien upon such public service properties of the district, which shall exist in favor of the holders of bonds hereby authorized to be issued, and each of them, and the coupons attached to said bonds, and such public service properties shall remain subject to such statutory mortgage lien until payment in full of all principal of and interest on such bonds. Any holder of such bonds, of any coupons attached thereto, may, either at law or in equity, enforce said statutory mortgage lien conferred hereby and upon default in the payment of the principal of or interest on said bonds, may foreclose such statutory mortgage lien in the manner now provided by the laws of the State of West Virginia for the foreclosure of mortgages on real property. (1953, c. 147.)

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

In general. — The provision granting bondholders a statutory mortgage lien is valid. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

§ 16-13A-20. Refunding revenue bonds.

The board of any district having issued bonds under the provisions of this article is hereby empowered thereafter by resolution to issue refunding bonds of such district for the purpose of retiring or refinancing such outstanding bonds, together with any unpaid interest thereon and redemption premium thereunto appertaining and all of the provisions of this article relating to the issuance, security and payment of bonds shall be applicable to such refunding bonds, subject, however, to the provisions of the proceedings which authorized the issuance of the bonds to be so refunded. (1953, c. 147.)

In general. — The only purpose for refunding bonds is the retirement or refinancing of outstanding bond issues of a particular district. Op. Att'y Gen., July 8, 1976.

Combination of bond issues. — Combination of two outstanding bond issues into one refunding bond issue may well be restricted by the use of the singular language in this section. Op. Att'y Gen., July 8, 1976.

Previous issuance of bonds. — This section is clearly written in language which speaks only of refunding bonds issued by any district which has previously issued bonds. Op. Att'y Gen., July 8, 1976.

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

This article is full and complete authority for the creation of public service districts and for carrying out the powers and duties of same as herein provided. The provisions of this article shall be liberally construed to accomplish its purpose and no procedure or proceedings, notices, consents or approvals, are required in connection therewith except as may be prescribed by this article: Provided, That all functions, powers and duties of the public service commission of West Virginia, the bureau of public health, the division of environmental protection and the environmental quality board remain unaffected by this article. Every district organized, consolidated, merged or expanded under this article is a public instrumentality created and functioning in the interest and for the benefit of the public, and its property and income and any bonds issued by it are exempt from taxation by the state of West Virginia, and the other taxing bodies of the state: Provided, however, That the board of any such district may use and apply any of its available revenues and income for the payment of what such board determines to be tax or license fee equivalents to any local taxing body and in any proceedings for the issuance of bonds of such district may reserve the right to annually pay a fixed or computable sum to such taxing bodies as such tax or license fee equivalent. (1953, c. 147; 1986, c. 81; 1994, c. 61.)

Constitutionality. — The tax exemption granted to the property, income, and bonds of the district does not violate W. Va. Const., art. X, § 1. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Applied in Rhodes v. Malden Pub. Serv. Dist, 171 W. Va. 645, 301 S.E.2d 601 (1983).

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

All acts and proceedings taken by any county court [county commission] of this State purporting to have been carried out under the provisions of this article which have been taken, prior to the date this section takes effect for the purpose of creating public service districts or for the purpose of subsequent inclusion of additional territory to existing public service districts, after notice published by any such county court having territorial jurisdiction thereof of its intention to include such additional territory after hearing thereon, are hereby validated, ratified, approved and confirmed notwithstanding any other lack of power (other than constitutional) of any such county court to create such public service districts or to include additional territory to existing public service districts or irregularities (other than constitutional) in such proceedings, relating to the appointment and qualification of more than three members to the board of any such public service district or the subsequent appointment of successors of any or all of such members, notwithstanding that no city,

incorporated town or other municipal corporation having a population in excess of three thousand is included within the district, and the appointment and qualification of such members, and further including any irregularities in the petition for the creation of any public service district, irregularities in the description of the area embraced by such district, and irregularities in the notice and publication of notice for the hearing creating such district, prior to the date this section takes effect, is hereby validated, ratified, approved and confirmed; and, further, in such cases where more than three members of the board of such districts have been so appointed prior to the date this section takes effect then such county court shall appoint, and they are hereby authorized and empowered to appoint, successors to such members in the manner as otherwise provided by this article. (1958, c. 14; 1960, c. 19.)

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

Concerning the reference to "the date this section takes effect", Acts 1958, c. 14, which enacted this section and included this language, became effective February 1, 1958. Acts 1960, c. 19, which amended this section, provided that the act take effect January 29, 1960.

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

All acts and proceedings taken by any public service board the members of which were appointed, prior to the date this section takes effect, by any county court [county commission] of this State having territorial jurisdiction thereof, are hereby validated, ratified, approved and confirmed, as to defects and irregularities which may otherwise exist on account of their appointment and qualification: Provided, however, That nothing herein contained shall be construed to excuse a criminal act. (1958, c. 14; 1960, c. 19; 1965, c. 134.)

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

Concerning the reference to "the date this section takes effect", Acts 1965, c. 134, which amended this section, provided that the act take effect March 13, 1965.

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

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

article, the revenues of the said water system, sewage system or gas facilities or grants to the public service district from any authorized agency or from the United States of America or any federal or public agency or department of the United States or from any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any authorized agency or the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument. (1958, c. 14; 1980, c. 60; 1981, c. 124; 1986, c. 118.)

Permissible borrowing. — The borrowing by public service districts of money from counties and/or municipalities, as evidenced by a note, is permissible borrowing under this section. Op. Att'y Gen., May 6, 1988, No. 27.

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

Notwithstanding any other provisions of this article to the contrary, a public service district shall not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of section thirteen, twenty or twenty-four [§ 16-13A-13, § 16-13A-20 or § 16-13A-24] of this article, without the prior consent and approval of the public service commission. The public service commission may waive the provision of prior consent and approval for entering into contracts for engineering, design or feasibility studies pursuant to this section for good cause shown which is evidenced by the public service district filing a request for waiver of this section stated in a letter directed to the commission with a brief description of the project, evidence of compliance with chapter five-g [§§ 5G-1-1 et seq.] of this code, and further explanation of ability to evaluate their own engineering contract, including, but not limited to: (1) Experience with the same engineering firm in the past two years requiring engineering services; or (2) completion of a construction project within the past two years requiring engineering services. The district shall also forward an executed copy of the engineering contract to the commission after receiving approval of the waiver. Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the public service commission in accordance with the provisions of chapter twenty-four [§§ 24-1-1 et seq.] of this code, when a public service district is seeking to acquire or construct public service property.

Thirty days prior to making formal application for the certificate, the public service district shall prefile with the public service commission its plans and supporting information for the project and shall publish a Class II legal advertisement in a newspaper or newspapers of general circulation in each city, incorporated town or municipal corporation if available in the public service district, which legal advertisement shall state:

(a) The amount of money to be borrowed, or the amount of revenue bonds to be issued: Provided, That if the amount is an estimate, the notice may be stated in terms of an amount "not to exceed" a specific amount;

(b) The interest rate and terms of the loan or bonds: Provided, That if the interest rate is an estimate, the notice may be stated in terms of a rate "not to exceed" a specific rate;

(c) The public service properties to be acquired or constructed, and the cost of the public service properties;

(d) The anticipated rates which will be charged by the public service district: Provided, That if the rates are an estimate, the notice may be stated in terms of rates "not to exceed" a specific rate; and

(e) The date that the formal application for a certificate of public convenience and necessity is to be filed with the public service commission. The public service commission may grant its consent and approval for the certificate, or any other request for approval under this section, subject to such terms and conditions as may be necessary for the protection of the public interest, pursuant to the provisions of chapter twenty-four of this code, or may withhold such consent and approval for the protection of the public interest.

In the event of disapproval, the reasons for the disapproval shall be assigned in writing by the commission. (1969, 1st Ex. Sess., c. 6; 1981, c. 124; 1986, c. 81; 1996, c. 213; 1997, c. 159.)

Cross references. — Class II legal advertisement defined, § 59-3-2.

Certificate. — Under this section, a public service district must first obtain a certificate of public convenience and necessity before it can acquire or construct public service property. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

Eminent domain. — Although construction of a new facility proposed by a utility will often require the taking of private property through eminent domain, in the absence of express statutory language, the public service commission has no duty to review and decide issues that are inherent in the eminent domain proceeding. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

ARTICLE 13B.

COMMUNITY IMPROVEMENT ACT.

Sec.
16-13B-1. Short title.
16-13B-2. Definitions.
16-13B-3. Power and authority of counties and municipalities relating to flood relief, wastewater and water projects.
16-13B-4. Determination of need and feasibility of creating an assessment district.
16-13B-5. Notice to property owners before creation of assessment district and construction of project; form of notice; affidavit of publication.
16-13B-6. Petition of property owners for creation of assessment district.
16-13B-7. Receipt of petition of property owners; ordinance or order authorizing creation of assessment district and construction of project.
16-13B-8. Assessment district to be a public corporation and political subdivision; powers thereof; community improvement boards.
16-13B-9. Provisions for construction of a project.
16-13B-10. Notice to property owners of assessments; hearings, correcting and laying assessments; report on project completion; permits.
16-13B-11. Construction of projects; assessments; corner lots, etc.
16-13B-12. Apportionment and assessment of cost.

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

(*l*) Whenever any rates, rentals, fees or charges for services or facilities furnished shall remain unpaid for a period of twenty days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all rates, fees and charges are fully paid. When any payment for rates, rentals, fees or charges becomes delinquent, the governing body may use the security deposit to satisfy the delinquent payment.

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

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

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

Cited in Buda v. Town of Masontown, 2005 W. Va. LEXIS 18, — W. Va. —, — S.E.2d — (Mar 22, 2005).

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

Sec.
16-13A-1c. General purpose of districts.
16-13A-2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing-

Sec.
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-4. Board chairman; members' compensation; procedure; district name.
16-13A-5. General manager of board.
16-13A-7. Acquisition and operation of district properties.
16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.
16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.
16-13A-14. Items included in cost of properties.
16-13A-18a. Sale, lease or rental of water, sewer, stormwater or gas system by district; distribution of proceeds.
16-13A-24. Acceptance of loans, grants or temporary advances.
16-13A-25. Borrowing and bond issuance; procedure.

§ 16-13A-1. Legislative findings.

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

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

Any territory constituting the whole or any part of one or more counties in the state so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of, properties supplying water, sewerage or stormwater services or gas distribution services or all of these within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may be constituted a public service district under and in the manner provided by this article. The words "public service properties," when used in this article, shall mean and include any facility used or to be used for or in connection with: (1) The diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses (herein sometimes referred to as "water facilities"); (2) the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (herein sometimes referred to as "sewer facilities" or "landfills"); (3) the distribution or the furnishing of natural gas to the public for industrial, public, private or other uses (herein sometimes referred to as "gas utilities or gas system"); or (4) the collection, control or disposal of stormwater (herein sometimes referred to as "stormwater system" or "stormwater systems"), or (5) the management, operation, maintenance and control of stormwater and stormwater systems (herein sometimes referred to as "stormwater management program" or "stormwater management programs"). As used in this article "stormwater system" or "stormwater systems" means a stormwater system in its entirety or any integral part thereof used to collect, control or dispose of stormwater, and includes all facilities, structures and

natural water courses used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: Inlets, conduits, outlets, channels, ponds, drainage easements, water quality facilities, catch basins, ditches, streams, gulches, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, pipes, flood control systems, levies and pumping stations: Provided, That the term "stormwater system" or "stormwater systems" does not include highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia Division of Highways. As used in this article "stormwater management program" or "stormwater management programs" means those activities associated with the management, operation, maintenance and control of stormwater and stormwater systems, and includes, but is not limited to, public education, stormwater and surface runoff water quality improvement, mapping, planning, flood control, inspection, enforcement and any other activities required by state and federal law: Provided, however, That the term "stormwater management program" or "stormwater management programs" does not include those activities associated with the management, operation, maintenance and control of highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia Division of Highways without the express agreement of the Commissioner of Highways. (1986, c. 81; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "or stormwater" following sewerage" in the first sentence; added subdivisions (4) and (5); added the last two sentences; and made minor stylistic changes.

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

(a) The county commission of any county may propose the creation, enlargement, reduction, merger, dissolution, or consolidation of a public service district by any of the following methods: (1) On its own motion by order duly adopted, (2) upon the recommendation of the Public Service Commission, or (3) by petition of twenty-five percent of the registered voters who reside within the limits of the proposed public service district within one or more counties. The petition shall contain a description, including metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed district: Provided, That after the effective date of this section, no new public service district shall be created, enlarged, reduced, merged, dissolved or consolidated under this section without the written consent and approval of the Public Service Commission, which approval and consent shall be in accordance with rules promulgated by the Public Service Commission and may only be requested after consent is given by the appropriate county commission or commissions pursuant to this section. Any territory may be included

regardless of whether or not the territory includes one or more cities, incorporated towns or other municipal corporations which own and operate any public service properties and regardless of whether or not it includes one or more cities, incorporated towns or other municipal corporations being served by privately owned public service properties: Provided, however, That the same territory shall not be included within the boundaries of more than one public service district except where the territory or part thereof is included within the boundaries of a separate public service district organized to supply water, sewerage services, stormwater services or gas facilities not being furnished within such territory or part thereof: Provided further, That no city, incorporated town or other municipal corporation shall be included within the boundaries of the proposed district except upon the adoption of a resolution of the governing body of the city, incorporated town or other municipal corporation consenting.

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

(c) When the county commission of any county enters an order on its own motion proposing the creation, enlargement, reduction, merger, dissolution or consolidation of a public service district, as aforesaid, or when a petition for the creation is presented, as aforesaid, the county commission shall at the same session fix a date of hearing in the county on the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed public service district, which date so fixed shall be not more than forty days nor less than twenty days from the date of the action. Within ten days of fixing the date of hearing, the county commission shall provide the Executive Secretary of the Public Service Commission with a copy of the order or petition and notification of the time and place of the hearing to be held by the county commission. If the territory proposed to be included is situated in more than one county, the county commission, when fixing a date of hearing, shall provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county commission of each county in which any territory in the proposed public service district is located shall cause notice of the hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for the publication shall be by publication in each city, incorporated town or municipal corporation if avail-

able in each county in which any territory in the proposed public service district is located. The publication shall be at least ten days prior to the hearing.

(d) In all cases where proceedings for the creation, enlargement, reduction, merger, dissolution or consolidation of the public service districts are initiated by petition as aforesaid, the person filing the petition shall advance or satisfactorily indemnify the payment of the cost and expenses of publishing the hearing notice, and otherwise the costs and expenses of the notice shall be paid in the first instance by the county commission out of contingent funds or any other funds available or made available for that purpose. In addition to the notice required herein to be published, there shall also be posted in at least five conspicuous places in the proposed public service district, a notice containing the same information as is contained in the published notice. The posted notices shall be posted not less than ten days before the hearing.

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

(f) If the county commission determines that any other public service district or districts can adequately serve the area of the proposed public service district, whether by enlargement, reduction, merger, dissolution or consolidation, it shall refuse to enter the order, but shall enter an order creating, enlarging, reducing, merging, dissolving or consolidating the area with an existing public service district, in accordance with rules adopted by the Public Service Commission for such purpose: Provided, That no enlargement of a public service district may occur if the present or proposed physical facilities of the public service district are determined by the appropriate county commission or the Public Service Commission to be inadequate to provide such enlarged service. The clerk of the county commission of each county into which any part of such district extends shall retain in his office an authentic copy of the order creating, enlarging, reducing, merging, dissolving or consolidating the district: Provided, however, That within ten days after the entry of an order

creating, enlarging, reducing, merging, dissolving or consolidating a district, such order must be filed for review and approval by the Public Service Commission. The Public Service Commission may provide a hearing in the affected county on the matter and may approve, reject or modify the order of the county commission if it finds it is in the best interests of the public to do so. The Public Service Commission shall adopt rules relating to such filings and the approval, disapproval or modification of county commission orders for creating, enlarging, merging, dissolving or consolidating districts. The provisions of this section shall not apply to the implementation by a county commission of an order issued by the Public Service Commission pursuant to this section and section one-b [§ 16-13A-1b], of this article.

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

(h) A list of all districts and their current board members shall be filed by the county commission with the Secretary of State and the Public Service Commission by the first day of July of each year. (1953, c. 147; 1965, c. 134; 1967, c. 105; 1975, c. 140; 1980, c. 60; 1981, c. 124; 1986, c. 81; 1995, c. 125; 2002, c. 272; 2005, c. 195.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, in (a), capitalized "On" at the beginning of subdivision (1), and inserted "stormwater services" near the middle of the last sentence.

Effect of amendment of 2005. — Acts 2005, c. 195, effective July 8, 2005, added the second sentence in (c); and made minor stylistic changes.

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

From and after the date of the adoption of the order creating any public service district, it is a public corporation and political subdivision of the state, but without any power to levy or collect ad valorem taxes. Each district may acquire, own and hold property, both real and personal, in its corporate name, and may sue, may be sued, may adopt an official seal and may enter into contracts necessary or incidental to its purposes, including contracts with any city, incorporated town or other municipal corporation located within or without its boundaries for furnishing wholesale supply of water for the distribution system of the city, town or other municipal corporation, or for furnishing stormwater services for the city, town or other municipal corporation, and contract for the operation, maintenance, servicing, repair and extension of any properties owned by it or for the operation and improvement or extension by the district of all or any part of the existing municipally owned public service properties of any city, incorporated town or other municipal corporation included within the district: Provided, That no contract shall extend beyond a maximum of forty years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

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

Each city, incorporated town or other municipal corporation having a population of more than three thousand but less than eighteen thousand is entitled to appoint one member of the board, and each city, incorporated town or other municipal corporation having a population in excess of eighteen thousand shall be entitled to appoint one additional member of the board for each additional eighteen thousand population. The members of the board representing such cities, incorporated towns or other municipal corporations shall be residents thereof and shall be appointed by a resolution of the governing bodies thereof and upon the filing of a certified copy or copies of the resolution or resolutions in the office of the clerk of the county commission

which entered the order creating the district, the persons so appointed become members of the board without any further act or proceedings. If the number of members of the board so appointed by the governing bodies of cities, incorporated towns or other municipal corporations included in the district equals or exceeds three, then no further members shall be appointed to the board and the members so appointed are the board of the district except in cases of merger or consolidation where the number of board members may equal five.

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

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

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

Notwithstanding any provision of this code to the contrary, whenever a district is consolidated or merged pursuant to section two [§ 16-13A-2] of this article, the terms of office of the existing board members shall end on the effective date of the merger or consolidation. The county commission shall appoint a new board according to rules promulgated by the public service commission. Whenever districts are consolidated or merged no provision of this code prohibits the expansion of membership on the new board to five.

The respective terms of office of the members of the first board shall be fixed by the county commission and shall be as equally divided as may be, that is approximately one third of the members for a term of two years, a like number for a term of four years, the term of the remaining member or members for six years, from the first day of the month during which the appointments are made. The first members of the board appointed as aforesaid shall meet at the office of the clerk of the county commission which entered the order creating the district as soon as practicable after the appointments and shall qualify by

taking an oath of office: Provided, That any member or members of the board may be removed from their respective office as provided in section three-a [§ 16-13A-3a] of this article.

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

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

The members of the board, and the chair, secretary and treasurer thereof, shall make available to the county commission, at all times, all of its books and records pertaining to the district's operation, finances and affairs, for inspection and audit. The board shall meet at least monthly. (1953, c. 147; 1965, c. 134; 1971, c. 72; 1981, c. 124; 1983, c. 166; 1986, c. 81; 1994, c. 61; 1997, c. 159; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "or for furnishing stormwater services for the city, town or other municipal corporation" in the second sentence of the first paragraph.

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

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

(b) Salaries of the board members are:

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

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

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

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

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

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

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

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

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

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

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

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

(e) The board shall by resolution determine its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings may be called. Public notice of meetings shall be given in accordance with section three [§ 6-9A-3], article nine-a, chapter six of this code. Emergency meetings may be called as provided for by said section. A majority of the members constituting the board also constitute a quorum to do business.

(f) The members of the board are not personally liable or responsible for any obligations of the district or the board, but are answerable only for willful misconduct in the performance of their duties. The county commission which created a district or county commissions if more than one created the district may, upon written request of the district, adopt an order changing the official name of a public service district: Provided, That such name change will not be effective until approved by the Public Service Commission of West Virginia and the owners of any bonds and notes issued by the district, if any, shall have consented, in writing, to the name change. If a district includes territory located in more than one county, the county commission or county commissions changing the name of the district shall provide any county commission into which the district also extends with a certified copy of the order changing the name of the district. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located. (1953, c. 147; 1981, c. 124; 1986, c. 81; 1997, c. 159; 2000, c. 199; 2005, c. 196.)

Effect of amendment of 2005. — Acts 2005, c. 196, effective July 7, 2005, rewrote the second sentence in (f) pertaining to the changing of the official or corporate name of a public service district by the public service board; and made minor stylistic changes.

§ 16-13A-5. General manager of board.

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

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

The board of any public service district which purchases water, sewer or stormwater service from a municipal water, sewer or stormwater system or another public service district may, as an alternative to hiring its own general

manager, elect to permit the general manager of the municipal water, sewer or stormwater system or public service district from which such water, sewer or stormwater service is purchased provide professional management to the district, if the appropriate municipality or public service board agrees to provide such assistance. The general manager shall receive reasonable compensation for such service. (1953, c. 147; 1981, c. 124; 1986, c. 81; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "or stormwater" following "sewer" four times in the third paragraph, and made minor stylistic changes.

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

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same, including, but not limited to, those activities necessary to comply with all federal and state requirements, including water quality improvement activities. All contracts involving the expenditure by the district of more than fifteen thousand dollars for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provision of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two [§ 16-13A-2] of this article in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years. (1953, c. 147; 1967, c. 105; 1981, c. 124; 1982, c. 24; 1986, c. 81; 1997, c. 159; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, added "including, but not limited to, those activities necessary to comply with all federal and state requirements, including water quality improvement activities" to the end of the first sentence.

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

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

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

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

For the purpose of acquiring any public service properties or lands, rights or easements deemed necessary or incidental for the purposes of the district, each such district has the right of eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by cities, incorporated towns and other municipal corporations: Provided, That the power of eminent domain provided in this section does not extend to highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia Division of Highways without the express agreement of the Commissioner of

Highways: Provided, however, That such board may not acquire all or any substantial part of a privately owned waterworks system unless and until authorized so to do by the Public Service Commission of West Virginia, and that this section shall not be construed to authorize any district to acquire through condemnation proceedings either in whole or substantial part an existing privately owned waterworks plant or system or gas facilities located in or furnishing water or gas service within such district or extensions made or to be made by it in territory contiguous to such existing plant or system, nor may any such board construct or extend its public service properties to supply its services into areas served by or in competition with existing waterworks or gas facilities or extensions made or to be made in territory contiguous to such existing plant or system by the owner thereof. (1953, c. 147; 1980, c. 60; 1981, c. 124; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, in the second paragraph, inserted "stormwater facilities" following "sewer facilities" in the proviso; in the third paragraph, inserted "a stormwater system, stormwater management program" following "sewer facilities" and "stormwater" preceding "or gas services"; in the last paragraph, added a new first proviso and redesignated the former first proviso as the second.

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

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

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

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

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

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

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

facilities constructed, owned or operated by the West Virginia Division of Highways.

(2) Where water, sewer, stormwater or gas services, or any combination thereof, are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate of the charges. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. Notwithstanding the provisions of section eight [§ 24-3-8], article three, chapter twenty-four of this code to the contrary, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage of the applicant's specific customer class or fifty dollars, with the district to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. If a district provides both water and sewer service, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage for water service or fifty dollars and the greater of a sum equal to two twelfths of the average annual usage for wastewater service of the applicant's specific customer class or fifty dollars. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit equal to the greater of a sum equal to two twelfths of the average usage for the applicant's specific customer class or fifty dollars has been remitted to the district. After twelve months of prompt payment history, the district shall return the deposit to the customer or credit the customer's account at a rate as the Public Service Commission may prescribe: Provided, That where the customer is a tenant, the district is not required to return the deposit until the time the tenant discontinues service with the district. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The board may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both, ten days after the water or gas services become delinquent.

(b) In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separately either water facilities or sewer facilities, and the district owns and operates the other kind of facilities, either water or sewer, as the case may be, then the district and the publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer service fees and charges: Provided, That any contracts entered into by a public service district pursuant to this section shall be

submitted to the Public Service Commission for approval. Any public service district providing water and sewer service to its customers has the right to terminate water service for delinquency in payment of either water or sewer bills. Where one Public Service District is providing sewer service and another public service district or a municipality included within the boundaries of the sewer district is providing water service, and the district providing sewer service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer district that is providing water service, upon the request of the district providing sewer service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer account: Provided, however, That any termination of water service must comply with all rules and orders of the Public Service Commission.

(c) Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the division of health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any sewer facilities where sewage will flow by gravity or be transported by other methods approved by the Division of Health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine [§ 16-1-9], article one, chapter sixteen of this code, from the houses, dwellings or buildings into the sewer facilities, to connect with and use the sewer facilities and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from the houses, dwellings and buildings where there is gravity flow or transportation by any other methods approved by the Division of Health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code and the houses, dwellings and buildings can be adequately served by the sewer facilities of the district and it is declared that the mandatory use of the sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of the districts and of the state. If the public service district requires the property owner to connect with the sewer facilities even when sewage from dwellings may not flow to the main line by gravity and the property owner incurs costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for the changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump or any other method approved by the division of health. Maintenance and operation costs for the extra installation should be reflected in the users charge for approval of the Public Service Commission. The circuit court shall adjudicate the merits of the petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

(d) Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near the sewer facility and the engineer for the district has certified that the sewer facilities

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

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

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

(g) Anything in this section to the contrary notwithstanding, any establishment, as defined in section three [§ 22-11-3], article eleven, chapter twenty-two, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the Division of Environmental Protection, as prescribed by section eleven [§ 22-11-11], article eleven, chapter twenty-two of this code, is exempt from the provisions of this section. (1953, c. 147; 1965, c. 134; 1980, c. 60; 1981, c. 124; 1986, c. 81; 1989, c. 174; 1994, c. 61; 2002, c. 272; 2003, c. 183.)

Code of State Rules References. — Rules and regulations for the government of gas utilities and gas pipeline safety, 150 CSR 4, effective July 21, 1996.

Rules and regulations for the government of sewer utilities, 150 CSR 5, effective October 24, 2003.

Rules and regulations for the government of telephone utilities, 150 CSR 6, effective October 10, 2000.

Rules and regulations for the government of water utilities, 150 CSR 7, effective October 24, 2003.

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "fees" following "rates" throughout the section; in the first paragraph, deleted "and regulations" following "needful rules" in the first sentence, inserted a new third sentence, substituted "Where water, sewer, stormwater or gas services, or any combination thereof" for "Where water, sewer and gas services" in the present fourth sentence; inserted the fifth paragraph; in the present sixth paragraph, inserted "stormwater systems or stormwater management systems" following "sewer facilities" and "stormwater" preceding "or gas bills" in the first sentence.

Effect of amendment of 2003. — Acts 2003, c. 183, effective June 6, 2003, added subsection designations; rewrote present (a)(2), and (c); in (d), substituted "division of health" for "bureau of public health," added "tenant or occupant" to the end of the next-to-last sentence, and added the last sentence; in (f), substituted "gas facilities or stormwater systems or stormwater management programs" for "stormwater systems or stormwater management systems or gas facilities" and added the proviso to the end; and made minor stylistic changes.

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

The cost of any public service properties acquired under the provisions of this article shall be deemed to include the cost of the acquisition or construction thereof, the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; for stormwater systems and associated stormwater management programs, those activities which include, but are not limited to, water quality improvement activities necessary to comply with all federal and state requirements; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses for estimates of cost and of revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the construction or acquisition of the properties and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof. (1953, c. 147; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "for stormwater systems ... federal and state requirements" following the first phrase.

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

In any case where a public service district owns a water, sewer, stormwater or gas system, and a majority of not less than sixty percent of the members of the public service board thereof deem it for the best interests of the district to

sell, lease or rent such water, sewer, stormwater or gas system to any municipality or privately-owned water, sewer, stormwater or gas system, or to any water, sewer, stormwater or gas system owned by an adjacent public service district, the board may so sell, lease or rent such water, sewer, stormwater or gas system upon such terms and conditions as said board, in its discretion, considers in the best interests of the district: Provided, That such sale, leasing or rental may be made only upon: (1) The publication of notice of a hearing before the board of the public service district, as a Class I legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, in a newspaper published and of general circulation in the county or counties wherein the district is located, such publication to be made not earlier than twenty days and not later than seven days prior to the hearing; (2) approval by the county commission or commissions of the county or counties in which the district operates; and (3) approval by the Public Service Commission of West Virginia.

In the event of any such sale, the proceeds thereof, if any, remaining after payment of all outstanding bonds and other obligations of the district, shall be ratably distributed to any persons who have made contributions in aid of construction of such water, sewer, stormwater or gas system, such distribution not to exceed the actual amount of any such contribution, without interest, and any balance of funds thereafter remaining shall be paid to the county commission of the county in which the major portion of such water, sewer, stormwater or gas system is located to be placed in the general funds of such county commission. (1963, c. 75; 1981, c. 124; 1986, c. 81; 1997, c. 160; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "stormwater" following "sewer" in the section heading and throughout the section.

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

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

America or any federal or public agency or department of the United States or from any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any authorized agency or the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument. (1958, c. 14; 1980, c. 60; 1981, c. 124; 1986, c. 118; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "stormwater systems or stormwater management systems" and "stormwater system or associated stormwater management system."

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

(a) Notwithstanding any other provisions of this article to the contrary, a public service district may not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of section thirteen [§ 16-13A-13], twenty [§ 16-13A-20] or twenty-four [§ 16-13A-24] of this article, without the prior consent and approval of the Public Service Commission.

(b) The Public Service Commission may waive the provision of prior consent and approval for entering into contracts for engineering, design or feasibility studies pursuant to this section for good cause shown which is evidenced by the public service district filing a request for waiver of this section stated in a letter directed to the commission with a brief description of the project, a verified statement by the board members that the public service district has complied with chapter five-g [§§ 5G-1-1 et seq.] of this code, and further explanation of ability to evaluate their own engineering contract, including, but not limited to:

(1) Experience with the same engineering firm; or

(2) completion of a construction project requiring engineering services. The district shall also forward an executed copy of the engineering contract to the commission after receiving approval of the waiver.

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

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

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

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

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

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

(e) Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the Public Service Commission in accordance with the provisions of chapter twenty-four [§§ 24-1-1 et seq.] of this code, when a public service district is seeking to acquire or construct public service property. (1969, 1st Ex. Sess., c. 6; 1981, c. 124; 1986, c. 81; 1996, c. 213; 1997, c. 159; 2003, c. 184; 2005, c. 193.)

Effect of amendment of 2003. — Acts 2003, c. 184, effective June 5, 2003, added subsection designations; inserted (c) and (d); in (a) substituted "a verified statement by the board members that the public service district has complied" for "evidence of compliance," deleted "in the past two years requiring engineering services" from the end of subdivision (1), and deleted "within the past two years" preceding "requiring engineering services" in subdivision (2); and rewrote the final paragraph of the section, deleting former subdivisions (a) through (e) regarding requirements for legal advertisements giving public notice of projects.

Effect of amendment of 2005. — Acts 2005, c. 193, effective July 8, 2005, deleted the second paragraph in (e), pertaining to prefiling of plans by the public service district; and made minor stylistic changes.

ALR references. — Remedies for sewage treatment plant alleged or deemed to be nuisance, 101 ALR5th 287.

ARTICLE 13C.

DRINKING WATER TREATMENT REVOLVING FUND ACT.

16-13C-2. Designation of division of health as state instrumentality; rules; small systems; disadvantaged communities.

Code of State Rules References. — Drinking water treatment revolving fund, 64 CSR 49, effective June 1, 1998.

Public water systems capacity development, 64 CSR 61, effective May 14, 1999.

ARTICLE 13E.

COMMUNITY ENHANCEMENT ACT.

Sec.
16-13E-1. Short title.
16-13E-2. Definitions.
16-13E-3. Power and authority of counties and municipalities to create and establish community enhancement districts.
16-13E-4. Petition for creation or expansion of community enhancement district; petition requirements.
16-13E-5. Notice to property owners before creation or expansion of community enhancement district and construction or acquisi-

SHAD. ,PRING PUBLIC SERVICE DIST! :T
Post Office Box 235
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Telephone: (304) 255-1565
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June 1, 2004

Col. William Bulen:
District Engineer
Huntington District
U.S. Army Corps of Engineers
502 Eighth Street
Huntington, WV 25701-2070

RE: Cool Ridge/Flat Top Wastewater Collection and Disposal Project (Phase 1) Letter of Intent

Dear Colonel Bulen:

The Shady Spring Public Service District (PSD) of Raleigh County, West Virginia has completed its review of the draft Project Cooperation Agreement (PCA) between the PSD and the Department of the Army for design and construction of the Cool Ridge/Flat Top Wastewater Collection and Disposal Project in the Flat Top Lake and Ghent areas of Raleigh County, West Virginia.

The PSD understands that the proposed § 340 project is to include the following features: wastewater treatment plant, and an effluent pipeline from the wastewater treatment plant to its stream discharge point, known as Laurel Branch; a pump station; a force main sewer line; and attendant collection systems serving customers in the areas of Flat Top Lake and Ghent in Raleigh County, West Virginia as generally described in the draft Project Cooperation Agreement between the Department of Army and Shady Spring Public Service District for the Design and Construction of the Wastewater Treatment Plant, Collection Lines and Lift Stations.

The PSD understands that the estimated total cost for the project is $2,666,500, of which the PSD's share will be 25%- an estimated amount of $666,500. The PSD's share is being provided through an Infrastructure Jobs and Development Council Loan. The IJDC has provided documentation that it will provide the needed funds to the PSD. The PSD also understands that a Non-Federal annual OMRR&R is estimated at $51,000 and will be paid from user fees.

The PSD has determined that the draft Project Cooperation Agreement contains terms which are acceptable. The PSD has the ability, the capability, and the full legal authority to fulfill all its obligations contained in the draft agreement. The PSD intends to enter into the agreement with the Dept. of the Army for design and construction of the project, and further intends to enter into an agreement to implement, operate, and maintain the project at the appropriate time.

It is understood that the purpose of this letter is to establish the PSD's intent and ability to serve as the non-federal sponsor of the project, and does not financially or legally obligate the PSD or the Federal Government.

Very truly yours,

Joseph H. Scheff,
Chairman

PROJECT COOPERATION AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE SHADY SPRING PUBLIC SERVICE DISTRICT
FOR CONSTRUCTION OF THE
COOL RIDGE/FLAT TOP WASTEWATER
COLLECTION AND DISPOSAL PROJECT (PHASE I),
RALEIGH COUNTY, WEST VIRGINIA

THIS AGREEMENT is entered into this _____ day of _____, 2004, by and between the Department of the Army (hereinafter the "Government"), represented by the Deputy Assistant Secretary of the Army (Policy & Legislation) (hereinafter the "Deputy Assistant Secretary of the Army"), and the Shady Spring Public Service District (hereinafter the "Non-Federal Sponsor"), represented by its Chairman.

WITNESSETH, THAT:

WHEREAS, the Secretary of the Army is authorized to provide construction assistance for water-related environmental infrastructure and resource protection and development projects in southern West Virginia (hereinafter the "Section 340 Program") pursuant to Section 340 of the Water Resources Development Act of 1992 (Public Law 102-580), as amended;

WHEREAS, Section 340 of the Water Resources Development Act of 1992 (Public Law 102-580), as amended, provides that the Secretary of the Army shall not provide assistance for any water-related environmental infrastructure and resource protection and development project, or separable element thereof, unless the project is publicly owned;

WHEREAS, the Cool Ridge/Flat Top Wastewater Collection and Disposal Project in Raleigh County, West Virginia (hereinafter the "Project", as defined in Article I.A. of this Agreement) has been identified as a project of the type authorized by Section 340 of the Water Resources Development Act of 1992 (Public Law 102-580), as amended;

WHEREAS, the Government and the Non-Federal Sponsor desire to enter into a Project Cooperation Agreement (hereinafter the "Agreement") for the construction of the Project;

WHEREAS, Section 340 of the Water Resources Development Act of 1992 (Public Law 102-580), as amended, specifies the cost-sharing requirements applicable to the Project and provides that total project costs shall be shared 75 percent Federal and 25 percent Non-Federal;

WHEREAS, Section 340 of the Water Resources Development Act of 1992 (Public Law 102-580), as amended, provides that the Secretary of the Army shall not provide assistance for any water-related environmental infrastructure and resource protection and development projects,

or separable element thereof, until each non-Federal sponsor has entered into a written agreement to furnish its required cooperation for the project or separable element;

WHEREAS, pursuant to Section 340 of the Water Resources Development Act of 1992 (Public Law 102-580), as amended, the Secretary of the Army is authorized to provide assistance, which may be in the form of grants or reimbursements of the Federal share of project costs, to the Non-Federal Sponsor and to afford credit for the reasonable costs of design work completed by the non-Federal interest before entering into a written agreement with the Secretary;

WHEREAS, the Non-Federal Sponsor, in conjunction with the Government, and in consultation with appropriate Federal and State officials, has developed a facilities development plan or resource protection plan, including appropriate plans and specifications for the Project;

WHEREAS, the Government and Non-Federal Sponsor have the full authority and capability to perform as hereinafter set forth and intend to cooperate in cost-sharing and financing of the construction of the Project in accordance with the terms of this Agreement.

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree as follows:

ARTICLE I - DEFINITIONS AND GENERAL PROVISIONS

For purposes of this Agreement:

A. The term "Project" shall mean the construction of the following features: Construction Contract No.1 - a 0.2 MGD wastewater treatment plant, an influent pipeline from Flat Top Lake, an influent pipeline from Winterplace Ski Resort, an effluent pump station, an effluent pipeline, and attendant collection systems serving customers in the area of Ghent in Raleigh County, West Virginia as generally described in the Plans and Specifications, Shady Spring Public Service District, Raleigh County, West Virginia, Cool Ridge/Flat Top Wastewater Collection and Disposal Project (Phase I), dated March 2004.

B. The term "total project costs" shall mean all costs incurred by, or on behalf of, the Non-Federal Sponsor and by the Government in accordance with the terms of this Agreement that the Government determines are directly related to project construction. Subject to the provisions of this Agreement, the term shall include, but is not necessarily limited to: the costs of project construction work; the costs of inspection and technical assistance incurred by the Government in accordance with Article II.F. of this Agreement; the value of lands, easements, rights-of-way, relocations, and suitable borrow and dredged or excavated material disposal areas not to exceed 25 percent of total project costs, as determined by the Government in accordance with Article IV of this Agreement; the costs of participation in the Project Coordination Team in accordance with Article V of this Agreement; applicable costs of audit in accordance with Article XI of this Agreement; and other costs incurred by the Government pursuant to this Agreement. The term does not include any costs of activities performed under any other agreement for the Project; any costs for operation, maintenance, repair, rehabilitation, or replacement; any costs due to

betterments; any costs incurred in advertising and awarding any construction contracts prior to the effective date of this Agreement; any actual construction costs incurred prior to the effective date of this Agreement; any costs of dispute resolution under Article VIII of this Agreement; or the Non-Federal Sponsor's costs of negotiating this Agreement.

C. The term "project design work" shall mean the work performed by, or on behalf of, the Non-Federal Sponsor for design directly related to the Project, including but not necessarily limited to, the reasonable costs of design work incurred prior to the effective date of this Agreement. The term includes, but is not necessarily limited to, concept design; report writing; detailed design; preparation of plans and specifications; design analysis; quantity/cost estimates; obtaining required local, state and Federal permits; performance and documentation of environmental investigations; performance and documentation of hazardous substances investigations in accordance with Article XVI.A. of this Agreement; performance of historical preservation investigations in accordance with Article XIX of this Agreement; engineering and design during construction; and other design services and in-kind design work.

D. The term "project design and construction work" shall mean the work performed by, or on behalf of, the Non-Federal Sponsor for design and construction directly related to the Project incurred subsequent to the effective date of this Agreement. The term includes, but is not necessarily limited to, project design work as defined in paragraph C. of this Article; actual construction, including settlement of or paying awards for contract disputes; supervision and administration; and other construction services and in-kind construction work.

E. The term "highway" shall mean any public highway, roadway, street, or way, including any bridge thereof.

F. The term "relocation" shall mean providing a functionally equivalent facility to the owner of an existing utility, cemetery, highway or other public facility, or railroad (including any bridge thereof) when such action is authorized in accordance with applicable legal principles of just compensation. Providing a functionally equivalent facility may take the form of alteration, lowering, raising, or replacement and attendant removal of the affected facility or part thereof.

G. The term "period of construction" shall mean the time period from execution of this Agreement until completion of Project construction, as verified by Government inspection in accordance with Article II.F. of this Agreement.

H. The term "fiscal year" shall mean one fiscal year of the Government. The Government fiscal year begins on October 1 and ends on September 30.

I. The term "functional portion of the Project" shall mean a portion of the Project that the Project Coordination Team determines is suitable for the Non-Federal Sponsor to operate and maintain in advance of completion of the entire Project. For a portion of the project to be suitable, the Project Coordination Team must determine that the portion of the Project is complete and can function independently and for a useful purpose, although the balance of the Project is not complete.

J. The term "betterment" shall mean a change in the design and construction of an element of the Project resulting from the application of standards that the Government determines exceed those that the Government would otherwise apply for accomplishing the design and construction of that element.

K. The term "proper invoice" shall mean a request for reimbursement by the Non-Federal Sponsor in which the Non-Federal Sponsor certifies that payments have been made in the amount requested to, or bills in the amount requested have been received from, contractors, suppliers or employees for performance of work in accordance with this Agreement and provides evidence of payment made or obligation incurred by, or on behalf of, the Non-Federal Sponsor as may be required by the Government.

L. The term "Federal program funds" shall mean funds or grants provided directly to the Non-Federal Sponsor by a Federal agency, other than the Department of the Army, and any non-Federal matching share required therefor.

ARTICLE II - OBLIGATIONS OF THE NON-FEDERAL SPONSOR AND THE GOVERNMENT

A. Using its funds and the funds to be reimbursed by the Government, the Non-Federal Sponsor shall expeditiously construct the Project. The Non-Federal Sponsor assumes full and exclusive responsibility for construction of the Project.

1. The Government shall be afforded the opportunity to review and comment on the solicitations for all contracts, including relevant plans and specifications, prior to the Non-Federal Sponsor's issuance of such solicitations. In the event that the Non-Federal Sponsor proposes to do work with its own forces, the Government shall be afforded the opportunity to review and approve the plan of work and materials to be incorporated into the work. In addition, to the maximum extent practicable, the Government shall be afforded the opportunity to review and comment on all contract modifications, including change orders, prior to the issuance to the contractor of a Notice to Proceed. In any instance where providing the Government with notification of a contract modification or change order is not possible prior to issuance of the Notice to Proceed, the Non-Federal Sponsor shall provide such notification in writing at the earliest date possible. To the extent possible, the Non-Federal Sponsor also shall afford the Government the opportunity to review and comment on all contract claims prior to resolution thereof. The Non-Federal Sponsor shall consider in good faith the comments of the Government made as a result of its review, but the contents of solicitations, award of contracts, execution of contract modifications, issuance of change orders, resolution of contract claims, and performance of all work on the Project (whether the work is performed under contract or by Non-Federal Sponsor personnel), shall be exclusively within the control of the Non-Federal Sponsor.

2. The Non-Federal Sponsor shall obtain all necessary permits and licenses and comply with all applicable laws, regulations, ordinances and other rules of the United States of

America, of the state or political subdivisions thereof wherein the work is performed, or of any other duly constituted public authority, including the laws and regulations specified in Article XII of this Agreement and where applicable shall include appropriate provisions in its contracts for construction of the Project.

B. In the event that the Non-Federal Sponsor elects to construct betterments during the period of construction, the Non-Federal Sponsor shall notify the Government in writing and describe the betterments it intends to construct. The Non-Federal Sponsor shall be solely responsible for all costs due to betterments, including costs associated with obtaining permits therefore, and shall pay all such costs without reimbursement by the Government.

C. In accordance with Article III of this Agreement, the Non-Federal Sponsor shall provide all lands, easements, rights-of-way, and suitable borrow and dredged or excavated material disposal areas required for the construction, operation, and maintenance of the Project, and shall perform or ensure performance of all relocations that are necessary for the construction, operation, maintenance of the Project.

D. The Non-Federal Sponsor may request the Government to acquire lands, easements, rights-of-way, and suitable borrow and dredged or excavated material disposal areas or perform relocations on behalf of the Non-Federal Sponsor. Such requests shall be in writing and shall describe the services requested to be performed. If in its sole discretion the Government elects to perform the requested services or any portion thereof, it shall so notify the Non-Federal Sponsor in a writing that sets forth any applicable terms and conditions, which must be consistent with this Agreement. In the event of conflict between such a writing and this Agreement, this Agreement shall control. The Non-Federal Sponsor shall be solely responsible for all costs of the requested services and shall pay all such costs in accordance with Article VI.C. of this Agreement. Notwithstanding the acquisition of lands, easements, rights-of-way, and suitable borrow and dredged or excavated material disposal areas or performance of relocations by the Government, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for the costs of cleanup and response of hazardous substances in accordance with Article XVI of this Agreement.

E. During the period of construction, the Non-Federal Sponsor shall prepare and furnish to the Government for review a proposed Operation, Maintenance, Repair, Rehabilitation and Replacement Manual. The Non-Federal Sponsor shall operate, maintain, repair, rehabilitate, and replace any functional portion of the Project and, upon completion of construction and final inspection by the Government in accordance with paragraph F. of this Article, the entire completed Project, at no cost to the Government, in a manner compatible with the Project's design and its Operation, Maintenance, Repair, Rehabilitation and Replacement Manual, and in accordance with applicable Federal and State laws as provided in Article XII of this Agreement. The failure of the Non-Federal Sponsor to prepare an Operation, Maintenance, Repair, Rehabilitation and Replacement Manual acceptable to the Government shall not relieve the Non-Federal Sponsor of its responsibilities for operation, maintenance, repair, rehabilitation, and replacement of the completed project, or any functional portion thereof, in accordance with the provisions of this Agreement.

F. The Government may perform periodic inspections to verify the progress of construction, shall perform a final inspection to verify the completion of construction of the entire Project or functional portion of the Project, and may provide technical assistance to the Non-Federal Sponsor on an as-needed basis until the end of the period of construction. The Non-Federal Sponsor hereby gives the Government a right to enter, at reasonable times and in a reasonable manner, upon property that the Non-Federal Sponsor owns or controls for the purpose of performing such inspections. Any costs incurred by the Government in furtherance of this paragraph shall be included in total project costs and shared in accordance with the provisions of this Agreement.

G. Upon request by the Non-Federal Sponsor, the Government shall include in total project costs those reasonable costs incurred by, or on behalf of, the Non-Federal Sponsor for project design work that was completed by, or on behalf of, the Non-Federal Sponsor prior to the effective date of this Agreement and have not been included in costs under any other agreement for the Project. Such costs shall be limited to the reasonable, allowable, allocable actual cost of project design work as determined by the Government. Where the Non-Federal Sponsor's cost for completed project design work is expressed as fixed costs plus a percentage of construction costs, the Non-Federal Sponsor shall renegotiate such costs with its Architect-Engineer based on actual costs. On the effective date of this Agreement, the Non-Federal Sponsor does not intend to include any of the project design work it completed prior to the effective date of this Agreement. This amount is an estimate subject to adjustment by the Government in its sole discretion. The Non-Federal Sponsor in a timely manner shall provide the Government with such documents as are sufficient to enable the Government to determine the amount of costs to be included in total project costs for this project design work.

H. Subject to Article VII of this Agreement, the Government in accordance with Article VI.B. of this Agreement, shall contribute 75 percent of total project costs by, in part, reimbursing the Non-Federal Sponsor for total project costs that are incurred by, or on behalf of, the Non-Federal Sponsor, including such total project costs that were paid with grants from State or local agencies.

I. Upon completion of the period of construction or termination of this Agreement, the Government shall perform a final accounting in accordance with Article VI.D. of this Agreement to determine the contributions provided by the Government and the Non-Federal Sponsor toward total project costs and to determine whether the Government and the Non-Federal Sponsor have met their obligations under paragraph H. of this Article.

J. The Non-Federal Sponsor shall establish such legal and institutional structures as are necessary to ensure the effective long-term operation of the Project.

K. The Non-Federal Sponsor and the Government, in consultation with appropriate Federal and State officials, shall develop a facilities development or resource protection plan, including appropriate plans and specifications.

ARTICLE III - LANDS, RELOCATIONS, DISPOSAL AREAS, AND PUBLIC LAW 91-646 COMPLIANCE

A. The Non-Federal Sponsor and the Government jointly shall determine the lands, easements, and rights-of-way required for the construction, operation, and maintenance of the Project, including those required for relocations, borrow materials, and dredged or excavated material disposal. Prior to issuance of the solicitation for each construction contract, the Non-Federal Sponsor shall acquire all such lands, easements, and rights-of-way necessary for that contract and certify in writing to the Government that said interests have been acquired.

B. The Non-Federal Sponsor and the Government jointly shall determine the improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material associated with the construction, operation, and maintenance of the Project. Such improvements may include, but are not necessarily limited to, retaining dikes, wasteweirs, bulkheads, embankments, monitoring features, stilling basins, and de-watering pumps and pipes. Prior to the issuance of any solicitation for construction where the disposal of dredged or excavated material associated with the construction is anticipated, the Non-Federal Sponsor shall provide the Government with copies of all permits obtained for the disposal of dredged or excavated materials and with plans and specifications of such improvements in detail sufficient for the Government to review and comment in accordance with Article II.A.1. of this Agreement.

C. The Non-Federal Sponsor and the Government jointly shall determine the relocations necessary for the construction, operation, and maintenance of the Project, including those necessary to enable the removal of borrow materials and the disposal of dredged or excavated material. Prior to issuance of the solicitation for each construction contract, the Non-Federal Sponsor shall perform or ensure the performance of all such relocations necessary for that contract. The Non-Federal Sponsor shall be responsible for preparing or ensuring the preparation of plans and specifications for all relocations determined necessary.

D. The Non-Federal Sponsor in a timely manner shall provide the Government with such documents as are sufficient to enable the Government to determine the value of any contribution provided pursuant to paragraphs A., B., or C. of this Article. Upon receipt of such documents the Government, in accordance with Article IV of this Agreement and in a timely manner, shall determine the value of such contribution and shall include such value in total project costs.

E. The Non-Federal Sponsor shall comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended by Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17), and the Uniform Regulations contained in 49 C.F.R. Part 24, and shall inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

ARTICLE IV - VALUE OF LANDS, RELOCATIONS, AND DISPOSAL AREAS

A. The Government shall include in total project costs the value of the lands, easements, rights-of-way, and suitable borrow and dredged or excavated material disposal areas that the Government and the Non-Federal Sponsor jointly determine must be provided by the Non-Federal Sponsor pursuant to Article III of this Agreement and the value of the relocations that the Government and the Non-Federal Sponsor jointly determine must be performed by the Non-Federal Sponsor, or for which it must ensure performance, pursuant to Article III of this Agreement, not to exceed 25 percent of total project costs. However, the Government shall not include in total project costs the value of any lands, easements, rights-of-way, relocations, or borrow or dredged or excavated material disposal areas that have been provided previously as an item of cooperation for another Federal project. The Government also shall not include in total project costs the value of lands, easements, rights-of-way, relocations, or borrow and dredged or excavated material disposal areas that are provided using Federal program funds unless the Federal agency providing the Federal program funds verifies in writing that reimbursement for the value of such items is expressly authorized by statute.

B. The value of lands, easements, and rights-of-way, including those necessary for relocations, borrow materials, and dredged or excavated material disposal, shall be the appraised fair market value of the real property interests, plus certain incidental costs of acquiring those interests, as determined in accordance with the provisions of this paragraph.

1. Date of Valuation. The fair market value of lands, easements, or rights-of-way owned by the Non-Federal Sponsor on the effective date of this Agreement shall be the fair market value of such real property interests as of the date the Non-Federal Sponsor awards the first construction contract for the Project or, if the Non-Federal Sponsor performs the construction with its own labor, the date that the Non-Federal Sponsor begins construction of the Project. The fair market value of lands, easements, or rights-of-way acquired by the Non-Federal Sponsor after the effective date of this Agreement shall be the fair market value of such real property interests at the time the interests are acquired.

2. General Valuation Procedure. Except as provided in paragraph B.3. of this Article, the fair market value of lands, easements, or rights-of-way shall be the appraised fair market value as determined in accordance with paragraph B.2.a. of this Article, unless thereafter a different amount is determined to represent fair market value in accordance with paragraph B.2.b. or paragraph B.5. of this Article.

a. The Non-Federal Sponsor shall obtain, for each real property interest, an appraisal that is prepared by a qualified appraiser who is acceptable to the Non-Federal Sponsor and the Government. The appraisal must be prepared in accordance with the applicable rules of just compensation, as specified by the Government. The fair market value shall be the amount set forth in the Non-Federal Sponsor's appraisal, if such appraisal is approved by the Government. In the event the Government does not approve the Non-Federal Sponsor's appraisal, the Non-Federal Sponsor may obtain a second appraisal, and the fair market value shall be the amount set forth in the Non-Federal Sponsor's second appraisal, if such appraisal is

approved by the Government. In the event the Government does not approve the Non-Federal Sponsor's second appraisal, or the Non-Federal Sponsor chooses not to obtain a second appraisal, the Government shall obtain an appraisal, and the fair market value shall be the amount set forth in the Government's appraisal, if such appraisal is approved by the Non-Federal Sponsor. In the event the Non-Federal Sponsor does not approve the Government's appraisal, the Government, after consultation with the Non-Federal Sponsor, shall consider the Government's and the Non-Federal Sponsor's appraisals and determine an amount based thereon, which shall be deemed to be the fair market value.

b. Where the amount paid or proposed to be paid by the Non-Federal Sponsor for the real property interest exceeds the amount determined pursuant to paragraph B.2.a. of this Article, the Government, at the request of the Non-Federal Sponsor, shall consider all factors relevant to determining fair market value and, in its sole discretion, after consultation with the Non-Federal Sponsor, may approve in writing an amount greater than the amount determined pursuant to paragraph B.2.a. of this Article, but not to exceed the amount actually paid or proposed to be paid. If the Government approves such an amount, the fair market value shall be the lesser of the approved amount or the amount paid by the Non-Federal Sponsor, but no less than the amount determined pursuant to paragraph B.2.a. of this Article.

3. Eminent Domain Valuation Procedure. For lands, easements, or rights-of-way acquired by eminent domain proceedings instituted after the effective date of this Agreement, the Non-Federal Sponsor shall, prior to instituting such proceedings, submit to the Government notification in writing of its intent to institute such proceedings and an appraisal of the specific real property interests to be acquired in such proceedings. The Government shall have 60 calendar days after receipt of such a notice and appraisal within which to review the appraisal, if not already approved by the Government in writing.

a. If the Government already has approved the appraisal in writing, or if the Government provides written approval of, or takes no action on, the appraisal within such 60 calendar day period, the Non-Federal Sponsor shall use the amount set forth in such appraisal as the estimate of just compensation for the purpose of instituting the eminent domain proceeding.

b. If the Government provides written disapproval of the appraisal, including the reasons for disapproval, within such 60 calendar day period, the Government and the Non-Federal Sponsor shall consult in good faith to promptly resolve the issues or areas of disagreement that are identified in the Government's written disapproval. If, after such good faith consultation, the Government and the Non-Federal Sponsor agree as to an appropriate amount, then the Non-Federal Sponsor shall use that amount as the estimate of just compensation for the purpose of instituting the eminent domain proceeding. If, after such good faith consultation, the Government and the Non-Federal Sponsor cannot agree as to an appropriate amount, then the Non-Federal Sponsor may use the amount set forth in its appraisal as the estimate of just compensation for the purpose of instituting the eminent domain proceeding.

c. For lands, easements, or rights-of-way acquired by eminent domain proceedings instituted in accordance with paragraph B.3. of this Article, fair market value shall be

either the amount of the court award for the real property interests taken, to the extent the Government determined such interests are required for the construction, operation, and maintenance of the Project, or the amount of any stipulated settlement or portion thereof that the Government approves in writing.

4. Incidental Costs. For lands, easements, or rights-of-way acquired by the Non-Federal Sponsor within a five-year period preceding the effective date of this Agreement, or at any time after the effective date of this Agreement, the value of the interest shall include the documented incidental costs of acquiring the interest, as determined by the Government, subject to an audit in accordance with Article XI of this Agreement to determine reasonableness, allowability, and allocability of costs. Such incidental costs shall include, but not necessarily be limited to, closing and title costs, appraisal costs, survey costs, attorney's fees, plat maps, and mapping costs, as well as the actual amounts expended for payment of any Public Law 91-646 relocation assistance benefits provided in accordance with Article III.E. of this Agreement. In addition, the Government shall include in total project costs the costs incurred by the Non-Federal Sponsor, as part of project design and construction work, that are associated with obtaining permits necessary for the placement of the Project on publicly owned or controlled land subject to an audit in accordance with Article XI of this Agreement to determine reasonableness, allowability, and allocability of costs.

5. Waiver of Appraisal. Except as required by paragraph B.3. of this Article, the Government may waive the requirement for an appraisal for the purpose of determining the value of a real property interest for inclusion in total project costs if it determines that an appraisal is unnecessary because the valuation problem is uncomplicated and that the estimated fair market value of the real property interest is $5,000.00 or less based upon a review of available data. In such event, the Government and the Non-Federal Sponsor must agree in writing to the value of such real property interest in an amount not in excess of $5,000.00.

C. After consultation with the Non-Federal Sponsor, the Government shall determine the value of relocations in accordance with the provisions of this paragraph.

1. For a relocation other than a highway, the value shall be only that portion of relocation costs that the Government determines is necessary to provide a functionally equivalent facility, reduced by depreciation, as applicable, and by the salvage value of any removed items.

2. For a relocation of a highway, the value shall be only that portion of relocation costs that would be necessary to accomplish the relocation in accordance with the design standard that the State of West Virginia would apply under similar conditions of geography and traffic load, reduced by the salvage value of any removed items.

3. Relocation costs shall include, but not necessarily be limited to, actual costs of performing the relocation; planning, engineering and design costs; supervision and administration costs; and documented incidental costs associated with performance of the relocation, but shall not include any costs due to betterments, as determined by the Government, nor any additional cost of using new material when suitable used material is available. Relocation costs shall be

subject to an audit in accordance with Article XI of this Agreement to determine reasonableness, allowability, and allocability of costs.

4. Inclusion of the value of relocations in total project costs is subject to satisfactory compliance with applicable Federal labor laws covering non-Federal construction, including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)). Crediting may be withheld, in whole or in part, as a result of the Non-Federal Sponsor's failure to comply with its obligations under these laws.

D. The value of improvements made to lands, easements, and, rights-of-way for the disposal of dredged or excavated material shall be the costs of the improvements, as determined by the Government, subject to an audit in accordance with Article XI of this Agreement to determine reasonableness, allowability, and allocability of costs. Such costs shall include, but not necessarily be limited to, actual costs of providing the improvements; planning, engineering and design costs; supervision and administration costs; and documented incidental costs associated with providing the improvements, but shall not include any costs due to betterments, as determined by the Government.

ARTICLE V - PROJECT COORDINATION TEAM

A. To provide for consistent and effective communication, the Non-Federal Sponsor and the Government, not later than 30 calendar days after the effective date of this Agreement, shall appoint named senior representatives to a Project Coordination Team. Thereafter, the Project Coordination Team shall meet regularly until the end of the period of construction. The Government's Project Manager and a counterpart named by the Non-Federal Sponsor shall co-chair the Project Coordination Team.

B. The Government's Project Manager and the Non-Federal Sponsor's counterpart shall keep the Project Coordination Team informed of the progress of construction and of significant pending issues and actions, and shall seek the views of the Project Coordination Team on matters that the Project Coordination Team generally oversees.

C. Until the end of the period of construction, the Project Coordination Team shall generally oversee the Project including issues related to design; plans and specifications; scheduling; real property and relocation requirements; real property acquisition; contract awards and modifications; contract costs; the application of and compliance with 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)) for relocations and for the construction portion of the non-Federal project design and construction work; the Government's cost projections; final inspection of the

construction or functional portions of the Project; preparation of the proposed Operation, Maintenance, Repair, Replacement, and Rehabilitation Manual; anticipated requirements and needed capabilities for performance of operation, maintenance, repair, rehabilitation, and replacement of the Project; and other related matters.

D. The Project Coordination Team may make recommendations that it deems warranted to the Non-Federal Sponsor on matters that the Project Coordination Team generally oversees, including suggestions to avoid potential sources of dispute. The Non-Federal Sponsor in good faith shall consider the recommendations of the Project Coordination Team. The Non-Federal Sponsor, having the legal authority and responsibility for construction of the Project, has the discretion to accept, reject, or modify the Project Coordination Team's recommendations. Except as otherwise provided in this Agreement, the Non-Federal Sponsor may not reject or modify the Project Coordination Team's recommendations when the purpose of such recommendations is to ensure that the Project complies with Federal, State, or local laws or regulations.

E. The costs of participation in the Project Coordination Team shall be included in total project costs, subject to Article VII of this Agreement, and shared in accordance with the provisions of this Agreement.

ARTICLE VI - METHOD OF PAYMENT

A. Based on data supplied by the Non-Federal Sponsor and the Government, the Government shall maintain current records of costs incurred by the parties, reimbursements made to the Non-Federal Sponsor, and current projections of total project costs. By July, 2003 and at least quarterly thereafter during the period of construction, the Government shall provide the Non-Federal Sponsor with a report setting forth costs incurred to date, each party's share of costs incurred to date, costs incurred by or on behalf of each party to date, reimbursements made to date in accordance with paragraph B.2. of this Article, and current projections of total project costs, of each party's share of total project costs, of total project costs incurred by or on behalf of each party, of total reimbursements, and of reimbursements in the upcoming fiscal year. On the effective date of this Agreement, total project costs are projected to be $3,242,000.00 , the Government's share of total project costs is projected to be $2,000,000.00 , the Non-Federal Sponsor's share of total project costs is projected to be $1,242,000.00 , total project costs to be incurred by the Government are projected to be $50,000.00, total project costs to be incurred by, or on behalf of, the Non-Federal Sponsor are projected to be $3,192,000.00, and total reimbursements in accordance with paragraph B.2. of this Article are projected to be $1,950,000.00 . Such amounts are estimates subject to adjustment by the Government and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor.

B. In accordance with the provisions of this paragraph, the Government shall contribute its share of total project costs required under Article II.H. of this Agreement as it incurs such costs or as such costs incurred by the Non-Federal Sponsor are determined.

1. Except as otherwise provided in Article IV of this Agreement, periodically, but not more frequently than once every 30 calendar days, the Non-Federal Sponsor shall provide the Government with a proper invoice for costs that it has incurred, or has been incurred on its behalf, and that are not included in a previous proper invoice. Each proper invoice shall identify those costs that were paid with, or will be paid with, Federal program funds and shall provide evidence of payment, obligation to contractors, and costs incurred by the Non-Federal Sponsor's own forces as may be required by the Government. In the event the Non-Federal Sponsor's cost for project design work is expressed as fixed costs plus a percentage of construction costs, the Non-Federal Sponsor shall renegotiate such costs with its Architect-Engineer based on actual costs prior to such costs being included in a proper invoice.

2. Not later than 14 calendar days after receipt of each proper invoice, the Government, in accordance with this paragraph, shall review the costs identified therein and, subject to Article VII of this Agreement, shall include such costs, in whole or in part, in total project costs. Thereupon, the Government shall determine costs incurred to date (including the value of lands, easements, rights-of-way, relocations, and suitable borrow and dredged or excavated material disposal areas determined in accordance with Article IV of this Agreement), each party's share of costs incurred to date, costs incurred by or on behalf of each party to date, and reimbursements previously made to date in accordance with this paragraph. To the extent that the Government determines that costs incurred by the Government to date plus reimbursements the Government previously has made to date in accordance with this paragraph are less than its required share of costs incurred to date, the Government, subject to Article VII of this Agreement, shall partially reimburse those total project costs that were incurred by the Non-Federal Sponsor without using Federal program funds and that were not previously reimbursed by the Government.

3. Upon determining in accordance with paragraph B.2. of this Article that reimbursement is due the Non-Federal Sponsor, the Government shall make such payment within 14 calendar days subject to Article VII of this Agreement. An interest penalty shall be credited to the Non-Federal Sponsor's account automatically by the designated payment office, without request from the Non-Federal Sponsor, if payment is not made by the due date. The interest penalty shall be at the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority. This rate is referred to as the "Renegotiation Board Interest Rate" and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the proper invoice payment amount approved by the Government and shall be compounded in 30 calendar day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30 calendar day period shall be added to the approved proper invoice payment amount and be subject to interest penalties if not paid in the succeeding 30 calendar day period.

C. In advance of the Government incurring any financial obligation associated with services under Article II.D. of this Agreement, the Government shall notify the Non-Federal Sponsor in writing of the amount of funds required to perform such services. Within 30 calendar

days thereafter, the Non-Federal Sponsor shall provide the Government with the full amount of the funds required to pay for such services by delivering a check payable to "FAO, USAED, Huntington" to the Government or providing an Electronic Funds Transfer in accordance with procedures established by the Government. The Government shall draw from the funds provided by the Non-Federal Sponsor such sums as the Government deems necessary to cover the Government's financial obligations for such services as they are incurred. In the event the Government determines that the Non-Federal Sponsor must provide additional funds to meet its cash contribution, the Government shall notify the Non-Federal Sponsor in writing of the additional funds required and provide an explanation of why additional funds are required. Within 30 calendar days thereafter, the Non-Federal Sponsor shall provide the Government with the full amount of the additional required funds through either of the payment mechanisms specified above.

D. Upon completion of the Project or termination of this Agreement, and upon resolution of all relevant claims and appeals, the Government shall conduct a final accounting and furnish the Non-Federal Sponsor with the results of the final accounting. The final accounting shall determine total project costs, the Government's and the Non-Federal Sponsor's total contribution provided thereto (including reimbursements), and the Government's and the Non-Federal Sponsor's required share thereof.

1. In the event the final accounting shows that the total contribution provided by the Government is less than its required share of total project costs, the Government shall, subject to Article VII of this Agreement, no later than 90 calendar days after completion of final accounting, make a cash payment to the Non-Federal Sponsor of whatever sum is required to meet the Government's required share of total project costs.

2. In the event the final accounting shows that the total contribution provided by the Government exceeds its required share of total project costs, the Non-Federal Sponsor shall refund the excess to the Government no later than 90 calendar days after written notice by the Government that the final accounting is complete by delivering a check payable to "FAO, USAED, Huntington" to the Government or providing an Electronic Funds Transfer in accordance with procedures established by the Government. In the event existing funds are not available to refund the excess to the Government, the Non-Federal Sponsor shall seek such funds as are necessary to make the refund. In the event that such funds are not made available within a reasonable amount of time, the Government may apply any amounts owed toward the Federal share of costs under any subsequent agreement with the Non-Federal Sponsor for any other project or separable element under the Section 340 Program and may use any other procedures permitted by law. The Non-Federal Sponsor shall be liable for interest in accordance with Article XV.D. of this Agreement to the extent that such refund takes longer than 90 calendar days after the final accounting is complete.

ARTICLE VII - LIMITATIONS ON TOTAL PROJECT COSTS AND REIMBURSEMENTS

A. Inclusion of costs in total project costs shall be subject to an audit pursuant to Article XI.C. of this Agreement to determine the reasonableness, allowability and allocability of such costs.

B. Costs incurred by, or on behalf of, the Non-Federal Sponsor using Federal program funds shall not be included in total project costs and shall not be shared in accordance with the provisions of this Agreement unless the Federal agency providing the Federal program funds verifies in writing that such expenditure of funds is expressly authorized by statute.

C. Except as provided in Article VI.B. of this Agreement, total project costs incurred by, or on behalf of, the Non-Federal Sponsor shall not be subject to interest charges and shall not be adjusted to reflect changes in price levels since the time that the costs were incurred.

D. Crediting and/or reimbursement is subject to satisfactory compliance with applicable Federal labor laws covering non-Federal construction, including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)). Crediting and/or reimbursement may be withheld, in whole or in part, as a result of the Non-Federal Sponsor's failure to comply with its obligations under these laws.

E. As of the effective date of this Agreement, $19,480,000 of Federal funds have been appropriated for the Section 340 Program, of which $2,000,000.00 appropriated for the Section 340 Program is currently projected to be available for the Project. The Government makes no commitment to seek additional Federal funds for the Section 340 Program. Notwithstanding any other provision of this Agreement, the Government's financial participation in the Project, when added to the costs incurred by the Government for other projects of the Section 340 Program, shall not exceed the total amount of Federal funds that have been appropriated and hereafter may be appropriated for the Section 340 Program. In the event that the Federal share of a forthcoming financial obligation for total project costs would be limited by this paragraph, the parties shall proceed in accordance with Article XV.B. of this Agreement.

F. Reimbursement by the Government pursuant to this Agreement, in concert with reimbursements by the Government pursuant to agreements for other projects authorized by Section 340 of the Water Resources Development Act of 1996 (Public Law 102-580), as amended, shall be subject to the applicable limitations contained in Section 102 of the Energy and Water Development Appropriations Act, 2000 (Public Law 106-60).

ARTICLE VIII - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to both parties. The parties shall each pay 50 percent of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

ARTICLE IX - OPERATION, MAINTENANCE, REPAIR, REHABILITATION AND REPLACEMENT (OMRR&R)

Upon completion of construction and final inspection by the Government in accordance with Article II.F. of this Agreement, the Non-Federal Sponsor shall operate, maintain, repair, rehabilitate, and replace the entire Project or the functional portion of the Project, at no cost to the Government, in a manner compatible with the Project's design and its Operation, Maintenance, Repair, Rehabilitation and Replacement Manual, and in accordance with applicable Federal and State laws as provided in Article XII of this Agreement. As between the Government and the Non-Federal Sponsor, the Government shall have no responsibility to operate, maintain, repair, rehabilitate, or replace the Project or functional portion of the Project.

ARTICLE X – HOLD AND SAVE

The Non-Federal Sponsor shall hold and save the Government free from all damages arising from the design, construction, operation, maintenance, repair, rehabilitation and replacement of the Project, and any Project-related betterments, except for damages due to the fault or negligence of the Government or its contractors.

ARTICLE XI - MAINTENANCE OF RECORDS AND AUDIT

A. Not later than 60 calendar days after the effective date of this Agreement, the Government and the Non-Federal Sponsor shall develop procedures for keeping books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to this Agreement. These procedures shall incorporate, and apply as appropriate, the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 C.F.R. Section 33.20. The Government and the Non-Federal Sponsor shall maintain such books, records, documents, and other evidence pertaining to construction in accordance with these procedures and for a minimum of three years after the period of construction and resolution of all relevant claims arising therefrom. To the extent permitted under applicable Federal laws and regulations, the

Government and the Non-Federal Sponsor shall each allow the other to inspect such books, documents, records, and other evidence.

B. Pursuant to 32 C.F.R. Section 33.26, the Non-Federal Sponsor is responsible for complying with the Single Audit Act of 1984, 31 U.S.C. Sections 7501-7507, as implemented by Office of Management and Budget (OMB) Circular No. A-133 and Department of Defense Directive 7600.10. Upon request of the Non-Federal Sponsor and to the extent permitted under applicable Federal laws and regulations, the Government shall provide to the Non-Federal Sponsor and independent auditors any information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of any non-Federal audits performed in accordance with this paragraph shall be allocated in accordance with the provisions of OMB Circulars A-87 and A-133, and such costs as are allocated to the Project shall be included in total project costs, subject to Article VII of this Agreement, and shared in accordance with the provisions of this Agreement.

C. In accordance with 31 U.S.C. Section 7503, the Government may conduct audits in addition to any audit that the Non-Federal Sponsor is required to conduct under the Single Audit Act.. Any such Government audits shall be conducted in accordance with Government Auditing Standards and the cost principles in OMB Circular No. A-87 and other applicable cost principles and regulations. The costs of Government audits performed in accordance with this paragraph shall be included in total projects costs and shared in accordance with the provisions of this Agreement.

ARTICLE XII - FEDERAL AND STATE LAWS

In the exercise of their respective rights and obligations under this Agreement, the Non-Federal Sponsor and the Government agree to comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)).

ARTICLE XIII - RELATIONSHIP OF PARTIES

A. In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other.

B. In the exercise of its rights and obligations under this Agreement, neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights such other party may have to seek relief or redress against such contractor either pursuant to any cause of action that such other party may have or for violation of any law.

ARTICLE XIV - OFFICIALS NOT TO BENEFIT

No member of or delegate to the Congress, nor any resident commissioner, shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom.

ARTICLE XV - TERMINATION OR SUSPENSION

A. If at any time the Non-Federal Sponsor fails to fulfill its obligations under Articles II.A., II.C., II.D., and XIX.F. of this Agreement, the Assistant Secretary of the Army (Civil Works) may terminate this Agreement or suspend future performance under this Agreement unless he determines that continuation of work on the Project is in the interest of the United States or is necessary in order to satisfy agreements with any other non-Federal interests in connection with the Project.

B. If the Government fails to receive annual appropriations in amounts sufficient to meet its share of scheduled expenditures for total project costs for the then-current or upcoming fiscal year, the Government shall so notify the Non-Federal Sponsor in writing, and within 60 calendar days thereafter the Non-Federal Sponsor without penalty shall terminate this Agreement or suspend future performance under this Agreement. In the event that the Non-Federal Sponsor elects to suspend future performance under this Agreement in accordance with this paragraph, such suspension shall remain in effect until such time as the Government receives sufficient appropriations or until the Non-Federal Sponsor elects to terminate this Agreement, whichever occurs first.

C. In the event that either party elects to terminate this Agreement pursuant to this Article or Article XVI of this Agreement, both parties shall conclude their activities relating to the Project and proceed to a final accounting in accordance with Article VI.D. of this Agreement.

D. Any termination of this Agreement or suspension of future performance under this Agreement in accordance with this Article or Article XVI of this Agreement shall not relieve the parties of liability for any obligation previously incurred. Any delinquent payment owed by the Non-Federal Sponsor to the Government shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13-week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3-month period if the period of delinquency exceeds 3 months.

ARTICLE XVI - HAZARDOUS SUBSTANCES

A. After execution of this Agreement and upon direction by the Government, the Non-Federal Sponsor shall perform, or cause to be performed, any investigations for hazardous substances that the Government or the Non-Federal Sponsor determines to be necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (hereinafter "CERCLA"), 42 U.S.C. Sections 9601-9675, that may exist in, on, or under lands, easements, and rights-of-way that the Non-Federal Sponsor and the Government determine, pursuant to Article III of this Agreement, to be required for the construction, operation, and maintenance of the Project. However, for lands that the Government determines to be subject to the navigation servitude, only the Government shall perform such investigations unless the Government provides the Non-Federal Sponsor with prior specific written direction, in which case the Non-Federal Sponsor shall perform such investigations in accordance with such written direction. All actual costs incurred by, or on behalf of, the Non-Federal Sponsor and by the Government for such investigations for hazardous substances shall be included in total project costs, subject to Article VII of this Agreement, and shared in accordance with the provisions of this Agreement, subject to an audit in accordance with Article XI of this Agreement to determine reasonableness, allowability, and allocability of costs.

B. In the event it is discovered through any investigation for hazardous substances or other means that hazardous substances regulated under CERCLA exist in, on, or under any lands, easements, or rights-of-way that the Non-Federal Sponsor and the Government determine, pursuant to Article III of this Agreement, to be required for the construction, operation, and maintenance of the Project, the Non-Federal Sponsor and the Government shall provide prompt written notice to each other, and the Non-Federal Sponsor shall not proceed with the acquisition of the real property interests until both parties agree that the Non-Federal Sponsor should proceed.

C. The Government and the Non-Federal Sponsor shall determine whether to initiate construction of the Project, or, if already in construction, whether to continue with work on the Project, suspend future performance under this Agreement, or terminate this Agreement for the convenience of the Government, in any case where hazardous substances regulated under CERCLA are found to exist in, on, or under any lands, easements, or rights-of-way that the Non-Federal Sponsor and the Government determine, pursuant to Article III of this Agreement, to be required for the construction, operation, and maintenance of the Project. Should the Government and the Non-Federal Sponsor determine to initiate construction or continue with construction after considering any liability that may arise under CERCLA, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for the costs of clean-up and response, to include the costs of any studies and investigations necessary to determine an appropriate response to the contamination. Such costs shall not be considered a part of total project costs. In the event the Non-Federal Sponsor fails to provide any funds necessary to pay for clean up and response costs or to otherwise discharge the Non-Federal Sponsor's responsibilities under this paragraph upon direction by the Government, the Government may, in

its sole discretion, either terminate this Agreement for the convenience of the Government, suspend future performance under this Agreement, or continue work on the Project.

D. The Non-Federal Sponsor and the Government shall consult with each other in accordance with Article V of this Agreement in an effort to ensure that responsible parties bear any necessary clean up and response costs as defined in CERCLA. Any decision made pursuant to paragraph C. of this Article shall not relieve any third party from any liability that may arise under CERCLA.

E. As between the Government and the Non-Federal Sponsor, the Non-Federal Sponsor shall be considered the operator of the Project for purposes of CERCLA liability. To the maximum extent practicable, the Non-Federal Sponsor shall operate, maintain, repair, replace, and rehabilitate the Project in a manner that will not cause liability to arise under CERCLA.

ARTICLE XVII - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and either delivered personally or by telegram or mailed by first-class, registered, or certified mail, as follows:

If to the Non-Federal Sponsor:	General Manager Shady Spring PSD P.O. Box 235 Beaver, WV 25813
If to the Government:	District Engineer Huntington District Corps of Engineers 502 Eighth Street Huntington, WV 25701-2070

B. A party may change the address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

C. Any notice, request, demand, or other communication made pursuant to this Article shall be deemed to have been received by the addressee at the earlier of such time as it is actually received or seven calendar days after it is mailed.

ARTICLE XVIII - CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

ARTICLE XIX - HISTORIC PRESERVATION

A. The Government shall be responsible for compliance with Section 106 of the National Historic Preservation Act (16 U.S.C. 470 et seq.) for all lands required for, or affected by, the Undertaking, as defined by 16 U.S.C. 470w(7). Prior to initiation of construction, the Non-Federal Sponsor shall perform all necessary cultural resource studies, and the Government shall make all determinations and consultation in a manner consistent with 36 Code of Federal Regulations (CFR) Part 800, "Protection of Historic Properties", the Secretary of the Interior's Standards and Guidelines for Identification (48 Federal Register 44720-23), the National Park Service's publications, The Archaeological Survey: Methods and Uses (1978) and Identification of Historic Properties (1988), and the applicable guidelines of the State Historic Preservation Officer (hereinafter the "SHPO"). The Non-Federal Sponsor shall ensure that its studies are conducted by qualified archaeologists, historians, architectural historians and/or historic architects, as appropriate, who meet, at minimum, the Secretary of the Interior's Professional Qualifications Standards (48 Federal Register 44738-39). The Non-Federal Sponsor shall submit study plans and reports to the Government for review and approval and shall be responsible for resolving any deficiencies. In the event that significant archeological or historical properties will be adversely affected, the Non-Federal Sponsor shall formulate a mitigation plan in consultation with the Government and any other parties involved in the development of a Section 106 Memorandum of Agreement (hereinafter the "MOA"). The Non-Federal Sponsor shall be responsible for implementing the mitigation contained in a signed MOA prior to the initiation of any construction activities affecting historic properties.

B. The Non-Federal Sponsor's responsibilities under this Article are limited to those historic properties within the Undertaking's area of potential effect, as defined by 36 CFR 800.16(d). Any betterments not affecting historic properties and constructed by the Non-Federal Sponsor without Federal funds are not considered to be subject to the provisions of this Article.

C. The Non-Federal Sponsor shall include provisions in all construction contracts for the protection of cultural resources discovered during construction. These provisions shall include, at a minimum, the cessation of work in the immediate area of a discovered cultural resource until the situation is properly evaluated, the immediate verbal and written notification of the Non-Federal Sponsor and Government, and consultation between the Non-Federal Sponsor, the Government, and the SHPO on appropriate measures to evaluate and treat the resource. Where the Non-Federal Sponsor elects to perform the construction work with its own forces, the same procedures shall be followed.

D. The costs of identification, survey and evaluation of historic properties shall be included in total project costs, subject to Article VII of this Agreement, and shared in accordance with the provisions of this Agreement.

E. As specified in Section 7(a) of Public Law 93-291 (16 U.S.C. 469c(a)), the costs of archeological data recovery activities associated with historic preservation shall be borne entirely

by the Government and shall not be included in total project costs up to the statutory limit of one percent of the total amount the Government is authorized to expend for the Project.

F. The Government shall not incur costs for archeological data recovery that exceed the statutory one percent limit specified in paragraph E. of this Article unless and until the Assistant Secretary of the Army (Civil Works) has waived (and the Secretary of the Interior has concurred in the waiver) that limit in accordance with Section 208(3) of Public Law 96-515 (16 U.S.C. 469c-2(3)). Any costs of archeological data recovery that exceed the one percent limit shall be included in total project costs, subject to Article VII of this Agreement, and shared in accordance with the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the Deputy Assistant Secretary of the Army.

THE DEPARTMENT OF THE ARMY	SHADY SPRING PUBLIC SERVICE DISTRICT
BY: _____	BY: _____
George S. Dunlop Deputy Assistant Secretary of the Army (Policy & Legislation)	Joseph Scheff Chairman
DATE: _____	DATE: _____

CERTIFICATE OF AUTHORITY

I, William F. Richmond, do hereby certify that I am the principal legal officer of the Shady Spring Public Service District , that the Shady Spring Public Service District is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the Shady Spring Public Service District in connection with the Cool Ridge/Flat Top Wastewater Collection and Disposal Project, and to pay damages in accordance with the terms of this Agreement, if necessary, in the event of the failure to perform, and that the persons who have executed this Agreement on behalf of the Shady Spring Public Service District have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this _____ day of _____ ___.

_____
William F. Richmond, Esq.
Attorney for the Shady
Spring Public Service District

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Joseph Scheff, Chairman
Shady Spring Public Service District

DATE: _____

VERIFICATION

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, To-Wit:

I, H. WYATT HANNA, III, Counsel for the Petitioner, Shady Spring Public Service District, in the foregoing Petition, after being first duly sworn, depose and say that the facts and allegations contained therein are true, except insofar as they are therein stated to be upon information and belief, and that as they are therein stated to be upon information and belief, I believe them to be true.

H. Wyatt Hanna, III

H. Wyatt Hanna, III

Taken, subscribed and sworn to before the undersigned authority this 6th day of April, 2004.

My commission expires July 29, 2008.

Robin Bailey

Notary Public

Official Seal
Notary Public, State of West Virginia
Robin Bailey
Hanna & Bantam
P. O. Box 6070
So. Charleston, WV 25303
My commission expires July 29, 2008

#37

THIS AGREEMENT is made as of this 3rd day of February, 2004, by and between the **FLAT TOP LAKE ASSOCIATION**, Inc., a West Virginia corporation, hereinafter sometimes referred to as "Association" and the **SHADY SPRING PUBLIC SERVICE DISTRICT**, a public corporation and political subdivision of the State of West Virginia, hereinafter sometimes referred to as "PSD".

WITNESSETH:

WHEREAS, the Association and the PSD have agreed that the PSD shall construct certain wastewater collection and disposal facilities serving the lot owners within the development known as Flat Top Lake and Park; and

WHEREAS, the PSD will construct the wastewater collection and disposal facilities, pursuant to specifications, as established and approved by the Public Service Commission of West Virginia;

WHEREAS, the Association believes it is in the best interests of Flat Top Lake and Park and the various lot owners to convey to the PSD the appropriate rights of way and easements to facilitate the construction of the wastewater collection and disposal system within the boundaries of the property of the development known as Flat Top Lake and Park; and

WHEREAS, the PSD has entered into this Agreement and, under the circumstances and subject to the terms and conditions set forth in this Agreement, is willing to undertake the construction and operation of the wastewater system contemplated by this agreement and to supply directly the wastewater needs of the Association and current and future lot owners and members of Flat Top Lake and Park; and

WHEREAS, the Association believes it is in its best interests and the best interests of Flat Top Lake and Park , its lot owners and the members of the Association for the PSD to own and operate the said wastewater system to provide wastewater collection and disposal service to the members of the Association; and

WHEREAS, the Association, as the owner of the common areas, elements, roadways and utility rights of way of Flat Top Lake and Park has executed this Agreement with respect to the matters relating to the Association and on behalf of its membership which has voted in favor of this construction project.

NOW, THEREFORE, for an in consideration of the premises, which are hereby made an integral part of this Agreement and which are not to be construed as mere recitals, the covenants, agreements, terms and conditions contained herein and other good and valuable considerations, the receipt and sufficiency of all of which are hereby acknowledged, the PSD and Association agree:

1. **CONSIDERATION TO BE PAID BY THE ASSOCIATION:** The consideration to be paid by the Association shall be:

   a. Engineering: The Association agrees it will reimburse the PSD for the engineering and the design of the specifications for the construction of the wastewater facilities and sewage relay system in an amount of up to $204,000.00.

2. **CONSIDERATION TO BE PAID BY THE PSD:** The consideration to be paid by PSD shall be:

   a. Construction of the Wastewater Collection and Disposal System and the Sewage Relay System to Interconnect the Association and PSD's

Systems: PSD shall construct the proposed wastewater collection and disposal system, and the PSD shall also construct and provide pressure sewer lines (force main) and related pumps and facilities ("Sewage Relay System") to deliver the wastewater from Flat Top Lake and Park, by gravity or pumping, from the terminus of the proposed wastewater collection and disposal system at the approximate location shown on the Plans and Specifications entitled **"COOL RIDGE / FLAT TOP WASTEWATER COLLECTION AND DISPOSAL PROJECT PHASE 1"** and **"CONSTRUCTION CONTRACT OF FLAT TOP LAKE WASTEWATER COLLECTION AND DISPOSAL SYSTEM CONTRACT 2"** prepared by L.A. Gates Engineering and dated February, 2004 (hereinafter collectively "Plans and Specifications") incorporated by reference in this Agreement as Exhibit 1 and to deliver such wastewater to a point of interconnection on the PSD's present collection system.

b. After construction, PSD shall own, operate, maintain, repair, replace and reconstruct the various wastewater systems.

3. **TERMS AND CONDITIONS FOR THE CONSTRUCTION OF THE SEWAGE RELAY SYSTEM; RIGHTS OF INSPECTION**: Prior to the commencement of construction of the wastewater collection and disposal and the Sewage Relay System (a) The Association shall:

(i). **Plans and Specifications for the Sewage Relay System**: The Association agrees to reimburse the PSD for the cost of preparation of the Plans and Specifications for the Sewage Relay System prepared by L. A. Gates Engineering as part of the same cost provided for and limited in Paragraph 1.

(ii). **Review and Approval of the Plans and Specifications; Department of Health Permit**: The PSD agrees to provide the Association, or its designated representative, with a reasonable opportunity to review and approve the Plans and Specifications for the wastewater collection and disposal system and the Sewage Relay System and the PSD shall submit such Plans and Specifications to the West Virginia Department of Health in order to receive all necessary permits from the West Virginia Department of Health approving the construction of the Wastewater Collection and Disposal System and the Sewage Relay System as designed or as subsequently modified by the Department of Health or by agreement of the parties.

(b) The PSD shall:

(i). **Approval of the Public Service Commission**: It is agreed and understood that the PSD must seek the consent and approval of the Public Service Commission before construction of the wastewater collection and disposal facilities and the sewage relay system shall begin.

(ii). The PSD will promptly file, and once filed, diligently pursue all approvals, authorizations and permits required to construct the systems contemplated by this agreement.

4. **OWNERSHIP AND OPERATION OF SYSTEM AND RATES FOR ASSOCIATION MEMBERS:**

a. Operation of the PSD Wastewater System: From and after the completion of construction, the PSD shall own and operate the wastewater system as a part of the PSD's general wastewater system, and all lot owners, including the Association in the Flat Top Lake and Park shall, for all intents and purposes, be customers of the PSD.

b. It is understood that each individual lot owner shall be responsible for the cost and construction of the customer service line from the home or building on each lot up to the customer service pump constructed and installed by the PSD.

c. The PSD shall install at its cost and expense at each lot or proposed service location one customer service pump and electrical control panel. However, it is agreed and understood that each lot owner shall be responsible for the power bills to operate said pump and control panel. Furthermore, each lot owner shall be responsible for the power hook-up of the customer service pump and control panel, which must be installed by a certified electrician. Each lot shall be responsible for maintenance of the

service line from the home to the said pump. The PSD shall be responsible for the maintenance of the customer service pump and its lines.

d. Rates to be Charged: The current lot owners and the Association shall, if the Public Service Commission so agrees, be charged those rates and charges as from time to time approved for use by the PSD by the Public Service Commission; provided, however, that until such time as the PSD files to modify its rates and charges at the Public Service Commission, the PSD proposes to file an adoption notice and to seek to adopt and use those rates and charges currently approved for use of other customers of the PSD for serving the lot owners and the Association until the PSD next requests a change in its rates and charges from the Commission.

5. **FUTURE ADDITIONS AND EXTENSION WITHIN FLAT TOP LAKE.**

a. Future Wastewater Service within Flat Top Lake and Park. The PSD and the Association have discussed the plans for future development at Flat Top Lake and Park, and the PSD is aware that there will be written requests by the Association for future additional wastewater service to prospective lot owners, members and developments within Flat Top Lake and Park. The PSD hereby specifically agrees that it has or will make available

wastewater treatment capacity sufficient to meet such plans. Further, the Association and PSD agree as follows:

b. It is agreed that the PSD will provide the customer service pumps and the electrical control panels for lots whose owners construct a home on any such lot within five years after substantial completion of the said wastewater system.

6. **REPRESENTATIONS AND WARRANTIES BY THE ASSOCIATION**: The Association warrants that it has certain utility rights of way and agrees that it will be responsible for obtaining all rights of ways over and through the private lots owned within Flat Top Lake and Park and shall convey to PSD all necessary rights of ways over and through the lots and common areas of Flat Top Lake and Park necessary for the construction of the said wastewater facilities and sewage relay system.

7. **REPRESENTATIONS AND WARRANTIES BY THE PSD**: The PSD represents and warrants to the Association as of the date of this Agreement: (a) the execution, delivery and performance of this Agreement by the PSD has been duly authorized, subject to approval by the Public Service Commission, and this Agreement constitutes a valid and binding obligation of the PSD enforceable in accordance with its terms; (b) the execution and performance of this Agreement, with the approval of the Public Service Commission, in accordance with its terms by the PSD will not violate any provisions of law or the terms or conditions of any agreements made by the PSD; and (c) the PSD has or will make available the wastewater treatment capacity to serve the current and future needs of the Association's lot owners and Flat Top Lake and Park resulting

from normal residential growth and as reflected by the Association's plans for future development;

d. It has been advised that sufficient funding or commitments for funding from various sources, are in place to pay for the design and construction of the Wastewater Collection, Disposal and Relay Systems contemplated by this agreement.

8. **CONDITIONS PRECEDENT TO CONSTRUCTION UNDER THIS AGREEMENT**: It is expressly understood and agreed by the Association and the PSD that the following are conditions precedent to the existence, effectiveness, and enforceability of this Agreement.

a. The Public Service Commission must approve the Joint Application filed by the Association and the PSD with the Commission seeking consent, for the construction by the PSD of the wastewater collection and disposal system and relay system and the other transactions contemplated therein, and in the relief requested in the Joint Application.

b. The Commission shall approve this Agreement as an Alternate Main Extension Agreement between the Association and the PSD and their respective successors and assigns.

c. The PSD shall obtain a permit from the West Virginia Department of Health to construct the wastewater collection and disposal facilities and the Sewage Relay System.

9. **ASSIGNABILITY**: This Agreement shall be binding upon the successors and assigns of the respective parties hereto.

10. NOTICE: Any notice, demand or request given hereunder shall be deemed sufficient if in writing and sent by certified mail, postage prepaid, to the Flat Top Lake Association at P.O. Box 3, Ghent, West Virginia 25843, and to the Shady Spring Public Service District at P.O. Box 235, Beaver, West Virginia 25813, or to such address as the parties shall indicate in writing to the other parties.

11. CAPTIONS: The captions preceding the text of the sections of this Agreement are inserted solely for convenience and reference and shall not be used to construe, interpret or affect any provision of this Agreement.

IN WITNESS WHEREOF, the Flat Top Lake Association, Inc., a West Virginia corporation, and the Shady Spring Public Service District, a public corporation and political subdivision of the State of West Virginia, have caused this Agreement to be signed, by their proper officers thereunto duly authorized, all as of the day and year first above written.

FLAT TOP LAKE ASSOCIATION, INC.
a West Virginia corporation,

By _____

Its President

SHADY SPRING PUBLIC SERVICE DISTRICT

By _____

Its _____

STATE OF WEST VIRGINIA,

COUNTY OF RALEIGH, TO-WIT:

The foregoing instrument was acknowledged before me on this 5th day of April, 2004, by Tom Keadle, who is President, of the Flat Top Lake Association, Inc., on behalf of said Corporation.

My Commission expires: October 15, 2007

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
RUTH A. KESSLER
P. O. BOX 106
COOL RIDGE, WV 25825
My Commission Expires October 15, 2007

Ruth A. Kessler
Notary Public

STATE OF WEST VIRGINIA,

COUNTY OF RALEIGH, TO-WIT:

The foregoing instrument was acknowledged before me on this 15th day of April, 2004, by Ronnie L. Barker, who is Treasurer, of the Shady Spring Public Service District, a public corporation and political subdivision of the State of West Virginia, on behalf of said public corporation.

My Commission expires: Feb. 10, 2010

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
My Commission Expires February 10, 2010

Ann T. Wickline
Notary Public

04056lalj071404.wpd

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: July 14, 2004

FINAL
8-3-04

CASE NO. 04-0561-PSD-PC

SHADY SPRING PUBLIC SERVICE DISTRICT
Petition for consent and approval of an agreement between the Shady Spring and Flat Top Lake Association.

RECOMMENDED DECISION

On April 13, 2004, the Shady Spring Public Service District filed a petition for consent and approval of an Agreement between the District and the Flat Top Lake Association, Inc. The proposed Agreement details the terms and conditions whereby the District will acquire certain rights-of-way and easements necessary for the construction of a sanitary sewer system to serve the residents of the Flat Top Lake Association, Inc. The Agreement also details the terms under which each party will contribute certain funds and/or services to the proposed sanitary sewer construction project and specifies that the District will own and operate the new sewer system and that the Association will provide reimbursement to the District for certain engineering and design costs. The Association's contribution is not to exceed $204,000.

The project underlying the proposed Agreement consists of a regional sewer system which the District plans to construct at an estimated cost of approximately $6,903,000[1]. The District has indicated that the proposed regional project will be the subject of a forthcoming application for a certificate of convenience and necessity. Staff noted that the District had also filed, on April 8, 2004, in Case No. 04-0525-PSD-PC, for approval of a "Project Cooperation Agreement" between the District and the US Army, Corps of Engineers. The purpose of the proposed Corps of Engineers "Project Cooperation Agreement" is to provide approximately $2,000,000 in grant funding in support of certain elements of the regional sewer project.

On May 14, 2004, Commission Staff filed its Initial Joint Staff Memorandum in this matter stating that a substantive recommendation would be forthcoming at the conclusion of its review.

[1]Project costs were obtained from the WVIJDC Application (Application No. 995-477a) and are detailed in a loan commitment letter from that agency dated November 13, 2003.

ing their individual responsibilities under the proposed agreement; and

8. The District should be required to file for a certificate of convenience and necessity, at the appropriate time, in the course of development of the proposed sewer project.

(See, Initial and Final Joint Staff Memorandum filed June 4, 2004).

3. The Shady Spring Public Service District has reviewed the Staff recommendations filed in this proceeding and has no objection to those recommendations. (See, letter filed June 11, 2004).

CONCLUSION OF LAW

Under the facts and circumstances of this case and the recommendation of Commission Staff, it is reasonable and appropriate to approve the Agreement filed herein, without approving the specific terms and conditions contained therein.

ORDER

IT IS, THEREFORE, ORDERED that the petition filed herein on April 15, 2004, shall be granted and the Agreement between the Shady Spring Public Service District and Flat Top Lake Association, Inc., is approved without approving the specific terms and conditions contained in said Agreement.

IT IS FURTHER ORDERED that the Shady Spring Public Service District is cautioned that use of any funds which may be made available to it under the approved Agreement may result in a financial obligation upon the District, and that it should consult with, and obtain advice from, its legal and financial consultants prior to execution of the Agreement.

IT IS FURTHER ORDERED that the Agreement approved herein be amended to incorporate by reference the design, materials and construction standards of the District for normal installation of customer service lines, and to provide that all service lines, laterals and appurtenances installed by any customer are subject to the inspection and approval of the District.

IT IS FURTHER ORDERED that this Recommended Decision should not be construed or interpreted to waive or avoid any regulatory requirement of the proposed sewer project underlying this Agreement, including the timely application for a certificate of convenience and necessity.

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

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

On June 11, 2004, the District, by counsel, filed a letter stating that it had reviewed the Initial and Final Joint Staff Memorandum filed June 4, 2004, and had no objection to Staff's final recommendations.

Consequently, it is reasonable to approve this Agreement, without approving the specific terms and conditions contained therein.

FINDINGS OF FACT

1. On April 13, 2004, the Shady Spring Public Service District filed a petition for consent and approval of an Agreement between the District and the Flat Top Lake Association, Inc. The proposed Agreement details the terms and conditions whereby the District will acquire certain rights-of-way and easements necessary for the District to construct a sanitary sewer system to serve the residents of the Flat Top Lake Association, Inc. The Agreement also details the terms under which each party will contribute certain funds and/or services to the proposed sanitary sewer construction project and specifies that the District will own and operate the new sewer system and that the Association will provide reimbursement to the District for certain engineering and design costs. The Association's contribution is not to exceed $204,000. (See petition filed April 15, 2004).

2. Based upon its review of the proposed agreement and its current knowledge of the proposed sewer project, Staff made the following recommendations:

1. Engineering Staff recommended that the proposed agreement between the Shady Spring Public Service District and the Flat Top Lake Association, Inc., be approved;

2. Commission approval should be granted without granting approval of the specific terms and conditions contained in the proposed agreement;

3. The District should be instructed to obtain advice from its legal and financial consultants prior to executing the proposed agreement;

4. The District should be cautioned that use of any funds which may be made available to it under the proposed agreement may result in a further financial obligation upon the District;

5. The proposed agreement should be amended to incorporate by reference the design, materials and construction standards of the District for the installation of customer service lines;

6. The proposed agreement should be amended to include a provision that all service lines, laterals and appurtenances installed by any customer are subject to the inspection and approval of the District;

7. The District and the Association should jointly undertake to inform all members of the Flat Top Lake Association regard-

By a Commission Referral Order entered May 26, 2004, this petition was referred to the Division of Administrative Law Judges for further proceedings with a decision due date of November 12, 2004.

On May 28, 2004, the District, by counsel, filed a letter clarifying that the petition had been filed pursuant to West Virginia Code §24-2-12, and should not be considered as an alternate mainline extension agreement.

On June 4, 2004, Staff filed its Initial and Final Joint Staff Memorandum in this matter. Staff stated that its review was conducted from the perspective of the potential impact on the District's current ratepayers. Likewise, Staff stated that its review and recommendation in this matter should not be construed as an endorsement of the underlying project or as a waiver of any required application, permit or authorization otherwise necessary for such projects. Based upon its review of the proposed agreement and its current knowledge of the proposed sewer project, Staff made the following recommendations:

1. Engineering Staff recommended that the proposed agreement between the Shady Spring Public Service District and the Flat Top Lake Association, Inc., be approved;

2. Commission approval should be granted without granting approval of the specific terms and conditions contained in the proposed agreement;

3. The District should be instructed to obtain advice from its legal and financial consultants prior to executing the proposed agreement;

4. The District should be cautioned that use of any funds which may be made available to it under the proposed agreement may result in a further financial obligation upon the District;

5. The proposed agreement should be amended to incorporate by reference the design, materials and construction standards of the District for the installation of customer service lines;

6. The proposed agreement should be amended to include a provision that all service lines, laterals and appurtenances installed by any customer are subject to the inspection and approval of the District;

7. The District and the Association should jointly undertake to inform all members of the Flat Top Lake Association regarding their individual responsibilities under the proposed agreement; and

8. The District should be required to file for a certificate of convenience and necessity, at the appropriate time, in the course of development of the proposed sewer project.

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

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

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

Thomas N. Trent
Administrative Law Judge

TNT:mal
040561a.wpd

SHADY SPRINGS PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS,
SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND)
SEWER REVENUE BONDS,
SERIES 2005 B (STATE REVOLVING FUND)

RECEIPT FOR BOND PROCEEDS

The undersigned Chairperson of Shady Springs Public Service District (the "Issuer"), for and on behalf of the Issuer, hereby certifies as follows:

1. On the 13th day of December, 2005, the Issuer received and hereby acknowledges receipt from the West Virginia Water Development Authority (the "Authority"), as the original purchaser of the $2,875,000 Shady Springs Public Service District Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), dated December, 13, 2005 (the "Series 2005 A Bonds"), of the sum of $205,329.00, being a portion of the principal amount of the Series 2005 A Bonds. The Issuer understands that the remaining proceeds of the Series 2005 A Bonds will be advanced to the Issuer by the Authority and the West Virginia Infrastructure and Jobs Development Council from time to time as construction proceeds to completion.

2. On the 13th day of December, 2005, the Issuer received and hereby acknowledges receipt from the Authority, as the original purchaser of the $3,078,043 Shady Springs Public Service District Sewer Revenue Bonds, Series 2005 B (State Revolving Fund), dated December 13, 2005 (the "Series 2005 B Bonds"), of the sum of $232,467.99 being a portion of the principal amount of the Series 2005 B Bonds. The Issuer understands that the remaining proceeds of the Series 2005 B Bonds will be advanced to the Issuer by the Authority and DEP from time to time as construction proceeds to completion.

WITNESS my signature on this 13th day of December, 2005.

SHADY SPRINGS PUBLIC SERVICE DISTRICT

M. Lee Lucas

Chairperson

[See Prior Transcripts]

CLOSING MEMORANDUM

To: **Jerry Smith**
Katy Mallory
Rose Brodersen
Diane Roy
Sara Boardman
Samme Gee

From: **John Poffenbarger**

Date: **December 19, 2005**

Re: **Shady Springs Public Service District Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund) and Series 2005 B (State Revolving Fund)**

1. DISBURSEMENTS TO DISTRICT

A.

Payor:	West Virginia Infrastructure & Jobs Development Council
Source:	Series 2005 A Bonds Proceeds
Amount:	$20,000
Date:	December 19, 2005
Form:	Wire Transfer
Payee:	Shady Springs Public Service District
Bank:	City National Bank of WV
ABA No.:	051904524
Account No.:	8002307554
Account:	Series 2005 A Bonds Construction Trust Fund

B.

Payor:	West Virginia Water Development Authority/Department of Environmental Protection
Source:	Series 2005 B Bonds Proceeds
Amount:	$232,468
Date:	December 19, 2005
Form:	Check
Payee:	Shady Springs Public Service District
Bank:	City National Bank of WV
ABA No.:	051904524
Account No.:	8002307554
Account:	Series 2005 B Bonds Construction Trust Fund

2. DISBURSEMENTS TO MUNICIPAL BOND COMMISSION

A.

Payor:	West Virginia Infrastructure & Jobs Development Council
Source:	Series 2005 A Bonds Proceeds
Amount:	$185,237
Date:	December 19, 2005
Form:	Wire Transfer
Payee:	Municipal Bond Commission
Bank Name:	Branch Banking and Trust Company
ABA No.:	051503394
Acct. No.:	5270517317
Account:	Pay off Series 2003 A Bonds

B.

Payor:	Shady Springs Public Service District
Source:	Series 2005 B Bonds Proceeds
Amount:	$152,300
Date:	December 19, 2005
Form:	Check
Payee:	Municipal Bond Commission
Bank Name:	Branch Banking and Trust Company
ABA No.:	051503394
Acct. No.:	5270517317
Account:	Pre-fund Debt Service Reserve Account