UNION PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

Closing Date: November 20, 2009

TRANSCRIPT OF PROCEEDINGS

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State of West Virginia

Certificate

I, Natalie E. Tennant, 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 2009 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

November 16, 2009

Natalie E. Tennant

Secretary of State

.2d 891, 143 W.Va. 1.
ns ⟹ 400

ARTICLE 13A

PUBLIC SERVICE DISTRICTS

Section

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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 insure 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.

Acts 1953, c. 147; Acts 1980, c. 60; Acts 1986, c. 81.

Cross References

County courts, authority to make grants for water and sewer systems, see § 7–1–3t.

Administrative Code References

Sewer utilities regulations, see W. Va. Code St. R. § 150–5–1 et seq.

Library References

Counties ⟹18.
Municipal Corporations ⟹5, 6.
Public Utilities ⟹145.
Westlaw Topic Nos. 104, 268, 317A.

C.J.S. Counties § 31.
C.J.S. Municipal Corporations § 11.
C.J.S. Public Utilities §§ 26 to 32, 159 to 167, 169 to 171, 177 to 178.

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1. Validity

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying water and sewerage services, clearly defines objects and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. Art.

§ 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⟹ 123(3); Statutes ⟹ 123(5)

Statute authorizing creation of public service districts violates no provision of State Constitution, nor is it violative of Fourteenth Amendment to United States Constitution. Act 1953, c. 147; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⟹ 4056; Municipal Corporations ⟹ 4

In statute authorizing creation of public service districts, provision for delinquent fixed rates and charges for services rendered to be lien on premises served was not unconstitutional as depriving owners of property without due process of law or as violating Fourteenth Amendment of United States Constitution or applicable provisions of State Constitution. Acts 1953, c. 147, § 1 et seq.; Const. art. 3, §§ 9, 10; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⟹ 4416; Municipal Corporations ⟹ 408(1)

Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⟹ 2355; Municipal Corporations ⟹ 4

2. In general

A public service district may be created for the purpose of furnishing water or sewer services, or both water and sewer services. Code, 16-13A-1. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⟹ 5

Creation and operation of water or sanitary districts or authorities by issuance of revenue bonds payable from revenues are authorized. Code, 16-13A-1 et seq. State ex rel. Appalachian Power Co. v. Gainer, 1965, 143 S.E.2d 351, 149 W.Va. 740. Health ⟹ 369; Waters And Water Courses ⟹ 183.5

A county court may use Federal Revenue Sharing Funds for ordinary and necessary maintenance and operating expenses for sewage disposal, sanitation, and pollution abatement, and ordinary and necessary capital expenditures authorized by law but may not use such funds for matching purposes under any other federal-aid program. 55 W.Va. Op.Atty.Gen. 116 (June 27, 1973) 1973 WL 159152.

3. Construction and application

A public service district is a public corporation and does not come within constitutional provision which in substance provides that all corporations shall be created by general laws and which is applicable to private corporations. Acts 1953, c. 147, § 1 et seq.; Const. art. 11, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⟹ 80(3)

4. Eminent domain powers

Where notice, hearing and order with respect to creation of public service district considered only the question of furnishing water, such district was created only for the purposes of furnishing water services, and had no power to condemn real estate for sewerage facilities. Code, 16-13A-1, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Eminent Domain ⟹ 32

Condemnation by public service district is not a taking of private property for private use in violation of applicable constitutional provision. Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Eminent Domain ⟹ 13

5. Property of public service district

Property of public service district is public property used for public purposes, and, under constitutional provision that public property shall be exempt from taxation, statute authorizing creation of public service districts and granting tax exemption was not violative of constitutional provision requiring that taxation be equal and uniform throughout state. Acts 1953, c. 147, § 1 et seq.; Const. art. 10, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Taxation ⟹ 2289

6. Rates and charges for service

Relief under Federal Securities Act of 1933 was not adequate or sufficient remedy for relief sought by corporations holding sewer revenue bonds of public service district in mandamus proceeding to compel district to establish and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariff reflecting such charges with Public Service Commission, and any relief afforded under provisions of federal statute could not supersede relief which could be granted in mandamus proceeding. Securities Act of 1933, § 1 et seq., 15 U.S.C.A. § 77a et seq.; Code, 16-13A-1 et seq. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⟹ 3(8)

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operation-

al and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16–13A–1 et seq., 16–13A–9, 16–13A–10, 16–13A–13, 16–13A–17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⟹ 110

It was ministerial duty of chairman of public service board of public service district to sign revenue bonds and to assist in effectuating their issuance, and in view of constitutionality of statute authorizing creation of the public service board, relator's showing of legal right to require performance of such duty, was sufficient and writ of mandamus would issue. Acts 1953, c. 147. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Mandamus ⟹ 103

7. Creation and enforcement of liens

Public service district's failure to docket notice of lien prior to date purchaser recorded deed of trust prevented district from enforcing sewer lien against purchaser. Code, 16–13A–9, 38–10C–1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Municipal Corporations ⟹ 712(7)

Public service district liens must be docketed to be enforceable against purchaser of property for valuable consideration, without notice. Code, 16–13A–9, 38–10C–1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Gas ⟹ 14.6; Municipal Corporations ⟹ 712(7); Waters And Water Courses ⟹ 203(14)

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⟹ 222; Municipal Corporations ⟹ 225(1)

8. Admissibility of evidence

Extrinsic evidence relating to background and negotiations with regard to forming a public service district were not admissible in regard to construction of a contract for furnishing of water, where contract language was clear and unambiguous that district was to furnish water as customer should require. Berkeley County Public Service Dist. v. Vitro Corp. of America, 1968, 162 S.E.2d 189, 152 W.Va. 252. Evidence ⟹ 448

9. Costs

Costs of proceeding whereby constitutionality of statute authorizing creation of public service districts was tested would not be taxed against defendant who was chairman of public service board and who, honestly and in good faith, though mistakenly, endeavored to perform his duty in refusing to sign revenue bonds, and each litigant would pay his own costs. Acts 1953, c. 147. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Mandamus ⟹ 190

§ 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 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.

Acts 1986, c. 81.

Library References

Public Utilities ⟹145. Westlaw Topic No. 317A.

C.J.S. Public Utilities §§ 26 to 32, 159 to 167, 169 to 171, 177 to 178.

Notes of Decisions

In general 1

1. In general

Statute clearly and unambiguously gives Public Service Commission (PSC) power to reduce or increase utility rates whenever it finds that existing rate is unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any provision of legislation governing Commission. Code, 24-1-1 et seq., 24-2-3. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist., 1995, 464 S.E.2d 777, 195 W.Va. 135. Public Utilities ⇐ 123

Legislature sought to establish in Public Service Commission (PSC) governmental entity which would protect public from unfair rates and practices by public utilities and also ensure that public utilities are given competitive return for their stockholders. Code, 24-2-3. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist., 1995, 464 S.E.2d 777, 195 W.Va. 135. Public Utilities ⇐ 123; Public Utilities ⇐ 129

§ 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.

Acts 1986, c. 81; Acts 1994, c. 61.

Cross References

Public Service Commission, participation in studies, see § 24–1–1b.

Library References

Counties ⟹18, 47.
Westlaw Topic No. 104.
C.J.S. Counties §§ 31, 70 to 73.

§ 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, enforce-

ment 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.

Acts 1986, c. 81; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ⇐18.
Gas ⇐12.
Municipal Corporations ⇐5, 6.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 104, 190, 268, 405.

C.J.S. Counties § 31.
C.J.S. Gas §§ 43 to 45.
C.J.S. Municipal Corporations § 11.
C.J.S. Waters §§ 483, 543 to 581.

§ 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, 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 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, 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.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1967, c. 105; Acts 1975, c. 140; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1995, c. 125, eff. 90 days after March 11, 1995; Acts 2002, c. 272, eff. 90 days after March 9, 2002; Acts 2005, c. 195, eff. 90 days after April 9, 2005.

Library References

Counties ⟹47.
Municipal Corporations ⟹6.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties §§ 70 to 73.
C.J.S. Municipal Corporations § 11.

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Costs 6
Creation of public service districts 2
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1. Validity

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying water and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6, § 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⟹ 123(3); Statutes ⟹ 123(5)

Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24.

State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⟹ 2355; Municipal Corporations ⟹ 4

2. Creation of public service districts

Where notice, hearing and order with respect to creation of public service district considered only the question of furnishing water, such district was created only for the purposes of furnishing water services, and had no power to condemn real estate for sewerage facilities. Code, 16-13A–1, 16–13A–2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Eminent Domain ⟹ 32

Where public service district was created for purpose of furnishing water services, county court had authority to add sewerage services to the facilities of the district under appropriate proceedings. Code, 16–13A–2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⟹ 270

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⟹ 222; Municipal Corporations ⟹ 225(1)

3. District boundaries

Public service district statute that allowed county commission to designate district's boundaries did not also empower commission to make service territories exclusive, displacing Public Service Commission's (PSC) authority to determine service rights. Code, 16–13A–2. Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Counties ⟹ 47

4. Notice of hearing

Provisions of statute, with respect to creation of public service districts, which relate to the filing of the petition or motion of the county court, the description of the territory to be embraced, and like provisions are mandatory; but, despite use of the word "shall," the requirements for posting and publication of notice and the time of setting the hearing are directory and require only substantial compliance. Code, 16–13A–2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⟹ 12(3); Municipal Corporations ⟹ 12(6)

Though record with respect to creation of public service district was silent with respect to posting of notice of hearing and as to whether hearing was not more than 40 nor less than 20 days after his fixing the date for hearing as provided by statute, there was substantial compliance with statute where hearing was set some time prior to the date of the hearing, there was publication of notice more than ten days prior to the date of the hearing as required, and there were no objections either before, during or after the hearing to the creation of the district or to the procedures employed in its creation. Code, 16–13A–2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⟹ 12(6)

5. Number of voters within district

Public service district was not void because there were not 100 legal voters owning property within the district. Code, 16–13A–2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⟹ 6

6. Costs

Costs of proceeding whereby constitutionality of statute authorizing creation of public service districts was tested would not be taxed against defendant who was chairman of public service board and who, honestly and in good faith, though mistakenly, endeavored to perform his duty in refusing to sign revenue bonds, and each litigant would pay his own costs. Acts 1953, c. 147. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Mandamus ⟹ 190

7. Referendum

A public service district, once created by county court, not subject to referendum on issue to continue or be abolished. 52 W.Va. Op.Atty. Gen. 33 (August 11, 1966) 1966 WL 87428.

§ 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 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 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.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1971, c. 72; Acts 1981, c. 124; Acts 1983, c. 166; Acts 1986, c. 81; Acts 1994, c. 61; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Law Review and Journal Commentaries

The Scope of Title Examination in West Virginia: Can Reasonable Minds Differ? John W. Fisher, II, 98 W. Va. L. Rev. 449 (1996).

"Yes, West Virginia, there is a special priority for the purchase money mortgage:" The recognition of purchase money mortgage priority in West Virginia. Abraham M. Ashton, 107 W. Va. L. Rev. 525 (2005).

Library References

Counties ⚷18.
Municipal Corporations ⚷6.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 31.
C.J.S. Municipal Corporations § 11.

Notes of Decisions

In general 1
Criminal responsibility of members 5
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Removal of members 4
Sale of water 6
Standard of care 2
Tort Claims Act 7

1. In general

Board members of the Mt. Zion Public Service District cannot be compensated for performing the duties of treasurer and/or secretary

for the Mt. Zion Public Service District; furthermore, a board member may not be compensated for reading meters for the Mt. Zion Public Service District. 63 W.Va. Op.Atty.Gen. 2 (July 14, 1988) 1988 WL 483329.

2. Standard of care

Public service district owes duty of reasonable care to avoid damage to property of others with respect to maintenance of water lines. McCloud v. Salt Rock Water Public Service Dist., 2000, 533 S.E.2d 679, 207 W.Va. 453. Waters And Water Courses ⟹ 205

3. Ministerial officers, generally

Public policy of West Virginia, as evidenced by statute making it unlawful for county or district board member or officer to be or become pecuniarily interested in proceeds of any contract or service over which he might have any voice, influence, or control, is not directed against actual fraud or collusion but is for purpose of preventing those acts and eliminating any opportunity therefor, and purpose of statute is to protect public funds and give official recognition to fact that person cannot properly represent public in transacting business with himself. Code, 61–10–15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Courts ⟹ 55; Judges ⟹ 21

4. Removal of members

Public Service District board member can be removed by majority vote of registered voters. 51 W.Va. Op.Atty.Gen. 564 (November 10, 1965) 1965 WL 92492.

5. Criminal responsibility of members

County commissioner's conviction for being or becoming pecuniarily interested in contract over which he might have some voice or influence was supported by evidence of his continued performance of contract maintenance work for public service district after his election to commission. Code, 61–10–15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties ⟹ 60

6. Sale of water

Public Service Districts may sell, at wholesale, bulk water to other municipal corporations. 51 W.Va. Op.Atty.Gen. 739 (March 16, 1966) 1966 WL 87469.

7. Tort Claims Act

Tort Claims Act's protection extended to public service districts, under the Act's definition of political subdivision, which included the term "public service districts," despite general authorization for public service districts to "sue and be sued," in the Public Health statutes. Zirkle v. Elkins Road Public Service Dist., 2007, 655 S.E.2d 155. Waters And Water Courses ⟹ 183.5

§ 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.

Acts 1963, c. 75; Acts 1971, c. 72; Acts 1981, c. 124; Acts 1986, c. 81.

Library References

Counties ⟹45.
Public Utilities ⟹145.
Westlaw Topic Nos. 104, 317A.

C.J.S. Counties § 67.
C.J.S. Public Utilities §§ 26 to 32, 159 to 167, 169 to 171, 177 to 178.

Notes of Decisions

Criminal responsibility of members 1
Ministerial officers, generally 2
Sufficiency of evidence 3

1. Criminal responsibility of members

Upon becoming member of county commission, person who is pecuniarily interested in proceeds of any contract or service with public service district violates criminal conflict of interest statute; by virtue of that position, that person has some voice, influence, or control over continuation of contract. Code, 61–10–15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties ⟹ 60

2. Ministerial officers, generally

Public policy of West Virginia, as evidenced by statute making it unlawful for county or district board member or officer to be or become pecuniarily interested in proceeds of any contract or service over which he might have any voice, influence, or control, is not directed against actual fraud or collusion but is for purpose of preventing those acts and eliminating any opportunity therefor, and purpose of statute is to protect public funds and give official recognition to fact that person cannot properly represent public in transacting business with himself. Code, 61–10–15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Courts ⟹ 55; Judges ⟹ 21

3. Sufficiency of evidence

County commissioner's conviction for being or becoming pecuniarily interested in contract over which he might have some voice or influence was supported by evidence of his continued performance of contract maintenance work for public service district after his election to commission. Code, 61–10–15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties ⟹ 60

Conflict of interest indictment against county commissioner was sufficient even though it did not characterize commissioner's interest as pecuniary, and commissioner was not entitled to bill of particulars. Code, 61–10–15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties ⟹ 60

§ 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, 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.

Acts 1953, c. 147; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2000, c. 199, eff. 90 days after March 11, 2000; Acts 2005, c. 196, eff. 90 days after April 8, 2005.

Library References

Counties ⟹68, 87.
Municipal Corporations ⟹161.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties §§ 107 to 118, 128.
C.J.S. Municipal Corporations §§ 372 to 390.

Notes of Decisions

In general 1

1. In general

Board members of the Mt. Zion Public Service District cannot be compensated for performing the duties of treasurer and/or secretary for the Mt. Zion Public Service District; furthermore, a board member may not be compensated for reading meters for the Mt. Zion Public Service District. 63 W.Va. Op.Atty.Gen. 2 (July 14, 1988) 1988 WL 483329.

§ 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.

Acts 1953, c. 147; Acts 1981, c. 124; Acts 1986, c. 81; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ⟹65, 68.
Municipal Corporations ⟹149, 161.
Westlaw Topic Nos. 104, 268.
C.J.S. Counties §§ 101 to 103, 107 to 118.
C.J.S. Municipal Corporations §§ 361 to 366, 368, 372 to 390.

§ 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.

Acts 1953, c. 147; Acts 1981, c. 124.

Library References

Counties ⟹65, 68, 87.
Municipal Corporations ⟹149, 161, 170.
Westlaw Topic Nos. 104, 268.
C.J.S. Counties §§ 101 to 103, 107 to 118, 128.
C.J.S. Municipal Corporations §§ 361 to 366, 368, 372 to 405.

§ 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, chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two 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.

Acts 1953, c. 147; Acts 1967, c. 105; Acts 1981, c. 124; Acts 1982, c. 24; Acts 1986, c. 81; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ⚷107.
Municipal Corporations ⚷711.
Public Utilities ⚷114.
Westlaw Topic Nos. 104, 268, 317A.

C.J.S. Counties § 147.
C.J.S. Municipal Corporations § 1535.
C.J.S. Public Utilities §§ 5 to 9, 202 to 207.

§ 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.

Acts 1953, c. 147; Acts 1980, c. 60; Acts 1981, c. 124; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ⟹103, 104.
Eminent Domain ⟹6, 16.
Municipal Corporations ⟹221, 224.
Westlaw Topic Nos. 104, 148, 268.

C.J.S. Counties §§ 143 to 144, 147.
C.J.S. Municipal Corporations §§ 873 to 880.
C.J.S. Property § 17.

Notes of Decisions

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1. Validity

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying wa-

ter and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6, § 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⟹ 123(3); Statutes ⟹ 123(5)

Property of public service district is public property used for public purposes, and, under constitutional provision that public property shall be exempt from taxation, statute authorizing creation of public service districts and granting tax exemption was not violative of constitutional provision requiring that taxation be equal and uniform throughout state. Acts 1953, c. 147, § 1 et seq.; Const. art. 10, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Taxation ⟹ 2289

2. In general

Statute providing that private property may be taken or damaged for a number of specified purposes amounts to legislative declaration of public purposes within meaning of laws, and it is a judicial question whether such declaration is consonant with organic law. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⟹ 2510

3. Eminent domain powers

Although construction of new facility proposed by utility will often require taking of private property through eminent domain, absent express statutory language Public Service Commission (PSC) has no duty to review and decide issues that are inherent in eminent domain proceeding. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Public Utilities ⟹ 114

Statute providing that private property may be taken or damaged for a number of specified purposes is consonant with organic law and is constitutional. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Eminent Domain ⟹ 3

4. Valuation of property

Although landowner is competent to give estimate of value of property in eminent domain proceeding, that valuation is not conclusive; government agency may rely on appraisal report concerning estimated value of property to be taken. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Evidence ⟹ 568(4)

5. Environmental assessment

Whether construction of sewage lagoons would constitute "nuisance" does not defeat Public Service Commission's (PSC) jurisdiction to issue certificate of public convenience and necessity; while PSC may assess environmental considerations, chief inquiry by PSC is need of public for project. Code, 24–2–11. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Municipal Corporations ⟹ 708

6. Connections with sewers or drains

City, rather than sewer and water districts, was entitled to provide sewer and water services to newly developed tract that was within districts' boundaries, but was annexed to city, where such services were not previously furnished to tract. Code, 16–13A–8. Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Municipal Corporations ⟹ 712(1); Waters And Water Courses ⟹ 201

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 to extend water and/or sewer service which were not being previously furnished to the tract by the public service district, and under those circumstances, a public service district would need the consent of the municipality and the Public Service Commission (PSC) in order to provide such service. Code, 16–13A–8. Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Municipal Corporations ⟹ 712(1); Waters And Water Courses ⟹ 201; Waters And Water Courses ⟹ 202

7. Public corporation

A public service district is a public corporation and does not come within constitutional provision which in substance provides that all corporations shall be created by general laws and which is applicable to private corporations. Acts 1953, c. 147, § 1 et seq.; Const. art. 11, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⟹ 80(3)

§ 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; 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. 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, 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, 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 munici-

pal 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, 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, article eleven, chapter twenty-two of this code, is exempt from the provisions of this section.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1989, c. 174; Acts 1994, c. 61; Acts 2002, c. 272, eff. 90 days after March 9, 2002; Acts 2003, c. 183, eff. 90 days after March 8, 2003.

Law Review and Journal Commentaries

The Scope of Title Examination in West Virginia: Can Reasonable Minds Differ? John W. Fisher, II, 98 W. Va. L. Rev. 449 (1996).

"Yes, West Virginia, there is a special priority for the purchase money mortgage:" The recognition of purchase money mortgage priority in West Virginia. Abraham M. Ashton, 107 W. Va. L. Rev. 525 (2005).

Library References

Gas ⟹14.6.
Municipal Corporations ⟹712.
Waters and Water Courses ⟹203.
Westlaw Topic Nos. 190, 268, 405.

C.J.S. Gas §§ 64, 84 to 85.
C.J.S. Municipal Corporations § 1535.
C.J.S. Waters §§ 483, 666 to 732.

Notes of Decisions

Notice of availability of sewer service 5
Public service district liens 3
Rates and charges for service 4
Takings 2
Validity 1

1. Validity

In statute authorizing creation of public service districts, provision for delinquent fixed rates and charges for services rendered to be lien on premises served was not unconstitutional as depriving owners of property without due process of law or as violating Fourteenth Amendment of United States Constitution or applicable provisions of State Constitution. Acts 1953, c. 147, § 1 et seq.; Const. art. 3, §§ 9, 10; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⟹ 4416; Municipal Corporations ⟹ 408(1)

2. Takings

Public service district's requiring property owner to connect onto its sewer system and to abandon private sewer system located on property was not a taking of private property without just compensation. Const. Art. 3, § 9; Code, 16–13A–9; U.S.C.A. Const.Amend. 5. Kingmill Valley Public Service Dist. v. River-

view Estates Mobile Home Park, Inc., 1989, 386 S.E.2d 483, 182 W.Va. 116. Eminent Domain ⟹ 2.18

Statute providing that private property may be taken or damaged for a number of specified purposes amounts to legislative declaration of public purposes within meaning of laws, and it is a judicial question whether such declaration is consonant with organic law. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⟹ 2510

3. Public service district liens

Public service district liens must be docketed to be enforceable against purchaser of property for valuable consideration, without notice. Code, 16–13A–9, 38–10C–1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Gas ⟹ 14.6; Municipal Corporations ⟹ 712(7); Waters And Water Courses ⟹ 203(14)

Public service district's failure to docket notice of lien prior to date purchaser recorded deed of trust prevented district from enforcing sewer lien against purchaser. Code, 16–13A–9, 38–10C–1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Municipal Corporations ⟹ 712(7)

If owner, tenant or occupant of garage apartment did not receive notice that public service district's sewer facilities were available for apartment, district would have been without statutory authority to impose charges and a lien against apartment for sewer services, though the apartment was on a lot containing another dwelling which was properly subject to sewer service charges. Code, 16–13A–9, 16–13A–21. Rhodes v. Malden Public Service Dist., 1983, 301 S.E.2d 601, 171 W.Va. 645. Municipal Corporations ⟹ 712(7)

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⟹ 222; Municipal Corporations ⟹ 225(1)

4. Rates and charges for service

Statute clearly and unambiguously gives Public Service Commission (PSC) power to reduce or increase utility rates whenever it finds that existing rate is unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any provision of legislation governing Commission. Code, 24–1–1 et seq., 24–2–3. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist., 1995, 464 S.E.2d 777, 195 W.Va. 135. Public Utilities ⟹ 123

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16–13A–1 et seq., 16–13A–9, 16–13A–10, 16–13A–13, 16–13A–17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⟹ 110

Duty imposed on public service district, a public corporation and political subdivision of state, to establish rates and charges sufficient to pay cost of maintenance, operation and depreciation of properties of district and principal of and interest on all bonds issued by district is nondiscretionary duty which may be enforced by mandamus. Code, 16–13A–9. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⟹ 80

5. Notice of availability of sewer service

Issue of fact as to whether owner or tenant had received notice that public service district's sewer services were available for garage apartment, so as to allow imposition of sewer service charges and a lien against apartment, was not appropriate for resolution in mandamus proceeding. Code, 16–13A–9, 16–13A–21. Rhodes v. Malden Public Service Dist., 1983, 301 S.E.2d 601, 171 W.Va. 645. Mandamus ⟹ 174

§ 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 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.

Acts 1982, c. 74.

Library References

Gas ⟹14.6.
Municipal Corporations ⟹712.
Waters and Water Courses ⟹203.
Westlaw Topic Nos. 190, 268, 405.

C.J.S. Gas §§ 64, 84 to 85.
C.J.S. Municipal Corporations § 1535.
C.J.S. Waters §§ 483, 666 to 732.

§ 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.

Acts 1953, c. 147; Acts 1981, c. 124.

Library References

Counties ⟹154.5.
Municipal Corporations ⟹879.
Westlaw Topic Nos. 104, 268.

C.J.S. Municipal Corporations §§ 1621 to 1622.

Notes of Decisions

In general 1

1. In general

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16–13A–1 et seq., 16–13A–9, 16–13A–10, 16–13A–13, 16–13A–17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⟹ 110

§ 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, 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.

Acts 1953, c. 147; Acts 1981, c. 124; Acts 1986, c. 81.

Library References

Counties ⚷154.5.
Municipal Corporations ⚷879.
Westlaw Topic Nos. 104, 268.

C.J.S. Municipal Corporations §§ 1621 to 1622.

§ 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.

Acts 1953, c. 147; Acts 1981, c. 124.

Library References

Counties ⚷158.
Municipal Corporations ⚷883.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 198.
C.J.S. Municipal Corporations §§ 1626, 1635.

§ 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 resolution 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.

Acts 1953, c. 147; Acts 1970, c. 11; Acts 1970, c. 12; Acts 1970, 1st Ex. Sess., c. 2; Acts 1980, c. 33; Acts 1981, 1st Ex. Sess., c. 2; Acts 1989, c. 174.

Library References

Counties ⟹174.
Municipal Corporations ⟹911.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 218.
C.J.S. Municipal Corporations §§ 1647 to 1649.

Notes of Decisions

In general 1

1. In general

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16–13A–1 et seq., 16–13A–9, 16–13A–10, 16–13A–13, 16–13A–17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⟹ 110

Two acts amending same Code section in same manner except as to maximum interest rate of bonds, enacted on same date at same legislative session, and impossible to determine which passed after the other, that having lower maximum interest rate will govern. 53 W.Va. Op.Atty.Gen. 418 (April 8, 1970) 1970 WL 116579.

§ 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.

Acts 1953, c. 147; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ⟹154.5.
Municipal Corporations ⟹879.
Westlaw Topic Nos. 104, 268.

C.J.S. Municipal Corporations §§ 1621 to 1622.

§ 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.

Acts 1953, c. 147.

Library References

Counties ⟹183.
Municipal Corporations ⟹950(15).
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 222.
C.J.S. Municipal Corporations §§ 1708 to 1709.

United States Code Annotated

Trust Indenture Act of 1939, see 15 U.S.C.A. § 77aaa et seq.

§ 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.

Acts 1953, c. 147.

Library References

Counties ⟹186.5.
Municipal Corporations ⟹951.
Westlaw Topic Nos. 104, 268.

C.J.S. Municipal Corporations §§ 1704 to 1705.

§ 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.

Acts 1953, c. 147.

Library References

Counties ⚷188.
Municipal Corporations ⚷937, 955.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 226.
C.J.S. Municipal Corporations §§ 1707, 1711.

Notes of Decisions

In general 1

1. In general

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16–13A–1 et seq., 16–13A–9, 16–13A–10, 16–13A–13, 16–13A–17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⟹ 110

§ 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.

Acts 1953, c. 147.

Library References

Counties ⟹114.
Municipal Corporations ⟹328.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 161.
C.J.S. Municipal Corporations §§ 1027 to 1029.

§ 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, 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.

Acts 1963, c. 75; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1997, c. 160, eff. 90 days after April 10, 1997; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ⟹110.
Municipal Corporations ⟹225.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 147.
C.J.S. Municipal Corporations §§ 882 to 892.

§ 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.

Acts 1953, c. 147.

Library References

Counties ⟹188.
Municipal Corporations ⟹937, 955.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 226.
C.J.S. Municipal Corporations §§ 1707, 1711.

Notes of Decisions

In general 1

1. In general

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⟹ 222; Municipal Corporations ⟹ 225(1)

§ 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.

Acts 1953, c. 147.

Library References

Counties ⟹175.
Municipal Corporations ⟹913.
Westlaw Topic Nos. 104, 268.
C.J.S. Counties § 218.
C.J.S. Municipal Corporations §§ 1647 to 1648, 1651.

§ 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.

Acts 1953, c. 147; Acts 1986, c. 81; Acts 1994, c. 61.

Library References

Counties ⟹18.
Municipal Corporations ⟹5.
Taxation ⟹2316, 3519.
Westlaw Topic Nos. 104, 268, 371.
C.J.S. Counties § 31.
C.J.S. Municipal Corporations § 11.

Notes of Decisions

In general 2
Validity 1

1. Validity

Statute authorizing creation of public service districts violates no provision of State Constitution, nor is it violative of Fourteenth Amendment to United States Constitution. Act 1953, c. 147; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⟹ 4056; Municipal Corporations ⟹ 4

Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional

delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⟹ 2355; Municipal Corporations ⟹ 4

2. In general

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⟹ 222; Municipal Corporations ⟹ 225(1)

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying water and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6, § 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⟹ 123(3); Statutes ⟹ 123(5)

§ 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 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.

Acts 1958, c. 14; Acts 1960, c. 19.

W.Va. Const., art. IX, § 9, redesignated the office of the county court as county commission.

Library References

Counties ⚷18.
Municipal Corporations ⚷5.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 31.
C.J.S. Municipal Corporations § 11.

§ 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 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.

Acts 1958, c. 14; Acts 1960, c. 19; Acts 1965, c. 134.

W.Va. Const., art. IX, § 9, redesignated the office of the county court as county commission.

Library References

Counties ⚷47.
Municipal Corporations ⚷166.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties §§ 70 to 73.
C.J.S. Municipal Corporations §§ 369 to 371.

§ 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.

Acts 1958, c. 14; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 118; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ⟹149.
Municipal Corporations ⟹864(3).
Westlaw Topic Nos. 104, 268.

C.J.S. Counties §§ 185, 187.
C.J.S. Municipal Corporations §§ 1583 to 1585, 1587.

Notes of Decisions

In general 1

1. In general

The borrowing by PSD's of money from counties and/or municipalities, as evidenced by a note, is permissible borrowing under this section. 62 W.Va. Op.Atty.Gen. 27 (May 6, 1988) 1988 WL 483331.

§ 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, twenty or twenty-four of this article without the prior consent and approval of the Public Service Commission: *Provided*, That approval of funding set forth in section eleven, article two, chapter twenty-four of this code or this section is not required if the funding is for a project which has received a certificate of public convenience and necessity after the eighth day of July, two thousand five, from the commission and where the cost of the project changes but the change does not affect the rates established for the project.

(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 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 provision of chapter twenty-four of this code when a public service district is seeking to acquire or construct public service property.

Acts 1969, 1st Ex. Sess., c. 6; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1996, c. 213, eff. 90 days after March 9, 1996; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2003, c. 184, eff. 90 days after March 7, 2003; Acts 2005, c. 193, eff. 90 days after April 9, 2005; Acts 2006, c. 190, eff. 90 days after March 10, 2006.

Library References

Counties ⟹114.
Municipal Corporations ⟹270.
Public Utilities ⟹145.
Westlaw Topic Nos. 104, 268, 317A.

C.J.S. Counties § 161.
C.J.S. Public Utilities §§ 26 to 32, 159 to 167, 169 to 171, 177 to 178.

Research References

ALR Library

101 ALR 5th 287, Remedies for Sewage Treatment Plant Alleged or Deemed to be Nuisance.

Notes of Decisions

In general 1
Certificate of public convenience and necessity 2

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1. In general

Proposed sewage treatment project complied with buffer zone requirements where all parties acknowledged that distance of proposed sewage lagoons from property owners' home was further than minimum buffer-zone requirement of 300 feet; Public Service Commission relied on ample evidence in record to support claim that proposed location was both cost-effective and environmentally sound. Code, 16-13A-25, 24-2-11, 24-2-11(a). Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Municipal Corporations ⟹ 708

2. Certificate of public convenience and necessity

Public Service district must obtain certificate of public convenience and necessity before it can acquire or construct public service property. Code, 16-13A-25. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Public Utilities ⟹ 113

West's

Annotated Code of West Virginia

Using the Classification and Numbering System of the 1931 Code of West Virginia, as Amended

Chapter 16

2009
Cumulative Annual Pocket Part

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order issued by the Secretary of the Department of Environmental Protection or the Environmental Quality Board requiring the municipality to cease the pollution of any stream or waters is hereby authorized to establish and maintain, by ordinance, just and equitable rates, fees or charges for the use of the services and facilities of the existing municipal sewer system and/or stormwater system, or for the use of the services and facilities to be rendered upon completion of any works and system necessary by virtue of said order, to be paid by the owner, tenant or occupant of each and every lot or parcel of real estate or building that is connected with and uses any part of such sewer system or stormwater system, or that in any way uses or is served thereby, and may change and readjust such rates, fees or charges from time to time.

(b) The rates, fees or charges shall be sufficient to all the proper and reasonable costs and expenses of the acquisition and construction of plants, machinery and works for the collection, treatment, purification and disposal of sewage or stormwater and the repair, alteration and extension of existing sewer facilities or stormwater facilities, as may be necessary to comply with such order of the Secretary of the Department of Environmental Protection or the Environmental Quality Board, and for the operation, maintenance and repair of the entire works and system.

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

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

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

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

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

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

(i) If any rate, fee or charge is not paid within thirty days after it is due, the amount thereof, together with a penalty of ten percent and a reasonable attorney's fee, may be recovered by the sanitary board of the municipality in a civil action in the name of the municipality.

(j) Any municipality exercising the powers given herein has the authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery or works necessary to comply with the order of the Secretary of the Department of Environmental

Protection or the Environmental Quality Board and the authority provided herein to establish, maintain and collect rates, fees or charges is an additional and alternative method of financing such works and matters, and is independent of any other provision of this article insofar as the article provides for or requires the issuance of revenue bonds or the imposition of rates, fees and charges in connection with the bonds: *Provided*, That except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in compliance with an order of the Secretary of the Department of Environmental Protection or the Environmental Quality Board and the rights, powers and duties of the municipality and the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article.

(k) The jurisdiction and authority provided by this section does not extend to highways, road and drainage easements and stormwater facilities constructed, owned 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.

(*l*) A municipality which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 40 C.F.R. § 122.26, has the authority to enact ordinances or regulations which allow for the issuance of orders, the right to enter properties and the right to impose reasonable fines and penalties regarding correction of violations of municipal stormwater ordinances or regulations within the municipal watershed served by the municipal stormwater system, as long as such rules, regulations, fines or actions are not contrary to any rules or orders of the Public Service Commission.

(m) Notice of a violation of a municipal stormwater ordinance or regulation shall be served in person to the alleged violator or by certified mail, return receipt requested. The notice shall state the nature of the violation, the potential penalty, the action required to correct the violation and the time limit for making the correction. Should a person, after receipt of proper notice, fail to correct the violation of the municipal stormwater ordinance or regulation, the municipality may make or have made the corrections of the violation and bring the party into compliance with the applicable stormwater ordinance or regulation. The municipality may collect the costs of correcting the violation from the person by instituting a civil action, as long as such actions are not contrary to any rules or orders of the Public Service Commission.

(n) A municipality which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community shall prepare an annual report detailing the collection and expenditure of rates, fees or charges and make it available for public review at the place of business of the governing body and the stormwater utility main office.

Acts 1955, c. 135; Acts 1967, c. 105; Acts 1994, c. 61; Acts 2001, c. 212, eff. 90 days after April 14, 2001; Acts 2008, c. 202, eff. March 8, 2008.

ARTICLE 13A

PUBLIC SERVICE DISTRICTS

Section
16–13A–9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.

§ 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; 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. 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, 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 water facilities, sewer facilities or stormwater facilities and the district owns and operates another kind of facility either water or sewer, or both, 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

or stormwater 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 which provides water and sewer service, water and stormwater service or water, sewer and stormwater service has the right to terminate water service for delinquency in payment of water, sewer or stormwater 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 or stormwater district is providing water service and the district providing sewer or stormwater service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer or stormwater district that is providing water service, upon the request of the district providing sewer or stormwater service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer or stormwater 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, 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) The owner, tenant or occupant of any real property may be determined and declared to be served by a stormwater system only after each of the following conditions is met: (1) The district has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 40 C.F.R. § 122.26; (2) the district's authority has been properly expanded to operate and maintain a stormwater system; (3) the district has made available a stormwater system where stormwater from the real property affects or drains into the stormwater system; and (4) the real property is

located in the Municipal Separate Storm Sewer System's designated service area. 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. An entity providing stormwater service shall provide a tenant a report of the stormwater fee charged for the entire property and, if appropriate, that portion of the fee to be assessed to the tenant.

(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, article eleven, chapter twenty-two of this code, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the Department of Environmental Protection, as prescribed by section eleven of said article is exempt from the provisions of this section.

(h) A public service district which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community shall prepare an annual report detailing the collection and expenditure of rates, fees or charges and make it available for public review at the place of business of the governing body and the stormwater utility main office.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1989, c. 174; Acts 1994, c. 61; Acts 2002, c. 272, eff. 90 days after March 9, 2002; Acts 2003, c. 183, eff. 90 days after March 8, 2003; Acts 2008, c. 202, eff. March 8, 2008.

§ 16–13A–15. Bonds may be secured by trust indenture

United States Code Annotated

Trust Indenture Act of 1939, see 15 U.S.C.A. § 77aaa et seq.

ARTICLE 13D

REGIONAL WATER AND WASTEWATER AUTHORITY ACT

§ 16–13D–11. Bonds may be secured by trust indenture

United States Code Annotated

Trust Indenture Act of 1939, see 15 U.S.C.A. § 77aaa et seq.

ARTICLE 14

BARBERS AND COSMETOLOGISTS

Section
16–14–1 to 16–14–3. Repealed.

§§ 16–14–1 to 16–14–3. Repealed by Acts 2009, c. 175, eff. July 10, 2009

Historical and Statutory Notes

The repealed sections, which related to barbers and cosmetologists, were derived from:

Acts 1951, c. 155.
Acts 1959, c. 139.
Acts 1967, c. 22.
Acts 1977, c. 102.
Acts 1985, c. 32.
Acts 1992, c. 26.

ARTICLE 15

STATE HOUSING LAW

§ 16–15–1. Definitions

United States Code Annotated

American Dream Downpayment Act, see 42 U.S.C.A. § 12821.
Farm housing, see 42 U.S.C.A. § 1471 et seq.
Helping Hands for Homeownership Act, see 42 U.S.C.A. §§ 1472, 12805.
Housing and Community Development Act of 1974, see 42 U.S.C.A. § 5301 et seq.
Slum clearance and urban renewal, see 42 U.S.C.A. § 1441 et seq.

ARTICLE 18

SLUM CLEARANCE

§ 16–18–1. Short title

United States Code Annotated

Slum clearance and urban renewal, see 42 U.S.C.A. § 1441 et seq.

ARTICLE 19

REVISED ANATOMICAL GIFT ACT

Section	
16–19–1.	Short title.
16–19–2.	Applicability.
16–19–3.	Definitions.
16–19–4.	Who may make anatomical gift before donor's death.
16–19–5.	Manner of making anatomical gift before donor's death.
16–19–6.	Amending or revoking anatomical gift before donor's death.
16–19–7.	Refusal to make anatomical gift; effect of refusal.
16–19–8.	Preclusive effect of anatomical gift, amendment, or revocation.
16–19–9.	Who may make anatomical gift of decedent's body or part.
16–19–10.	Manner of making, amending, or revoking anatomical gift of decedent's body or part.
16–19–11.	Persons who may receive anatomical gift; purpose of anatomical gift.
16–19–12.	Search and notification.
16–19–13.	Delivery of document of gift not required; right to examine.
16–19–14.	Rights and duties of procurement organization and others.
16–19–15.	Coordination of procurement and use.
16–19–16.	Prohibited acts; sale or purchase of parts prohibited.
16–19–17.	Immunity.

The Johnson-Watson Co., Dayton, Ohio—Charleston, W. Va.—N-6247

IN RE: PROPERTY OWNERS OF UNION DISTRICT, KANAWHA COUNTY, WEST VIRGINIA ASKING FOR THE CREATION OF A PUBLIC SERVICE DISTRICT.

The County Court of Kanawha County, West Virginia, met this day in Regular Session held this 9th day of September, 1955 at 10:00 A. M., pursuant to the call of Hubert Kelly, President, Bruce E. Bartlett, Commissioner and _____ Commissioner, said call being;

"To consider a petition of residents and property owners of Union District, Kanawha County, West Virginia, asking for the creation of a public service district in the area therein described, and to adopt a proposed resolution and enter a proper order fixing a date of hearing on the creation of a public service district in Union District, Kanawha County, West Virginia, as set forth in said petition and to provide for the publication of a notice of such hearing."

The meeting was called to order and the roll being called there were present Hubert Kelly, President, presiding, and the following named commissioners:

Bruce Bartlett
S. Grover Smith

And were absent:

None

Bruce Bartlett introduced and caused to be read a proposed resolution and order entitled:

"A resolution and order fixing a date of hearing on the creation of public service district within Kanawha County, West Virginia; and providing for the publication of a notice of such hearing",

and moved that all rules otherwise requiring deferred consideration be suspended and said proposed resolution and order be adopted.

Kelly seconded the motion and after due consideration the President put the question on the motion, and the roll being called the following voted:

Aye: H. Kelly
Bruce Bartlett
S. Grover Smith

Nay: None

Whereupon the president declared the motion duly carried and said resolution and order duly adopted on motion and vote, the meeting was thereupon adjourned.

PAUL E. WEHRLE, CLERK

By /s/ C. L. Samples
Deputy

/s/ Hubert Kelly
President

A Resolution and Order fixing a date of hearing on the creation of a proposed public service district within Kanawha County, West Virginia: and providing for the publication of a notice of such hearing.

WHEREAS, there has heretofore been filed in the office of the Clerk of the County Court of Kanawha County, West Virginia, a petition to this County Court, for the creation of a public service district within Kanawha County, West Virginia; and

WHEREAS, said County Court Clerk has presented such petition to this County Court at this meeting; and

WHEREAS, pursuant to the provisions of Article 13A of Chapter 16 of the West Virginia Code this County Court upon presentation of such petition is required to fix a date of hearing on the creation of the proposed public service district:

NOW, therefore, Be It and It Is Hereby Resolved and Ordered by the County Court Of Kanawha County, West Virginia, as follows:

Section 1. That the County Court of Kanawha County, West Virginia, hereby finds and declares that there has been filed in the office of the County Court Clerk and presented by said County Court Clerk to this County Court a petition for the creation of a public service district within Kanawha County, West Virginia, which petition contains a description sufficient to identify the territory to be embraced within the proposed public service district and the name of the proposed public service district and which petition has been signed by at least one hundred legal voters resident within and owning real property within the limits of the proposed public service district, and said County Court further finds and declares that said petition in all respects meets the requirements of Article 13A of Chapter 16 of the West Virginia Code.

Section 2. That said petition, among other things, states as follows:

(a") The name and corporate title of said pbblic Service district shall be the "Union Public Service District.".

(b) The territory to be embraced in said public service district shall be as follows:

Beginning at a point in a Northerly direction 1,000 feet from the intersection of U. S. Route 35 and 40th Street Road, thence N. 77° 00' E. 19,000 feet, thence S. 40° 00' E. 5,500 feet, thence S 55° 00' W. 4,900 feet to a point, thence S. 85° 00' W. 10,000 feet to a point, thence S. 10° 00' W. 3,500 feet to a point, thece S. 76° 00' W. 4,000 feet to a point, thence N. 38° 00' W. 9,000 feet to a Point N. 57°00' E. 2,000 feet to beginning.

Comprising the communities of Armour Creek, Lake Chaweva, Cross Lanes, Silver Lake, Hillsdale, Flatwoods, Walnut Valley Acres, Fairview and Rocky Fork as shown on a map prepared by J. H. Milam, Consulting Engineer, June, 1955.

(c) The purpose of said public service district shall be to construct, or acquire by purchase or otherwise, and maintain, operate, improve and extend properties supplying water and sewerage services within such territory and also outside such territory to the extent permitted by law.

(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 of the West Virginia Code, nor does such territory include within its limits any city, incorporated town or other municipal corporation.

Section 3. That on October 4, 1955, at the hour of 11:00 o'clock A. M., this County Court shall meet in the County Court House at Charleston, 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 before this County Court and shall have an opportunity to be heard for and against the creation of said district, and at such hearing, this County Court shall considerand determine the feasibility of the creation of the proposed public service district.

Section 4. That the County Court Clerk is hereby authorized and directed to cause notice of such hearing in substantially the form hereinafter set out to be published on September 14, 1955, in the Charleston Daily Mail, a newspaper of general circulation published in Kanawha County.

The Johnson-Watson Co., Dayton, Ohio—Charleston, W. Va.—M-6841

NOTICE OF PUBLIC HEARING
ON CREATION OF UNION
PUBLIC SERVICE DISTRICT

Notice is hereby given that a legally sufficient petition has been filed with the Clerks of the County Court of Kanawha County, West Virginia, and has been presented to the County Court of Kanawha for the creation of a public service district within Kanawha County, for the purpose of constructing or acquiring by purchase or otherwise and the maintenance, operation, improvement and extension of public service properties supplying water and sewerage services within said district and also outside said district to the extent permitted by law; to be named "Union Public Service District" and having the following described boundaries:

Beginning at a point in a Northerly direction 1,000 feet from the intersection of U. S. Route 35 and 40th Street Road, thence 77° 00' E. 19,000 feet, thence S 40° 00' E. 5,500 feet, thence S. 55°00' W. 4,900 feet to a point, thence S. 85° 00' W. 10,000 feet to a point, thence S. 10° 00' W. 3,500 feet to a point, thence S. 76° 00' W. 4,000 feet to a point, thence N. 38° 00' W. 9,000 feet to a point, N. 57° 00' E. 2,000 feet to beginning.

Comprising the communities of Armour Creek, Lake Chaweva, Cross Lanes, Silver Lake, Hillsdale, Flatwoods, Walnut Acres, Fairview, and Rocky Fork as shown on map prepared by J. H. Milam, Consulting Engineer, June, 1955.

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 Kanawha County will conduct a public hearing on October 4, 1955 at 11:00 o'clock A.M. in the County Court House at Charleston, 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.

By order of the County Court this day September 8, 1955

/s/ Paul E. Wehrle
County Court Clerk

Adopted by the County Court September 8, 1955

/s/ Hubert Kelly
President

Attest: Paul E. Wehrle, Clerk
/s/
By C. L. Samples
Deputy

I, ALMA Y. KING, do hereby certify that this is a true copy from the original
Teste: ALMA Y. KING, Clerk
Kanawha County Commission
Date 8-19-97 By [signature]
Deputy

STATE OF WEST VIRGINIA)
) SS
COUNTY OF KANAWHA)

I, Paul Wehrle, hereby certify that I am the duly qualified and acting Clerk of the County Court of Kanawha County, West Virginia, and that the foregoing constitutes a true, correct and complete transcript of the proceedings of said County Court as had under date of September 8, 1955, and a resolution and order then adopted relating to the proposed creation of The Union Public Service District, all as shown by the official records in my office.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and the seal of said Court at Kanawha, West Virginia this September 8, 1955.

The Johnson-Watson Co., Dayton, Ohio—Charleston, W. Va.—M-4847

At a Regular Session of the County Court of Kanawha County, West Virginia, held at the Court House thereof on Saturday the first day of October, 1955. Present: Hubert Kelly, President, Bruce E. Bartlett and S. G. Smith, Sr., Commissioners thereof.

The Court met this day in regular session and there being no business to transact, adjourned until Monday the 3rd day of October, 1955 at 10:00 o'clock A. M.

Hubert Kelly
President

At a Regular Session of the County Court of Kanawha County, West Virginia held at the Court House thereof on Monday the 3rd day of August (October), 1955. Present: Hubert Kelly, President, Bruce E. Bartlett and S. G. Smith, Sr., Commissioners thereof.

IN RE: APPOINTMENT OF DR. C. KEITH LYONS AS PHYSICIAN FOR THE MENTAL HYGIENE COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA

It appearing to the County Court that Dr. Brainard Hines who was heretofore appointed as one of the Mental Hygiene Physicians of the Kanawha County Mental Hygiene Commission is now deceased and it is necessary that another competent physician be appointed, it is ordered that Dr. C. Keith Lyons be, and he hereby is appointed and is authorized to make examinations of persons suspected of being lunitics and brought before the mental hygiene commission of this County and report his findings to the said commission.

Ordered this Court adjourn until Tuesday the 4th day of October, 1955 at 10:00 o'clock A. M.

Hubert Kelly
President

October 4, 1955

The County Court of Kanawha County, West Virginia, met in regular session pursuant to law and to the rules of said Court at the County Court House, Charleston, West Virginia, at 11:00 o'clock A. M. The meeting was called to order and the roll being called there were present Hubert Kelly, President, presiding and the following named Commissioners:

Bruce E. Bartlett
S. Grover Smith, Sr.,

Absent:

None

This being the date fixed by prior action of the County Court for conducting the public hearing on the creation of the proposed Union Public Service District, as contemplated and provided for in a resolution and order adopted by the County Court on the 9th day of September, 1955, the President announced that all persons residing in or owning or having any interest in property in such proposed public service district desiring to be heard for or against the creation of said district would be heard and all such interested persons desiring to be heard were given full opportunity.

The County Court then further discussed the creation of said public service district, whereupon Bruce E. Bartlett introduced and caused to be read a proposed resolution and order entitled:

A RESOLUTION AND ORDER CREATING UNION PUBLIC SERVICE DISTRICT IN KANAWHA COUNTY, WEST VIRGINIA

WHEREAS, the County Court of Kanawha County, West Virginia did heretofore by a resolution and order adopted September 9th, 1955, fix a date for a public hearing on the creation of the proposed Union Public Service District and in and by said resolution and order provide that all persons residing in or having any interest in the proposed public service district might appear before the County Court at this meeting and have the opportunity to be heard for an against the creation of said district; and

WHEREAS, notice of this hearing was duly given in the manner provided and required by said resolution and order and by Article 13A of Chapter 16 of the West Virginia Code, and all interested persons have been afforded an opportunity of being heard for and against the creation of said district, but no written protest has been filed by the requisite number of qualified voters registered and residing within said proposed public service district and said County Court Has given due consideration to all matters for which such hearing was offered; and

WHEREAS, it is now deemed desirable by said County Court to adopt a resolution and order creating said district;

NOW, THEREFORE, Be It and It is Hereby Resolved and Ordered by the County Court of Kanawha County, West Virginia, as follows:

Section 1. That a public service district within Kanawha County, West Virginia, is hereby created, and said district shall have the following described boundaries:

"Beginning at a point in a Northerly direction 1,000 feet from the intersection of U. S. Route 35 and 40th Street Road, thence N. 77° 00' E. 19,000 feet, thence S. 40° 00' E. 5,500 feet, thence s. 55° 00' W. 4,900 feet to a point, thence S. 85°00' W. 10,000 feet to a point, thence S. 10°00' W. 3,500 feet to a point, thence S. 76°00' W. 4,000 feet to a point, thence N. 38° 00' W. 9,000 feet to a point N. 57°00' E. 2,000 feet to beginning.

Comprising the communities of Armour Creek, Lake Chaweva, Cross Lanes, Silver Lake, Hillsdale, Flatwoods, Walnut Valley Acres, Fairview and Rock Park as shown on a map prepared by J. H. Milam, Consulting Engineer, June, 1955.

Section 2. That said public service district so created shall have the name and corporate title of "Union Public Service District" and shall constitute a public corporation and political subdivision of the State of West Virginia having all of the rightsand powers conferred on public service districts by the laws of the State of West Virginia and particularly Article 13A of Chapter 16 of the West Virginia Code.

Section 3. That the County Court of Kanawha County, West Virginia, has determined that the territory within Kanawha County, West Virginia, having the herein-

The Johnson-Watson Co., Dayton, Ohio—Charleston, W. Va.—N-4341

above described boundaries, is so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, imporvement and extension of properties supplying both water and sewerage services within such territroy by said public service district will be conducive to the preservation of public health, comfort and convenience of such area.

and moved that all rules otherwise requiring deferred consideration or several readings be suspended and said proposed resolution and order be adopted. S. Grover Smith, Sr., seconded the motion and after due consideration the President put the question on the motion and the roll being called, the following voted:

Aye: Hubert Kelly
Bruce E. Bartlett
S. Grover Smith, Sr.

Nay: None

Whereupon the President declared the motion duly carried and said resolution and order duly adopted.

S Grover Smith,Sr., introduced and caused to be read a proposed resolution and order, entitled:

A RESOLUTION AND ORDER APPOINTING MEMBERS TO THE PUBLIC SERVICE BOARD OF THE UNION PUBLIC SERVICE DISTRICT

WHEREAS, the County Court of Kanawha County, West Virginia, did heretofore by resolution and order adopted October 4th, 1955 create the Union Public Service District; and

WHEREAS, since there is no city, incorporated town or other municipal corporation included within said district, it is provided by said Article 13A of Chapter 16 of the West Virginia Code that this County Court shall appoint three members of said board, who shall be persons residing within the district:

NOW THEREFORE, Be It and It Is Hereby Resolved and Ordered by the County Court of Kanawha County, West Virginia, as follows:

Section 1. That the County Court of Kanawha County, West Virginia, hereby finds and determines that HIRAM KING, JOHN T. PAYNE, and MURRY G. McGUIRE, are persons residing within the Union Public Service District, and the aforesaid persons are hereby appointed as members of the Public Service Board of said district and their respective terms of office shall be as follows:

Hiram King, for a term of six years from the first day of the month in which this resolution and order is adopted;

John T. Payne, for a term of four years from the first day of the month in which this resolution and order is adopted; and

Murry G. McGuire, for a term of two years from the first day of the month in which this resolution and order is adopted.

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 an oath of office,

and thereafter said appointees constituting the initial public service Board of the Union Public Service District shall meet and organize in compliance with the provisions of Article 13A of Chapter 16 of the West Virginia Code.

and moved that all rules otherwise requiring deferred consideration or several readings be suspended and said proposed resolution and order be adopted. Bruce E. Bartlett seconded the motion and after due consideration the President put the question on the motion and the roll being called the following voted:

Aye: Hubert Kelly
Bruce E. Bartlett
S. Grover Smith, Sr.

Nay: None

Whereupon the President declared the motion duly carried and said resolution and order duly adopted.

COUNTY COURT
LEVY ESTIMATE

Prescribed B y

TAX COMMISSIONER

STATE OF WEST VIRGINIA

FISCAL YEAR 1955-1956

KANAWHA COUNTY

THE LEVY ESTIMATE shall be made on this form Tuesday, August 2nd, 1955, and two certified copies thereof forwarded to the State Tax Commissioner, Charleston.

COUNTY COURT LEVY ESTIMATE

Chapter 132 Acts Regular Session 1939.

Section 9. Meeting of Local Levying Bodies. - Each locallevying body shall hold a session on the FIRST Tuesday in August for The transaction of business generally and particularly for the business herein required.

Section 10. Levy Estimate by County Court; Certification to Tax Commissioner and Publication. - The County Court shall, at the session provided for in section nine of this article, ascertain the fiscal condition of the county, and make an itemized statement setting forth:

(1) The amount due and the amount that will become due and collectible from every source during the current fiscal year except from the levy of taxes to be made for the year upon the county as a whole and upon any district of the county for which the levies are laid by the county court;

(2) The interest, sinking fund and amortization requirements for the current fiscal year of bonded indebtedness legally incurred upon a vote of the people, as provided by law, owing by the county as a whole and by any district;

(3) Other contractual indebtedness not bonded, legally incurred prior to the adoption of the tax limitation amendment, owing by the county as a whole and such debts owing by any district;

(4) All other expenditures to be paid out of the receipts for the current fiscal year, with proper allowance for delinquent taxes, exonerations and contingencies;

I, ALMA Y. KING, do hereby certify
that this is a true copy from the original
Test: ALMA Y. KING, Clerk
Kanawha County Commission

KANAWHA COUNTY COMMISSION

Post Office Box 3627
Charleston, West Virginia 25336

Telephone (304) 357-0101
Fax (304) 357-0788

Henry C. Shores
Commissioner

W. Kent Carper
Commissioner

David J. "Dave" Hardy
Commissioner

September 15, 2005

Ms. Wilma Davis
106 Circle Drive
Cross Lanes, WV 25313

Dear Ms. Davis:

On behalf of the Kanawha County Commission, it is indeed a pleasure to inform you that you have been reappointed to the Union Public Service District.

It will be necessary to request your acceptance of this reappointment as soon as possible, and after accepting this reappointment, you must appear at the Kanawha County Commission office, before a Notary Public in and for the State of West Virginia, or the Office of the County Clerk to take your oath of office. An Officer's Oath has been enclosed for your convenience.

We look forward to having your continued service on the Kanawha County Planning Commission.

Sincerely,

W. Kent Carper
President

Henry C. Shores
Commissioner

Dave Hardy
Commissioner

WKC:HCS:DH/krm
Attachment

2005-510

At a Regular Session of the County Commission of Kanawha County, West Virginia, held at the Courthouse thereof, on the 15th day of September, 2005, the following order was made and entered:

SUBJECT: Reappointment of Wilma Davis to the Union Public Service District (*term expiration October 1, 2011*)

The following motion was offered by Dave Hardy, Commissioner:

The County Commission of Kanawha County, West Virginia, having been apprised of the expiration of the term of Wilma Davis, a member of the Union Public Service District, doth ORDER that Wilma Davis, 106 Circle Drive, Cross Lanes, West Virginia 25313, be reappointed to the Union Public Service District for a term expiring October 1, 2011.

It is further ORDERED that the said Wilma Davis shall appear at the office of the County Commission and shall qualify by taking the oath of office as required in Chapter 16, Article 13A, Section 3, of the Code of West Virginia, 1931, as amended.

The adoption of the foregoing motion having been moved by Dave Hardy, Commissioner, and duly seconded by Henry C. Shores, Commissioner, the vote thereon was as follows:

W. Kent Carper, President	AYE
Henry C. Shores, Commissioner	AYE
Dave Hardy, Commissioner	AYE

WHEREUPON, W. Kent Carper, President declared said motion duly adopted; and it is therefore ADJUDGED and ORDERED that said motion be, and the same is hereby adopted.

W. Kent Carper, President

Henry C. Shores, Commissioner

Dave Hardy, Commissioner

Approved By: _____
County Attorney

KANAWHA COUNTY COMMISSION

Post Office Box 3627
Charleston, West Virginia 25336

Telephone (304) 357-0101
Fax (304) 357-0788

Henry C. Shores
Commissioner

W. Kent Carper
Commissioner

David J. "Dave" Hardy
Commissioner

September 25, 2003

Ms. Wilma Davis
Chairperson
5106 Barnette Drive
Cross Lanes, WV 25313

Dear Ms. Davis:

Attached is a copy of an Order passed by the Kanawha County Commission Re-appointing Dr. Charles Warner to your Board.

The Commission is appreciative of the work that your Board does in the community and will support you in any way they can. If you have any questions concerning this appointment or other matters, please feel free to call the Commission Office.

Sincerely,

W. Kent Carper
President

Henry C. Shores
Commissioner

Dave Hardy
Commissioner

WKC/HCS/DH:vlm

Attachment

At a Regular Session of the County Commission of Kanawha County, West Virginia, held at the Courthouse thereof, on the 25th day of September, 2003, the following order was made and entered:

SUBJECT: REAPPOINTMENT OF DR. CHARLES WARNER TO THE UNION PUBLIC SERVICE DISTRICT

The following motion was offered by DAVE HARDY, COMMISSIONER:

The County Commission of Kanawha County, West Virginia, having been apprised of the expiration of the term of Dr. Charles Warner, a member of the UNION PUBLIC SERVICE DISTRICT doth ORDER that Dr. Charles Warner of PO Box 7559, Cross Lanes, WV 25356, be reappointed to the UNION PUBLIC SERVICE DISTRICT for a term expiring October 1, 2009.

It is further ORDERED that the said shall appear at the office of the County Commission and shall qualify by taking the oath of office as required in Chapter 16, Article 13A, Section 3, of the Code of West Virginia, 1931, as amended.

The adoption of the foregoing motion having been moved by DAVE HARDY, Commissioner, and duly seconded by HENRY C. SHORES, Commissioner, the vote thereon was as follows:

W. Kent Carper, President	AYE
Henry C. Shores, Commissioner	AYE
Dave Hardy, Commissioner	~~AYE~~

WHEREUPON, W. Kent Carper, President declared said motion duly adopted; and it is therefore ADJUDGED and ORDERED that said motion be, and the same is hereby adopted.

W. Kent Carper, President

Henry C. Shores, Commissioner

Dave Hardy, Commissioner

Approved By: _____
County Attorney

KANAWHA COUNTY COMMISSION

Post Office Box 3627
Charleston, West Virginia 25336

Telephone (304) 357-0101
Fax (304) 357-0788

Henry C. Shores
Commissioner

W. Kent Carper
Commissioner

David J. "Dave" Hardy
Commissioner

October 4, 2001

Mr. Wilma Davis, Chairwoman
5106 Barnette Drive
Cross Lanes, West Virginia 25313

Dear Ms. Davis:

Attached is a copy of the Order passed by the Kanawha County Commission reappointing Joe Williams to your Board. We are confident that this individual will continue to be a valuable member of your organization.

The Commission is appreciative of the work that your Board does in the community and will support you in anyway they can. If you have any questions concerning this reappointment or other matters, please feel free to call the Commission Office.

Sincerely,

W. Kent Carper
President

Henry C. Shores
Commissioner

Dave Hardy
Commissioner

WKC/HCS/DJH/jc

2001-476

At a Regular Session of the County Commission of Kanawha County, West Virginia, held at the Courthouse thereof, on the 4th day of October, 2001, the following order was made and entered:

SUBJECT: REAPPOINTMENT OF JOE WILLIAMS TO THE UNION PUBLIC SERVICE DISTRICT

The following motion was offered by Henry C. Shores, Commissioner:

The County Commission of Kanawha County, West Virginia, having been apprised of the expiration of the term of Joe Williams a member of the Union Public Service District, doth ORDER that Joe Williams, 104 Orchard Drive, Nitro, West Virginia 25143, be reappointed to the Union Public Service District for a term expiring October 1, 2007.

It is further ORDERED that the said Joe Williams shall appear at the office of the County Commission and shall qualify by taking the oath of office as required in Chapter 16, Article 13A, Section 3, of the Code of West Virginia, 1931, as amended.

The adoption of the foregoing motion having been moved by Henry C. Shores, Commissioner, and duly seconded by Dave Hardy, Commissioner, the vote thereon was as follows:

W. Kent Carper, President	Aye
Henry C. Shores, Commissioner	Aye
Dave Hardy, Commissioner	Aye

WHEREUPON, W. Kent Carper, President declared said motion duly adopted; and it is therefore ADJUDGED and ORDERED that said motion be, and the same is hereby adopted.

W. Kent Carper, President

Henry C. Shores, Commissioner

David J. Hardy, Commissioner

Approved By: _____
County Attorney

04716

OFFICER'S OATH

THE STATE OF WEST VIRGINIA, KANAWHA COUNTY, TO WIT:

I, Wilma Davis, having been duly reappointed to the Union Public Service District, do solemnly swear that I will support the Constitution of the United States and the Constitution of this State and that I will truly and faithfully discharge all the duties of said office, during my continuance therein, to the best of my skill and judgment, so help me, God.

Wilma Davis

Subscribed and sworn to before the undersigned, Notary Public of said County, this 15 day of Sept, 2005.

Janet L Searls
Notary Public

[NOTARIAL SEAL]

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
JANET L. SEARLS
KANAWHA COUNTY CLERK'S OFFICE
409 VIRGINIA STREET, EAST
CHARLESTON, WV 25301
My commission expires March 17, 2013

FIDUC 247 603
Recorded In Above Book and Page
12/18/2001 02:27:22 PM
Alma Y. King
County Clerk
Kanawha County, WV

Deed Tax	0.00
Recording Fee	0.00
TOTAL	0.00

02500

OFFICER'S OATH

THE STATE OF WEST VIRGINIA, KANAWHA COUNTY, TO WIT:

I, Joe Williams, having been duly _____ to the office of Union Public Service District

do solemnly swear that I will support the Constitution of the United States and the Constitution of this State and that I will truly and faithfully discharge all the duties of said office, during my continuance therein, to the best of my skill and judgement, so help me, God.

Joe Williams
Signature

Subscribed and sworn to before the undersigned, Notary Public of said county, this 11th day of October, ~~19~~ 2001.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
KANAWHA CO. CLERK'S OFFICE
409 VIRGINIA STREET
CHARLESTON, WV 25301
My commission expires May 9, 2011

Alma Y. King, Clerk
Notary Public
Patricia E. Lucas

FIDUC 256 300
Recorded In Above Book and Page
10/09/2003 12:49:57 PM
Alma Y. King
County Clerk
Kanawha County, WV

Deed Tax	0.00
Recording Fee	0.00
TOTAL	0.00

03471

OFFICER'S OATH

THE STATE OF WEST VIRGINIA, KANAWHA COUNTY, TO WIT:

I, DR. CHARLES WARNER, having been duly RE-APPOINTED to the UNION PUBLIC SERVICE DISTRICT, do solemnly swear that I will support the Constitution of the United States and the Constitution of this State and that I will truly and faithfully discharge all the duties of said office, during my continuance therein, to the best of my skill and judgment, so help me, God.

Dr Chas Warner
DR. CHARLES WARNER

Subscribed and sworn to before the undersigned, Notary Public of said County, this 9th of October, 2003.

Andrea N Dodd
Notary Public
(Commissioned by Andrea N Hen

My commission expires: March 17, 2013

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ANDREA N. HENSLEY
KANAWHA COUNTY CLERK'S OFFICE
409 VIRGINIA STREET, EAST
CHARLESTON, WV 25301
My commission expires March 17, 2013

ARTICLE I

OFFICES

The principal office. The place of business of Union Public Service District shall be at 5110 Washington Street, West Charleston, West Virginia, or at such other place as the Board of Commissioners may from time to time designate.

ARTICLE II

MEETINGS OF THE BOARD OF COMMISSIONERS

Section 1

Regular meetings. The regular meetings of the Board of Commissioners of Union Public Service District shall be held at its principal office, or at such other place as the Board of Commissioners may from time to time designate, on the second Tuesday of each month at 9:30 a. m. In the event that a majority of the Commissioners believe that a regular meeting, scheduled as aforesaid, will not be able to be duly convened due to a lack of a quorum, said Commissioners may re-set any such regular meeting to another time and/or place as may be informally agreed upon by said majority, provided, however, that all of the Commissioners must be notified in writing of any such change of time and/or place of a regular meeting at least three days prior to such meeting.

Section 2

Special meetings. A special meeting of the Board of Commissioners of Union Public Service District may be called by either the Chairman of the Board of Commissioners or by any two members of said Board acting together. Such meeting shall be held at the principal office of the District, unless called to be held at some other place.

Section 3

Notice of Meetings. Notice of all meetings of the Board of Commissioners, except the regular monthly meeting, shall be given by notice mailed to each of the Commissioners at least three days prior to such meeting, such notice to be addressed to the Commissioner at his last post office address appearing on the books of the District. It shall be the duty of each Commissioner to furnish to the Secretary of the District his regular post office address and immediately notify the Secretary in writing of any change therein. Notice of any meeting mailed to the last post office address so furnished by the Commissioner shall be sufficient notice hereunder.

Section 4

Waiver of Notice. Any meeting of the Board of Commissioners may be held by agreement in writing by all the Commissioners and where notice is required, the same may be waived in writing by all the Commissioners.

Section 5

Quorum. - Adjournments. At all meetings of the District's Commissioners, a quorum shall be constituted by the presence of at least two

of the three Commissioners or, in the event that more than three Commissioners are appointed to the District's Board by the County Court of Kanawha County, West Virginia, then a majority of the total number of Commissioners shall constitute a quorum. If a sufficient number of Commissioners are not present at the time and place appointed, those who do attend may adjourn from time to time until the meeting is regularly constituted.

Every meeting of the Commissioners may be adjourned from time to time until the completion of the business for which the meeting was called.

Section 6

Voting. Upon any question to be determined at a meeting of the Board of Commissioners, other than the election of officers, which is otherwise provided for in these by-laws, each Commissioner shall have one vote which must be personally exercised by him at said meeting. No voting by agent or by proxy shall be permitted. All such questions shall be determined by a majority vote of the Commissioners attending the meeting, provided a quorum is present.

Section 7

Record of Meetings. A written record shall be kept of the meetings of the Commissioners and the action taken at such meetings, which shall be verified by the signatures of the persons acting as Chairman and Secretary of the meeting.

ARTICLE III

OFFICERS AND AGENTS

Section 1

Election and appointment. The executive officers of the District shall be the Chairman, Treasurer and Secretary. The Treasurer and Secretary need not be members of the Board of Commissioners appointed by the County Court of Kanawha County, West Virginia.

Such officers shall be elected at the first meeting of the Commissioners and thereafter at the first meeting of each calendar year for each year thereafter. They shall hold office for one year or until their successors are elected and qualified, unless their respective terms of office are shortened at a regular meeting or special meeting of the Commissioners called for that purpose.

Section 2

A Commissioner shall receive the sum of one-twelfth of $500.00 as compensation for each regular monthly meeting of the Board of Commissioners that he, himself, attends in person.

The compensation of agents and employees of the District shall be prescribed by the Commissioners.

Section 3

Chairman. The Chairman shall be the chief executive officer of the District. He shall, if in attendance preside at all meetings of the Board

of Commissioners. He shall keep the Board of Commissioners fully informed as to the business of the District. He shall present at any meeting of the Commissioners, when called upon to do so, a report of the condition of the District and its affairs. And, he shall perform such other duties as may be assigned to him by the Board of Commissioners.

Section 4

Treasurer. The treasurer shall have custody of the District's funds and securities and shall keep full and accurate accounts of receipts and disbursements in the books of the District, and shall deposit all moneys and valuable effects of the District in its name and to its credit in such depositories as may be designated by the Board of Commissioners.

All funds of the District shall be disbursed in such manner as may be prescribed by the Board of Commissioners pursuant to Section 12, Article 13A, Chapter 16 of the Code of West Virginia, as amended.

Section 5

Secretary. The secretary shall attend all meetings of the Board and act as secretary thereof and keep a record of the proceedings of such meetings in a book to be kept for that purpose. He shall give, or cause to be given, notice of all meetings to the other Commissioners. He shall be responsible for the establishment and maintenance of a system of recordkeeping for all activities carried on by the District, and he shall also perform such other duties as may be prescribed by the Board of Commissioners.

Section 6

Other Regulations. The Board of Commissioners shall have the power and authority to make such other regulations, not inconsistent with statutory law of the State of West Virginia and these by-laws, as it may deem expedient.

ARTICLE IV

ACCOUNTING

Section 1

Books of Account. The Board of Commissioners shall cause regular and correct books of account to be kept. Said books of account are to be audited, settled and balanced at least once a year by an independent certified public accountant. Said books of account shall show receipts from operation and application of the same.

ARTICLE V

INDEBTEDNESS

Section 1

The Commissioners, acting at either a regular or special meeting as provided herein, may empower any two officers of the District to borrow money for and in the name of the District, and to issue obligations for such borrowed money, and to incumber or mortgage any property, either real or personal, of the District, and to convey the same in trust to secure the payment of the District's obligations.

ARTICLE VI

INDEMNIFICATION OF COMMISSIONERS

Section 1

The District shall defend, indemnify, hold harmless, and in every way exonerate each person who shall at any time after October 28, 1968, serve as a Commissioner or Officer of the District from and against any and all claims and liabilities to which such person may become subject by reason of his being or having been a Commissioner or Officer of the District, or by reason of any action alleged to have been taken or omitted by him as such Commissioner or Officer, and shall exonerate, indemnify, reimburse and hold harmless each such person for all legal and other expenses reasonably incurred by him in connection with any such claim or liability; provided, however, that no such person shall be indemnified, exonerated, held harmless, or be reimbursed for any expense incurred in connection with any claim or liability arising out of his own wilful misfeasance, bad faith, gross negligence, or reckless disregard of the duties involved in the conduct of his office.

The rights accruing to any person under the foregoing provisions of article shall not exclude any other right to which he may be lawfully entitled, nor shall anything herein contained restrict the right of the District to indemnify or reimburse such person in any proper case even though not specifically herein provided for. The District, its individual Commissioners, Officers,

employees, and agents shall be fully protected in taking any action or making any payment under this article, or in refusing to do so, in reliance upon the advice of counsel.

ARTICLE VII

AUTHORIZATION BY STATUTORY AUTHORITY

Section 1

These by-laws are promulgated pursuant to Chapter 16-A of the Code of West Virginia, as amended, and all questions pertaining to the proper construction of these by-laws should be resolved by referring to said Chapter 16-A.

ARTICLE VIII

AMENDMENTS TO BY-LAWS

Section 1

These by-laws may be altered, amended or repealed and new by-laws may be adopted by a majority of the Commissioners present at any regular meeting or at any special meeting, if at least three days' written notice is given of intention to alter, amend, or repeal or to adopt new by-laws at such meeting.

UNION PUBLIC SERVICE DISTRICT

Regular Monthly Meeting Minutes

The regular monthly meeting of the Commissioners of Union Public Service District was held at the District's business office located at 5110 Washington Street, West, Cross Lanes, Kanawha County, West Virginia, on Wednesday, December 10, 2008, at 4:00 p.m.

Present were:

Wilma J. Davis, Chairperson
Dr. Charles Warner, Commissioner (Via Telephone)
Joe Williams, Commissioner
William D. Carter, General Manager
Earl Burks, Assistant General Manager
Jonathan Carpenter, Thrasher Engineering
Steve Hawkins, Resident

The meeting was called to order by Chairperson Davis. The minutes from the District's Emergency Meeting held on November 4, 2008, were circulated for review and approval. Upon motion made by Joe Williams and seconded by Dr. Charles Warner, it was moved that the minutes as circulated be approved. This motion was unanimously passed.

Under old business, Jonathan Carpenter of Thrasher Engineering provided the Commissioners with an update concerning the District's proposed Big Tyler/Little Tyler sewer expansion project and the upgrade of the District's 40th Street wastewater treatment facility After this report, no further action was taken with regard to this matter.

Project Requisition No. 13 regarding the District's BAN Loan at Putnam County Bank was presented to the Commissioners for review and approval. After reviewing the Requisition, it was moved by Joe Williams and seconded by Dr. Charles Warner that the Requisition as presented be approved and that the District's Chairperson be authorized to sign the Requisition requesting payment. This motion was unanimously passed.

This concluded items under old business and the District's Commissioners proceeded to agenda items under new business.

The first matter under new business was the election of officers for the calendar year 2009. Upon motion made by Dr. Charles Warner and seconded by Joe Williams, it was moved that the current officers retain their same positions as follows:

Chairperson - Wilma J. Davis
Secretary - Joe Williams
Treasurer - Dr. Charles Warner

A vote was taken and this motion was unanimously passed.

The Board then engaged in a discussion regarding employee appreciation. Upon motion made by Joe Williams and seconded by Dr. Charles Warner, it was moved that each of the District's employees, full and part-time, be given a $50.00 one-time bonus. This motion was unanimously passed.

Bill Carter, the District's General Manager, and Earl Burks, Assistant General Manager, gave a report on the District's general operations. After a discussion with the Board concerning operations, this concluded the items under new business.

There being no further business to discuss under either old or new business, a motion for adjournment was made by Joe Williams and seconded by Dr. Charles Warner. The meeting was adjourned upon passage of said motion. The District's regular monthly meeting for the month of January 2009 will be held on Wednesday, January 7, 2009, at 4:00 p.m., at the District's business office.

Joe Williams, Secretary

Wilma J. Davis, Chairperson

081369alj030609.wpd

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL

3/26/2009

Entered: March 6, 2009

CASE NO. 08-1369-PSD-CN

UNION PUBLIC SERVICE DISTRICT,
a public utility, Kanawha County.
Application for a certificate of convenience and necessity to construct improvements to the District's 40th Street wastewater treatment facility and an extension of its wastewater collection lines.

RECOMMENDED DECISION

On August 12, 2008, the Union Public Service District (District or Applicant) filed an application with the Public Service Commission for a certificate of convenience and necessity to construct improvements to the District's 40th Street wastewater treatment facility and to construct an extension of its wastewater collection lines. According to the application, the improvements to the District's facility are needed to stay in compliance with the District's NPDES Permit. The extensions will provide necessary sanitary sewer service to residents in certain areas of the Big Tyler Road and Little Tyler Road and, thereby, alleviate ground water contamination and pollution to the surrounding streams. The extensions will serve approximately 318 new customers. The project will be completed through three (3) contracts. The total project cost will be approximately $9,171,766. The project is to be financed with a loan from the United States Department of Agriculture, Rural Utility Service, in an amount not to exceed $4,172,000 at an interest rate not to exceed 6% for a term not to exceed 40 years, and funding from a private bond issue in the amount of $5,000,766 at an interest rate not to exceed 6% for a term not to exceed 40 years. The District proposed an interim rate increase to meet certain operation and maintenance costs and to pay its existing bonded indebtedness. Along with the application, the District filed Rule 42 Exhibits for both pre-project and post-project operations; a proposed notice of filing; and project plans and specifications.

By Order dated August 13, 2008, the District was directed to give notice of the filing of its application, including the proposed pre-project increased sewer rates and charges, by publishing a copy of said Order once in a newspaper, duly qualified by the Secretary of State, published and in general circulation in Kanawha County, West Virginia, making due return to the Commission of a proper certification of publication immediately thereafter. Anyone interested in the application was given thirty days in which to file written protests or petitions to intervene. The Order further noted that, if no protests were received within the thirty-day period, the Commission could waive formal hearing

and grant the application based on the evidence submitted with the application and the Commission's review thereof.

On September 10, 2008, Staff Attorney Lisa L. Wansley filed an Initial Joint Staff Memorandum to which was attached a September 4, 2008 Initial Internal Memorandum prepared by Karen L. Buckley, Utilities Analyst II, Water and Wastewater Division, and Joe Marakovits, Technical Analyst III, Engineering Division. Staff reported that the District's accountant had conducted a Class Cost of Service Study and had changed the rate blocks. Customers using 1,000-2,000 gallons of water per month will have a 24.4% increase. Customers using the average 4,500 gallons of water per month will have a 6% pre-project increase. The average post-project increase for customers using 4,500 gallons of water per month will be 34.11%. According to the District's annual report for the fiscal year ending June 30, 2007, the operating revenues for the sewer system were $1,476,333. The project, estimated to cost $9,172,766, is to be financed by a $4,172,000 USDA Rural Utilities Service Loan at 6% interest for 40 years and a $5,000,766 private bond issue at 6% interest for 40 years. Staff noted that, in both the pre-project and post-project tariffs, the District has requested EFT, credit card and drop payment charges. Staff indicated that the requested charges would be evaluated given a recent Commission Order concerning those issues.

On September 12, 2008, the District filed a completed Tariff Form No. 6-B pursuant to Rule 10.3. of the Commission's Rules of Practice and Procedure (Procedural Rules) and an Affidavit of Publication from the Charleston Gazette, a newspaper published and generally circulated in Kanawha County, verifying that the required notice was published in that newspaper on August 21, 2008. The thirty-day protest period, based on the newspaper publication, expired on September 20, 2008. No protests or petitions to intervene were filed within the statutory thirty-day period.

By Order issued on September 24, 2008, the Commission referred this matter to the Division of Administrative Law Judges for a decision to be issued on or before March 10, 2009.

On October 29, 2008, the District filed a letter from the USDA confirming an RUS loan in the amount of $4,172,000. The District also filed a letter from Crews & Associates in which Crews & Associates indicted that it would be willing to serve as the underwriter for municipal bonds for the additional $5,000,766 in required project financing.

On October 29, 2008, the West Virginia Office of Environmental Health Services Permit No. 18,142 for the project was filed.

On November 10, 2008, the District filed an audit conducted for the District by John Blackwell, CPA, for the fiscal year beginning on July 1, 2007, and ending on June 30, 2008. The District requested that the Commission immediately authorize emergency rates for the District due to its failure to meet coverage requirements for its existing bonded indebtedness and a cash flow deficit. The District also requested that the due date for Staff's final recommendations be extended by thirty (30) days.

On November 12, 2008, Staff Attorney Wansley filed a Further Joint Staff Memorandum. Ms. Wansley stated that Staff supported the District's request for an emergency rate increase.

By Commission Order dated November 13, 2008, the decision due date for the Division of Administrative Law Judges was extended until April 8, 2009.

On November 14, 2008, the District filed another request for emergency rates and charges.

On November 21, 2008, Staff Attorney Wansley filed a Further Joint Staff Memorandum to which was attached a November 19, 2008 Interim Internal Memorandum prepared by Ms. Buckley and Mr. Marakovits. Commission Staff reported that the District is operating at a deficit of $63,862 with a debt coverage of 96.65% and that an emergency interim rate increase was warranted. Staff determined that a 5.5% increase in current rates was required for a positive cash flow and for the District to meet its bond coverage requirement of 110% since all of the District's reserves are fully funded. Accordingly, Commission Staff recommended an interim across-the-board increase of 5.5% to the District's current rates and charges. The District's current rates provide for a minimum monthly charge of $12.90 and a flat rate charge of $21.80 for customers with well water. Based on Staff's interim rates, a minimum charge per month will be $13.60 and a flat rate charge per month will be $23.00. Staff's interim rates provide a cash flow surplus of $13,012 and debt coverage of 110.91%. Staff recommended that its interim emergency rates and charges become effective immediately.

By Interim Recommended Decision dated November 26, 2008, emergency interim rates for the District were approved. The District was required to publish a copy of the Notice of Interim Rate Increase once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Kanawha County, making due return to the Commission of an affidavit of publication as soon as it was received.

On December 5, 2008, Staff Attorney Wansley filed the Further Joint Staff Memorandum to which was attached the December 4, 2008 Internal Memorandum prepared by Ms. Buckley and Mr. Marakovits. Staff reported on its efforts to obtain information necessary to prepare final recommendations. Staff anticipated filing its final report no later than December 17, 2008.

By Commission Order dated December 5, 2008, the District's request to waive the fifteen-day period of time in which a party may file exceptions to the Interim Recommended Decision was granted.

On December 11, 2008, the District filed a health permit, a listing of operation and maintenance expenses, a preliminary engineering report and a design manual.

On December 17, 2008, the District filed a letter from Crews & Associates, the underwriter for the proposed project.

On December 17, 2008, Staff Attorney Wansley filed the Further Joint Staff Memorandum which represented that Staff's final memorandum would be filed once it was received by Legal Staff.

On December 22, 2008, Staff Attorney Wansley filed the Final Joint Staff Memorandum to which was attached the December 19, 2008 Staff Report prepared by Ms. Buckley and Mr. Marakovits. Staff reported that the District's application for a certificate of convenience and necessity included both non-project and project-related sewer rate increases. The District proposed to construct certain improvements to its 40th Street wastewater facility and to extend its wastewater collection lines to certain areas within its existing boundaries. The District requested an approximately 13% non-project rate increase in revenues based on a Rule 42 completed by Griffith and Associates, Inc. The District also requested an approximately 40% increase in revenues for its project costs. The District wanted the pre-project rates to become effective as soon as possible so that it could meet certain operation and maintenance costs and pay its existing bonded indebtedness. By Interim Recommended Decision dated November 26, 2008, the District was granted an emergency rate increase of 5.5%.

The District owns and operates two (2) sewage treatment facilities and gravity collection systems which serve approximately 4,600 customers in Cross Lanes, Rocky Fork and the surrounding areas. Technical Staff recommended $268,600 in special equipment purchases to be funded with a 5-year loan at 4.70% interest. Technical Staff also reviewed ordinary plant additions for the past five (5) years and recommended an annual amount of $56,010 to fund recurring plant additions such as new taps, vehicles, office equipment, miscellaneous tools, system equipment and main extensions. Technical Staff also recommended an annual adjustment to this average to account for additional improvements that must be made to the five (5) existing pump stations in the amount of $5,725 per station. Amortized over three (3) years, the adjustment is $11,450. The total recommended surplus for capital improvements is $67,460 ($56,010 plus $11,450).

As part of the rate case, Technical Staff prepared allocation factors for a sewer Class Cost of Service Study (CCOSS). Staff noted that, in the test year, the sanitary flow for Cadle Sanitary Company, one of the District's five (5) industrial customers, was estimated. Cadle paid a flat rate based on the estimate. Staff recommended that, in accordance with Rule 3.1 of the Commission's Sewer Rules, the District require Cadle to install a sewage flow meter to accurately measure the wastewater entering the District's sanitary collection system.

The District's certificate application proposed to construct additional sewer mains and a small grinder pump station to serve an additional 318 customers along Big Tyler and Little Tyler Roads and to upgrade the existing 40th Street wastewater treatment facility. The proposed project consists of three (3) contracts with an estimated construction cost of $9,172,766. Staff opined that the estimated construction costs, which amount to $1,812 per customer, appear to be reasonable for the proposed project.

The need for the project is adequately documented. The upgrade to the District's existing 40th Street treatment plant is necessary to

increase treatment capacity, quality and efficiency. The extension of sewer service will eliminate raw or partially treated sewage discharges in the Big Tyler and Little Tyler Road areas.

On October 27, 2008, the West Virginia Office of Environmental Health Services issued Permit No. 18,142 for construction of the project. The NPDES permit modification has not yet been issued. Technical Staff's review of the plans and specifications has found no conflicts with the Commission's Sewer Rules and Regulations regarding engineering requirements.

Operation and maintenance expenses are estimated to increase $48,314 due to the project. This amount includes $45,019 for power and $3,295 for uncollectible accounts. Technical Staff recommended approval of the projected O&M expenses.

The District's current bonds are fully funded.

The District had many billing problems which required Staff to make several per books adjustments to correct the billing classes.

Staff recommended an approximate 8% non-project rate increase to the District's revenues and an additional approximate 43% increase in revenues related to the project. Based on Staff's CCOSS, Staff developed rates and charges which will begin to bring the District's rates towards a cost basis. Residential customers are subsidizing commercial customers. Staff's recommended rates allow for a subsidy from the other customer classes. Future rate increases should gradually shift commercial rates toward a cost basis. The District's current minimum bill based on the going level emergency rate increase is $13.60 per 2,000 gallons, while the flat rate for 4,500 gallons is $23.00. The District proposed a minimum charge of $16.05 per 3,000 gallons and a flat rate charge of $23.10. Staff's recommended rates and charges provide for a minimum bill of $14.14 (based upon 2,000 gallons) and a bill based upon 4,500 gallons of $24.14. Based on Staff's cash flow analysis, Staff recommended a surplus of $68,250 (which includes a renewal and replacement (R&R) reserve of $42,399) and debt service coverage of 125.47%.

Staff recommended denial of the District's request to add a bank charge to its tariff due to the Commission's decision in Bradley Public Service District, Case No. 08-0304-PSD-T.

Staff recalculated the leak adjustment rate to be $0.65 per 1,000 gallons.

In summary, Staff recommended the following: (1) approval of an approximate eight percent (8%) increase in metered sales revenues to be generated by Staff-recommended #1 rates and charges; (2) approval of the Staff-recommended #1 capital addition surplus of $68,250 (R&R reserve of $42,399 plus surplus of $25,851); (3) approval of the District's application for a certificate of convenience and necessity to construct certain improvements to its 40th Street wastewater facility and to extend its wastewater collection lines to certain areas within its existing boundaries in the amount of $9,171,766; (4) approval of project financing of a $4,171,000 RUS loan at 4.5% for 38 years and a $5,000,766 bond issue

through Crews and Associates at an interest rate not to exceed seven percent (7%) for thirty (30) years; (5) approval of an approximate 43% increase in metered sales revenues over the Staff-recommended #1 rates and charges to be generated by the Staff-recommended #2 rates and charges; (6) approval of the Staff-recommended #2 rates and charges; (7) approval of the Staff-recommended #2 capital addition surplus of $68,115 (R&R reserve of $60,667 plus surplus of $7,448); and (8) the District require the Cadle Sanitary Company to install a sewage flow meter to accurately measure the wastewater entering the District's sanitary collection system.

By Procedural Order dated January 28, 2009, the District was required to immediately file an affidavit of publication of interim rates.

On January 30, 2009, the District filed an Affidavit of Publication reflecting that the Notice of Interim Rate Increase was published on December 9, 2008, in the Charleston Gazette, a newspaper, duly qualified by the Secretary of State, published and of general circulation in Kanawha County, West Virginia.

As of the date of this Order, no letters of protest have been filed concerning either the project itself, the District's proposed rates or the interim emergency rates. Additionally, the District has not filed any objections to the Final Joint Staff Memorandum or to the Staff-recommended rates.

DISCUSSION

The rates recommended by Commission Staff in this case to address the District's current costs of operation appear to be reasonable and were designed to cover the District's O&M expenses and debt service requirements and, accordingly, will be approved. Additionally, based upon a review of the District's certificate application and Commission Staff's written recommendations set forth in the Final Joint Staff Memorandum with attachment dated December 22, 2008, it is clear that the District's proposed upgrade of the 40th Street treatment plant is needed to increase treatment capacity, quality and efficiency. Additionally, the extension of sewer service is necessary in order to eliminate raw or partially treated sewage discharges in the Big Tyler and Little Tyler Road areas. Accordingly, the District's certificate application will be approved.

The financing for the proposed project, consisting of a loan from the United States Department of Agriculture, Rural Utility Service, in the amount of $4,171,000, at an interest rate of 4.5% for a term of 38 years, and funding from a private bond issue in the amount of $5,000,766, at an interest rate not to exceed 7% for a term of 30 years, is reasonable and will be approved. The Staff-recommended post-project rate increase will provide sufficient, but not more than sufficient, revenue to cover the District's O&M expenses and all of the District's debt service requirements and will be approved.

FINDINGS OF FACT

1. On August 12, 2008, the Union Public Service District filed an application for a certificate of convenience and necessity to construct improvements to the District's 40th Street wastewater treatment facility and to construct an extension of its wastewater collection lines. The proposed project will be financed by an RUS loan in the amount of $4,171,000, at an interest rate of 4.5% for a term of 38 years, and funding from a private bond issue in the amount of $5,000,766 at an interest rate not to exceed 7% for a term of 30 years. The funding has been committed. (See, application filed August 12, 2008; Commitment letters filed October 29, 2009).

2. The District proposed a 6% pre-project increase and a 34.11% post-project increase for customers with the average consumption of 4,500 gallons of water per month. (See, application filed August 12, 2008).

3. On September 12, 2008, the District filed an Affidavit of Publication reflecting that, in compliance with the Commission's August 13, 2008 Order, the Notice of Filing had been published on August 21, 2008, in the Charleston Gazette, a newspaper duly qualified by the Secretary of State, published and of general circulation in Kanawha County, West Virginia. (See, affidavit of publication filed September 12, 2008).

4. By Interim Recommended Decision dated November 26, 2008, an interim across-the-board rate increase of 5.5% to current rates was approved, subject to refund. (See, Interim Recommended Decision entered November 26, 2008).

5. The improvements proposed to the District's treatment plant will keep that facility in compliance with the District's NPDES permit. (See, application filed August 12, 2008; Final Joint Staff Memorandum and attachment filed December 22, 2008).

6. The areas to which the sewer lines will be extended currently have no public sewer service. The areas currently suffer from ground water contamination and pollution in area streams. The line extensions should eliminate the discharge of raw or partially treated sewage in these areas. (See, application filed August 12, 2008; Final Joint Staff Memorandum and attachment filed December 22, 2008).

7. Commission Staff recommended that the District be granted a certificate of convenience and necessity to construct the sewer treatment plant upgrade and to extend sewer service at issue herein, and that the project financing, consisting of a loan from the United States Department of Agriculture, Rural Utility Service, in the amount of $4,171,000 at an interest rate of 4.5% for a term of 38 years, and funding from a private bond issue, in the amount of $5,000,766, at an interest rate not to exceed 7% for a term of 30 years, be approved. (See, Final Joint Staff Memorandum with attachment filed December 22, 2008).

8. At going-level, the District's current rates and charges are generating a cash flow deficit of $(95,440) and a debt service coverage of only 102.98%. The District's outstanding bond documents require it to maintain debt service coverage of 110%, since the District's reserve

requirements are fully funded. (See, Staff Report filed December 22, 2008; annual audit for 2007-2008, filed November 10, 2008).

9. After review and investigation, to address current going-level revenue requirements, Commission Staff recommended rates which will result in a minimum bill of $14.14 based upon 2,000 gallons and a bill of $24.14, based upon 4,500 gallons. The Staff-recommended going-level rates should produce a cash flow surplus of $68,250 (including an R&R of $42,399) and debt service coverage of 125.47%. (See, Final Joint Staff Memorandum with attachment filed December 22, 2008).

10. After review and investigation, to address increases associated with the District's proposed project, Commission Staff recommended rates which will result in a minimum bill of $15.00 based upon 2,000 gallons and a bill of $33.75 based upon 4,500 gallons. The Staff-recommended rates should produce a cash flow surplus of $68,115 (including an R&R of $60,667) and debt service coverage of 116.19%. (See, Final Joint Staff Memorandum with attachment filed December 22, 2008).

11. No protests were filed to the project, the District's proposed rates or the interim emergency rates. (See, case file generally).

12. The Office of the Executive Secretary served the Staff recommendations upon the District along with a letter in which the District was cautioned that failure to respond to Staff's recommendations may result in a decision in the case based upon the original failing and the other documents in the case file without further notice or hearing. (See, letter filed December 22, 2008).

13. As of the date of this Order, the District did not object to the Final Joint Staff Memorandum or to the Staff-recommended rates. (See, case file generally).

CONCLUSIONS OF LAW

1. The public convenience and necessity require the issuance of a certificate of convenience and necessity to Union Public Service District to construct certain improvements to its 40th Street wastewater facility and to extend its wastewater collection lines to certain areas within its existing boundaries.

2. It is reasonable to approve the financing for the project, which consists of a $4,171,000 RUS loan at 4.5% for 38 years and a $5,000,766 private bond issue through Crews and Associates at an interest rate not to exceed 7% for 30 years.

3. The Staff-recommended No. 1 rates, attached hereto as Appendix A, are sufficient, but not more than sufficient, to cover the District's current operation and maintenance expenses, taxes other than income taxes, debt service requirements and routine capital additions. Accordingly, the Staff-recommended No. 1 rates should be approved for use by the District for all services rendered on and after the date that this Recommended Decision becomes final.

4. The Staff-recommended No. 2 rates, attached hereto as Appendix B, are sufficient, but not more than sufficient, to cover the District's operation and maintenance expenses, taxes other than income taxes, debt service requirements and routine capital additions, including the additional expenses and debt service requirements generated by the project certificated herein. Accordingly, the Staff-recommended No. 2 rates should be approved to become effective for all services rendered by the District on and after the date of substantial completion of the project certificated herein.

ORDER

IT IS, THEREFORE, ORDERED that the application filed herein on August 12, 2008, by Union Public Service District for a certificate of convenience and necessity to construct certain improvements to its 40th Street wastewater facility and to extend its wastewater collection lines to certain areas within its existing boundaries be, and hereby is, granted, contingent upon the District receiving an NPDES permit modification from the West Virginia Department of Environmental Protection.

IT IS FURTHER ORDERED that the financing of the project, consisting of a $4,171,000 Rural Utilities Service loan, at an interest rate of 4.5% for 38 years, and a $5,000,766 private bond issue through Crews and Associates, at an interest rate not to exceed 7% for 30 years, be, and it hereby is, approved.

IT IS FURTHER ORDERED that the pre-project Staff-recommended increased rates and charges, attached hereto as Appendix A, be, and hereby are, approved for use by Union Public Service District for all services rendered on and after the date that this Recommended Decision becomes final.

IT IS FURTHER ORDERED that the post-project Staff-recommended increased rates and charges, attached hereto as Appendix B, be, and hereby are, approved for use by Union Public Service District for all services rendered by the District on and after the date of substantial completion of the project certificated herein.

IT IS FURTHER ORDERED that Union Public Service District file an original and at least five (5) copies of a revised tariff reflecting the rates set forth in Appendix A within thirty (30) days of the date that this Recommended Decision becomes a final order of the Commission. Additionally, the District shall file an original and at least five (5) copies of a revised tariff reflecting the rates set forth in Appendix B within thirty (30) days of the date of substantial completion of the project certificated herein.

IT IS FURTHER ORDERED that Union Public Service District file the certificate of substantial completion from its engineer for the project certificated herein as soon as it becomes available.

IT IS FURTHER ORDERED that Union Public Service District file a copy of the engineer's certified tabulation of bids for this project within ten (10) days of the bid opening date.

IT IS FURTHER ORDERED that, if there are any changes in the plans, scope or financing of the project, Union Public Service District obtain Commission approval of such changes prior to commencing construction.

IT IS FURTHER ORDERED that, if there are any changes in project costs which do not affect rates, Union Public Service District file herein an affidavit duly executed by a certified public accountant verifying that the District's rates and charges are not affected.

IT IS FURTHER ORDERED that, if this project requires the use of Division of Highways' rights-of-way, Union Public Service District comply with all rules and regulations of the Division of Highways regarding the use of those rights-of-way.

IT IS FURTHER ORDERED that the District require Cadle Sanitary Company to install a sewage flow meter to accurately measure the wastewater entering the District's sanitary collection system from Cadle's facilities, pursuant to Rule 3.1 of the Commission's Rules and Regulations for the Government of Sewer Utilities.

IT IS FURTHER ORDERED that this matter be, and hereby is, 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.

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.

Deborah Yost VanDervort
Deborah Yost VanDervort
Administrative Law Judge

DYV:s:cdk
081369ab.wpd

CASE NO. 08-1369-PSD-CN
UNION PUBLIC SERVICE DISTRICT
PRE-PROJECT APPROVED TARIFF

APPLICABILITY
Applicable within the entire territory served.

AVAILABILITY
Available for general domestic, commercial, industrial and resale sewer service.

RATES (customers with metered water supply)

First	2,000 gallons used per month	$7.07 per 1,000 gallons
Next	3,000 gallons used per month	$4.00 per 1,000 gallons
Next	15,000 gallons used per month	$3.74 per 1,000 gallons
All Over	20,000 gallons used per month	$3.50 per 1,000 gallons

MINIMUM CHARGE
No bill will be rendered for less than $14.14 per month, which is the equivalent of 2,000 gallons.

FLAT RATE CHARGE (Customers with non-metered water supply)
Equivalent of 4,500 gallons of water usage: $24.14

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.

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

A tap fee of $150.00 will be charged to customers applying for service before construction is completed adjacent to customer's premises in connection with a certificate proceeding before the Public Service Commission of West Virginia. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee of $350.00 will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

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.

RULES PERTAINING TO SUBDIVISIONS
A. Each such subdivision must obtain the required approval of the Planning and Zoning Commission of Kanawha County.

B. The plans and sketches for the proposed sewer system shall meet all requirements of the Department of Health of West Virginia and shall be approved by the Division of Sanitary Engineering.

C. The subdivider's sewer system shall itself be inspected by Union Public Service District; and, if approved by the Health Department of West Virginia, and the aforesaid Planning and Zoning Commission and Union Public Service District, the said District will accept a conveyance of the system and will be solely responsible for its future repair and maintenance.

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 West Virginia-American Water Company, a disconnection fee of $25.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of $25.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with West Virginia-American Water Company, is reconnected, a reconnection fee of $25.00 shall be charged.

LEAK ADJUSTMENT

$0.51 per 1,000 gallons is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on a customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

SECURITY DEPOSIT

A deposit of $50.00 or 2/12ths of the average usage of the applicant's specific customer class, whichever is greater.

SURCHARGE FORMULA TO BE APPLIED IN CASES 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 wastewater from unusual users, in gallons per year
Bo = average unit 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 cost 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 judgement of the Union Public Service District, should not be introduced into the sewer system, need not be handled by it. The results of the preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefor, 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 Union Public Service District's 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, or refund given by Union 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.

SURCHARGE WHEN SURFACE DRAINAGE IS CONNECTED TO THE UNION PUBLIC SERVICE DISTRICT SANITARY SEWERAGE SYSTEM

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

APPLICABILITY

Whenever the Union Public Service District has discovered that a customer's roof drain, downspout, storm sewer or similar facilities conducting surface water have been connected to the District's sewer system, and such customer has failed to take appropriate action within thirty (30) days of receipt of a demand by the District in accordance with the Rules 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:

$$S = A \times R \times 0.0006233 \times C$$

S = The surcharge in dollars
A = The area under roof and/or the area of any other water collection surface connected to the District's 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 water to thousands of gallons of water.
C = $7.00 per thousand gallons of metered water usage.

Union Public Service District shall not impose the surcharge unless and until the customer has been notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing or on-site inspection that rain or surface water is being introduced into the District's 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 District's sanitary sewer system. Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules of the Public Service Commission of West Virginia.

BULK TREATMENT RATES (Based on flow meter usage)
All leachate from the Kanawha Western Landfill
will be treated at the rate of $4.50 per 1,000 gallons

BULK TREATMENT RATES (Based on M gallons of wastewater transported for treatment to Union Public Service District)
All wastewater from Cadle Sanitary Service
will be treated at the rate of $4.50 per 1,000 gallons

CASE NO. 08-1369-PSD-CN
UNION PUBLIC SERVICE DISTRICT
POST-PROJECT APPROVED TARIFF

APPLICABILITY
Applicable within the entire territory served.

AVAILABILITY
Available for general domestic, commercial, industrial and resale sewer service.

RATES (customers with metered water supply)

First	5,000 gallons used per month	$7.50 per 1,000 gallons
Next	15,000 gallons used per month	$6.07 per 1,000 gallons
All Over	20,000 gallons used per month	$4.96 per 1,000 gallons

MINIMUM CHARGE
No bill will be rendered for less than $15.00 per month, which is the equivalent of 2,000 gallons.

FLAT RATE CHARGE (Customers with non-metered water supply)
Equivalent of 4,500 gallons of water usage: $33.75

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.

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

A tap fee of $150.00 will be charged to customers applying for service before construction is completed adjacent to customer's premises in connection with a certificate proceeding before the Public Service Commission of West Virginia. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee of $350.00 will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

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.

RULES PERTAINING TO SUBDIVISIONS
A. Each such subdivision must obtain the required approval of the Planning and Zoning Commission of Kanawha County.

B. The plans and sketches for the proposed sewer system shall meet all requirements of the Department of Health of West Virginia and shall be approved by the Division of Sanitary Engineering.

C. The subdivider's sewer system shall itself be inspected by Union Public Service District; and, if approved by the Health Department of West Virginia, and the aforesaid Planning and Zoning Commission and Union Public Service District, the said District will accept a conveyance of the system and will be solely responsible for its future repair and maintenance.

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 West Virginia-American Water Company, a disconnection fee of $25.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of $25.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with West Virginia-American Water Company, is reconnected, a reconnection fee of $25.00 shall be charged.

LEAK ADJUSTMENT

$0.65 per 1,000 gallons is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on a customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

SECURITY DEPOSIT

A deposit of $50.00 or 2/12ths of the average usage of the applicant's specific customer class, whichever is greater.

SURCHARGE FORMULA TO BE APPLIED IN CASES 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 wastewater from unusual users, in gallons per year
Bo = average unit 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 cost 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 judgement of the Union Public Service District, should not be introduced into the sewer system, need not be handled by it. The results of the preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefor, 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 Union Public Service District's 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, or refund given by Union 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.

SURCHARGE WHEN SURFACE DRAINAGE IS CONNECTED TO THE UNION PUBLIC SERVICE DISTRICT SANITARY SEWERAGE SYSTEM

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

APPLICABILITY

Whenever the Union Public Service District has discovered that a customer's roof drain, downspout, storm sewer or similar facilities conducting surface water have been connected to the District's sewer system, and such customer has failed to take appropriate action within thirty (30) days of receipt of a demand by the District in accordance with the Rules 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:

$$S = A \times R \times 0.0006233 \times C$$

S = The surcharge in dollars
A = The area under roof and/or the area of any other water collection surface connected to the District's 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 water to thousands of gallons of water.
C = $7.00 per thousand gallons of metered water usage.

Union Public Service District shall not impose the surcharge unless and until the customer has been notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing or on-site inspection that rain or surface water is being introduced into the District's 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 District's sanitary sewer system. Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules of the Public Service Commission of West Virginia.

BULK TREATMENT RATES (Based on flow meter usage)
All leachate from the Kanawha Western Landfill
will be treated at the rate of $6.00 per 1,000 gallons

BULK TREATMENT RATES (Based on M gallons of wastewater transported for treatment to Union Public Service District)
All wastewater from Cadle Sanitary Service
will be treated at the rate of $6.00 per 1,000 gallons

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 16th day of November, 2009.

CASE NO. 08-1369-PSD-CN (REOPENED)

UNION PUBLIC SERVICE DISTRICT
Application for a certificate of convenience and necessity to construct improvements to the District's 40th Street wastewater treatment facility and an extension of its wastewater collection lines.

COMMISSION ORDER

The Commission reopens this matter to revise the March 6, 2009 Recommended Decision as requested.

BACKGROUND

On August 12, 2008, the Union Public Service District ("Union"), applied for a certificate of convenience and necessity ("Certificate") to construct improvements to its 40th Street wastewater treatment plant ("WWTP") to extend its collection lines to approximately 318 additional customers and for approval of project financing. See, Application.

On March 6, 2009, the Administrative Law Judge ("ALJ") issued a Recommended Decision that became a final Commission Order on March 26, 2009, granting a Certificate to Union to upgrade the WWTP and extend its lines. The ALJ approved a financing package including a $4,171,000 loan from the Rural Utilities Service ("RUS") at 4.5% for 38 years and a private bond issue of $5,000,766 at a maximum interest rate of 7% for 30 years. The ALJ also approved additional rates including an immediate increase and additional post-construction rates. Finally, the Recommended Decision instructed Union to seek Commission approval for changes in project scope or financing. See, Recommended Decision.

On October 30, 2009, Union petitioned to reopen this matter for approval of changes to the Recommended Decision including (1) a $180,000 upgrade to telemetry at its existing pump stations, (2) a revised total project cost of $8,609,907 and (3) revised project funding to eliminate the private bond issue and replace that financing with $1,363,613 in funding under the American Recovery and Reinvestment Act of 2009 ("Stimulus") with 100% debt forgiveness over 20 years and a $3,074,294 loan from the West Virginia Department of Environmental Protection ("WV DEP") SRF loan fund at 0% interest for 20 years with a

1% administrative fee. Union noted that it received favorable bids on the project, allowing a reduction in total project costs. It also secured improved financing terms under the new funding package. Union also requested that the Commission allow it to seek a rate review on substantial completion of the project. See, Petition to Reopen.

On November 6, 2009, Union filed a copy of its Stimulus award letter.

Commission Staff recommended that the Commission approve the project revisions as Union requested. Staff also noted that its projected debt service for Union will fall from $629,042 to $383,515, prompting Staff to propose reduced post-project rates. See, November 9, 2009 Staff Memorandum.

DISCUSSION

The Commission finds that it should reopen this matter to grant the changes Union requested to its project scope and financing package. The reduced project cost and revised financing benefit ratepayers through lower debt service and thus lower rates. The telemetry upgrades will also assist Union in better system monitoring that will eventually translate into better reliability and lower maintenance costs. Finally, the Commission finds that it is reasonable to adopt the Staff recommendation to pass the reduced debt costs through to ratepayers by adopting the post-project rates attached to the Staff memorandum. Finally, the Commission notes that the March 6, 2009 Recommended Decision will remain in effect, except as modified by this Order.

FINDINGS OF FACT

1. The ALJ issued a Recommended Decision that became a final Commission Order, (1) granting Union a Certificate to upgrade its WWTP and extend its lines, (2) approving a financing package including a $4,171,000 RUS loan and a private bond issue of $5,000,766 and (3) approving additional post-construction rates. See, Recommended Decision.

2. Union petitioned to reopen this matter for approval of changes to the Recommended Decision including (1) an additional $180,000 to upgrade telemetry at its existing pump stations, (2) a revised total project cost of $8,609,907, (3) revised project funding to eliminate the private bond issue and replace that financing with $1,363,613 in Stimulus funding including 100% debt forgiveness and a $3,074,294 loan from the WV DEP SRF loan fund at 0% interest with a 1% administrative fee. See, Petition to Reopen.

3. Staff recommended that the Commission approve the project revisions as Union requested, but also recommended reduced post-project rates. See, November 9, 2009 Staff Memorandum.

4. Union debt service will fall from $629,042 to $383,515 because of the revised financing package. Id.

CONCLUSIONS OF LAW

1. Union must seek approval of changes in project scope or revisions to its financing package. See, March 6, 2009 Recommended Decision.

2. It is reasonable to reopen this matter and approve the proposed changes in project scope and financing because the changes allow additional construction at reduced cost.

3. The Staff recommended post-construction rates in Revised Exhibit B properly reflect reduced future debt service by Union.

ORDER

IT IS THEREFORE ORDERED that this case is reopened.

IT IS FURTHER ORDERED that the request to include telemetry upgrades at existing Union pump stations in the project for $180,000 is approved.

IT IS FURTHER ORDERED that the total project cost is revised to $8,609,907.

IT IS FURTHER ORDERED that the revised loan funding package including $1,363,613 in Stimulus funding with 100% loan forgiveness and a WV DEP SRF loan of $3,074,294 at 0% interest for a 20 year term, with a 1% administrative fee, is approved in lieu of the private bond issue approved in the March 6, 2009 Recommended Decision.

IT IS FURTHER ORDERED that if there are further changes in project plans, scope, financing or costs resulting in a modification of rates, Union must seek Commission approval of those changes.

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

IT IS FURTHER ORDERED that the Commission adopts the revised post-construction rates Staff recommended and attached to this Order as Revised Exhibit B, effective for all service rendered by Union on and after substantial completion of the project.

IT IS FURTHER ORDERED that the March 6, 2009 Recommended Decision shall remain in effect in this matter, except as modified by this Order.

IT IS FURTHER ORDERED that Union file an original and five copies of a revised tariff reflecting the rates set forth in Revised Appendix B within thirty days of the date of substantial completion of the project.

IT IS FURTHER ORDERED that on entry of this order this case shall be removed from the Commission docket of open cases.

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

A True Copy, Teste: Sandra Squire

Sandra Squire
Executive Secretary

MJM/ldd
081369ca.wpd

CASE NO. 08-1369-PSD-CN
UNION PUBLIC SERVICE DISTRICT
POST-PROJECT APPROVED TARIFF

APPLICABILITY
Applicable within the entire territory served.

AVAILABILITY
Available for general domestic, commercial, industrial and resale sewer service.

RATES (customers with metered water supply)

First	5,000 gallons used per month	$6.70 per 1,000 gallons
Next	15,000 gallons used per month	$5.43 per 1,000 gallons
All Over	20,000 gallons used per month	$4.43 per 1,000 gallons

MINIMUM CHARGE
No bill will be rendered for less than $13.40 per month, which is the equivalent of 2,000 gallons.

FLAT RATE CHARGE (Customers with non-metered water supply)
Equivalent of 4,500 gallons of water usage: $30.15

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.

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

A tap fee of $150.00 will be charged to customers applying for service before construction is completed adjacent to customer's premises in connection with a certificate proceeding before the Public Service Commission of West Virginia. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee of $350.00 will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

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.

RULES PERTAINING TO SUBDIVISIONS
A. Each such subdivision must obtain the required approval of the Planning and Zoning Commission of Kanawha County.

B. The plans and sketches for the proposed sewer system shall meet all requirements of the Department of Health of West Virginia and shall be approved by the Division of Sanitary

Engineering.

C. The subdivider's sewer system shall itself be inspected by Union Public Service District; and, if approved by the Health Department of West Virginia, and the aforesaid Planning and Zoning Commission and Union Public Service District, the said District will accept a conveyance of the system and will be solely responsible for its future repair and maintenance.

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 West Virginia-American Water Company, a disconnection fee of $25.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of $25.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with West Virginia-American Water Company, is reconnected, a reconnection fee of $25.00 shall be charged.

LEAK ADJUSTMENT

$0.65 per 1,000 gallons is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on a customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

SECURITY DEPOSIT

A deposit of $50.00 or 2/12ths of the average usage of the applicant's specific customer class, whichever is greater.

SURCHARGE FORMULA TO BE APPLIED IN CASES 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 wastewater from unusual users, in gallons per year
Bo = average unit 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 cost 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 judgement of the Union Public Service District, should not be introduced into the sewer system, need not be handled by it. The results of the preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefor, 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 Union Public Service District's 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, or refund given by Union 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.

SURCHARGE WHEN SURFACE DRAINAGE IS CONNECTED TO THE UNION PUBLIC SERVICE DISTRICT SANITARY SEWERAGE SYSTEM

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

APPLICABILITY

Whenever the Union Public Service District has discovered that a customer's roof drain, downspout, storm sewer or similar facilities conducting surface water have been connected to the District's sewer system, and such customer has failed to take appropriate action within thirty (30) days of receipt of a demand by the District in accordance with the Rules 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:

$$S = A \times R \times 0.0006233 \times C$$

S =	The surcharge in dollars
A =	The area under roof and/or the area of any other water collection surface connected to the District's sanitary sewer, in square feet.
R =	The measured monthly rainfall, in inches.
.000623 =	A conversion factor to change inches of rain x square feet of surface water to thousands of gallons of water.
C =	$6.70 per thousand gallons of metered water usage.

Union Public Service District shall not impose the surcharge unless and until the customer has been notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing or on-site inspection that rain or surface water is being introduced into the District's 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 District's sanitary sewer system. Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules of the Public Service Commission of West Virginia.

BULK TREATMENT RATES (Based on flow meter usage)

All leachate from the Kanawha Western Landfill
will be treated at the rate of $5.36 per 1,000 gallons

BULK TREATMENT RATES (Based on M gallons of wastewater transported for treatment to Union Public Service District)

All wastewater from Cadle Sanitary Service
will be treated at the rate of $5.36 per 1,000 gallons

20-784

USDA Rural Development

United States Department of Agriculture
Rural Development
West Virginia State Office

August 1, 2006

Wilma Davis, Chairperson
Union Public Service District
5110 West Washington Street
Cross Lanes, WV 25313

Dear Ms. Davis:

This letter, with Attachments 1 through 13 and enclosures, establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area staff of USDA, Rural Development. Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by USDA, Rural Development, by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

The docket may be completed on the basis of an RUS loan in the amount of $4,172,000 and other funding in the amount of $4,250,766, for a total project cost of $8,422,766. The other funding is planned in the form of a loan from Crews and Associates.

The loan will be considered approved on the date a signed copy of Form RD 1940-1, "Request for Obligation of Funds," is mailed to you. The interest rate will be the lower of the rate in effect at the time of loan approval or the time of loan closing.

Extra copies of this letter are being provided for use by your engineer, attorney, bond counsel and accountant. The enclosures and attachments listed below are attached to the copies as noted. Enclosed are the following:

Attachment No. 1 - Project Construction Budget (All Copies)
Attachment No. 2 - Water and Waste Processing Checklist (All Copies)
Attachment No. 3 - RUS Instruction 1780, Subparts A and B (Applicant Copy)
Attachment No. 4 - RUS Instruction 1780, Subpart C (Engineer Copy)
Attachment No. 5 - RUS Instruction 1780, Subpart D (Attorney and Bond Counsel Copies)
Attachment No. 6 - RUS Supplemental General Conditions (Engineer Copy)
Attachment No. 7 - RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Standard Documents on Water and Waste Project with RUS Financial Assistance"

Federal Building • 75 High Street • Suite 320 • Morgantown, WV 26505-7500
Phone: (304) 284-4860 OR 1-800-295-8228 • Fax: (304) 284-4893 • TDD: (304) 284-4836
Web: http://www.rurdev.usda.gov/wv

Committed to the future of rural communities.

"USDA is an equal opportunity provider, employer and lender."
To file a complaint of discrimination write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, DC 20250-9410 or call (800)795-3272 (voice) or (202) 720-6382 (TDD).

Attachment No. 8 - Government Auditing Standards (Revision ~~1994~~ 2003) (Accountant Copy)
Attachment No. 9 - RUS Bulletin 1780-30, "Water Programs Audit Guide and Compliance Supplement"
Attachment No. 10 - RUS Bulletin 1780-31, "Water Programs Compliance Supplement for OMB Circular A-133 Audits"
Attachment No. 11 - Sample Credit Agreement (Applicant Copy)
Attachment No. 12 – RUS Policy regarding Use of Remaining Funds
Attachment No. 13 - Various other RD Forms as identified on Attachment No. 2

The conditions referred to above are as follows:

1. Loan Repayment - The loan will be scheduled for repayment over a period of 40 years. The payments due the first 24 months will consist of interest only. Payments for the remaining 456 months will be equal amortized monthly installments. For planning purposes use a 4.5% interest rate and a monthly amortization factor of 0.00459, which provides for a monthly payment of $19,150. You have the option of participating in the PREAUTHORIZED DEBIT (PAD) payment process. It will allow for your payment to be electronically debited from your account on the day your payment is due. Your authority must establish and fund monthly a debt service reserve account, which equals 10% of your monthly payment each month until you accumulate the equivalent of one annual installment on your loan.

   You are reminded that your authority may be required to refinance (graduate) the unpaid balance of its RUS loan, in whole or in part, upon the request of RUS if at any time it shall be determined the authority is able to obtain a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time.

2. Security - The loan must be secured by a statutory lien of first priority, a pledge of the system's revenues and other agreements between you and RUS as set forth in the bond resolution which must be properly adopted and executed by the appropriate officials of your organization. Additional security requirements are contained in RUS Bulletin 1780-27 which is mentioned later.

3. Users - This conditional commitment is based upon you providing evidence that you will have at least 5,239 (4,985 existing and 254 new) bona fide users on the proposed system when it has been completed and is placed in operation. This evidence will consist of a signed certification from you that identifies and attests to the number of users actually connected to and using the PSD's existing sewer system, which is to be partially replaced by the new system, at the time you request authorization to advertise the proposed project for construction bids. The 254 proposed new users on the system will be required by statute (mandatory hook-up provision) to connect to and utilize the system. The PSD must provide a written certification that it will enforce the state statute.

4. Bond Counsel Services - The services of a recognized bond counsel are required. The bond counsel will prepare the form of resolution to be used, in accordance with Subpart D of RUS Instruction 1780. You should immediately provide your bond counsel with a copy of this letter of conditions, its attachments and enclosures.

5. Engineering Services - It will be necessary for you to obtain the services of an engineer. EJCDC No. E-510, "Standard Form of Agreement between Owner and Engineer for

Professional Services" (Funding Agency Edition) should be used to obtain the services of an engineer. The EJCDC document is issued under copyright and cannot be provided by RUS.

6. Legal Services – It will be necessary for you to obtain the services of a local attorney. For your convenience RUS Bulletin 1780-7, "Legal Services Agreement" is enclosed for your use.

7. Accounting Services – It will be necessary for you to obtain the services of a qualified accountant. The accountant must agree to develop and provide the following:

   a. All necessary accounting material required by the Public Service Commission of West Virginia (Rule 42 Exhibit).

   b. Prior to loan closing, your accountant must certify that the accounts and records as required by your bond resolution have been established and are operational.

   The Accountant's Agreement should be submitted to RUS for review. Compensation in the contract should include only those services identified above and not include payment for construction management services from the accountant unless RUS concurrence is obtained.

   RUS regulations (Attachment No. 3) outline requirements for the submission of management reports and audits. Appropriate state statutes place certain audit requirements on your PSD. The attached booklets, "Government Auditing Standards (Revised 2003)" (Attachment No. 8), and RUS Bulletins 1780-30 and 1780-31 (Attachment Nos. 9 and 10) outline audit requirements.

   You are reminded that certain provisions of the Office of Management and Budget Circular A-133 are applicable to any public body or nonprofit association that expends $500,000 or more in federal funds in any one fiscal year. You must enter into an agreement annually with an accountant (or the State Tax Department) to perform the audit. The agreement must be in accordance with the requirements of the State Tax Commissioner of West Virginia. Compensation for preparation of the A-133 audit or your annual audit are not included in project funds and should be paid from the operational revenues generated from your system operation.

8. Facility Control - Prior to advertisement for construction bids, you must furnish satisfactory evidence that you have or can obtain adequate continuous and valid control over the lands and rights needed for the project. Such evidence must be in the following form:

   a. A right-of-way map showing clearly the location of all lands and rights needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.

   b. A copy of deeds, contracts or options for any lands needed other than rights-of-way, along with a preliminary title opinion covering such lands. Form RD 1927-9, "Preliminary Title Opinion" may be used. In the case of your existing system or where the PSD already acquired real property (land or facilities), a preliminary title opinion(s) concerning all such property(s) will be provided.

   c. A narrative opinion from your attorney concerning all permits, certifications and other items necessary to show that all legal requirements can be met and stating how they will be

met. This narrative should also identify any condemnation proceedings that are anticipated and state how they will be handled.

d. A certification and legal opinion relative to title to rights-of-way and easements. Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way," may be used. This form may contain a few exceptions such as properties that must be condemned; however, prior to the start of construction or loan closing, whichever occurs first, a new Form RD 442-22, must be provided which does not provide for any exceptions. The attorney's legal opinion should include a certification that all requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and West Virginia State Code Chapter 54 have been met in the acquisition of both real property and rights-of-way. Such requirements may include, but are not limited to, distributing informational material to all affected property owners, and completing appraisals of the affected properties.

e. On the day of loan closing, the PSD's attorney must furnish final title opinions on all land(s) being acquired. Form RD 1927-10, "Final Title Opinion" may be used. In the case of your existing system or where the PSD has already acquired real property(s) (land or facilities), the PSD's attorney will provide a separate final title opinion(s) covering such property(s) on the day of loan closing.

9. Permits - Copies of all permits needed for the project must be provided for review prior to advertisement for construction bids. Such permits will include but are limited to the following:

- West Virginia Department of Highways
- Railroads
- State Department of Health
- Department of Environmental Protection
- Corps of Engineers
- Public Land Corporation

10. Public Service Commission Approvals - You must obtain the following from the West Virginia Public Service Commission:

a. A Certificate of Convenience and Necessity.

b. Approval of user charges that are acceptable to you and the Rural Utilities Service.

c. Approval of financing for the project's proposed financing arrangements.

The "Rule 42" Exhibit to be attached to the Public Service Commission application must contain at least the information shown in Attachment No. 1. A copy of the Public Service Commission application and its "Rule 42" Exhibit must be provided for review.

11. Insurance and Bonding Requirements - Prior to preliminary loan closing, you must acquire the following insurance and bond coverage:

a. Liability Insurance - Personal Liability - $500,000; Property Damage - $200,000 - $200,000. The limits of liability coverage noted herein should be considered

as suggested amounts only. RUS recommends that you consider analyzing your actual needs in detail before you obtain coverage in a specific amount.

b. Workers' Compensation - In accordance with appropriate State laws.

c. Position Fidelity Bond(s) - All positions occupied by persons entrusted with the receipt and/or disbursement of funds must be bonded. As a good business practice you will probably wish to have each position bonded in an amount equal to the maximum amount of funds to be under the control of that position at any one time. During the construction phase of your project, this maximum amount will be much greater than normal; therefore, it is our recommendation that you temporarily increase your coverage to the estimated highest monthly construction drawdown. Once construction is complete, you may decrease the amount of your coverage. Please note that the cost of the temporary increase in coverage is an eligible project cost.

The minimum coverage acceptable to RUS once your project is in operation will be for each position to be bonded for an amount at least equal to one annual installment on your loan(s).

d. National Flood Insurance - In addition to meeting the requirements for the type of assistance requested, the following requirements must be met for financial assistance for acquisition and/or construction in designated special flood or mudslide prone areas:

(1) If flood insurance is available, you must purchase a flood insurance policy at the time of loan closing.

(2) Applicants whose buildings, machinery or equipment are to be located in a community which has been notified as having special flood or mudslide prone areas will not receive financial assistance where flood insurance is not available.

e. Real Property Insurance - Prior to the acceptance of the facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all above-ground structures, to include machinery and equipment housed therein. This does not apply to water reservoirs, standpipes, elevated tanks or noncombustible materials used in treatment plants, clearwells, filters and the like.

12. Contract Documents, Final Plans and Specifications -

a. The contract documents should consist of the following:

(1) EJCDC Document No. 1910-8-A-1-FA, 1997 Edition, "Standard Form of Agreement between Owner and Contractor on the Basis of Stipulated Price" and EJCDC Document No. 1910-8-FA, "Standard General Conditions of the Construction Contract – Funding Agency Edition" and Attachments. The EJCDC document is issued under copyright and cannot be provided by RUS.

(2) "RUS Supplemental General Conditions."

RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Standard Documents on Water and Waste Projects with RUS Financial Assistance," is enclosed for use by your engineer

in the preparation of the contract documents (Attachment No. 7).

b. The contract documents must provide, as a minimum, the following insurance:

(1) Liability Insurance - Personal Liability - $500,000; Property Damage - $200,000 - $200,000. This coverage must include indemnification of the PSD and its engineer. EJCDC Document C-710, "Standard General Conditions of the Construction Contract" (Funding Agency Edition) and Exhibit G to RUS Bulletin 1780-26, "Supplementary Conditions" both suggest certain limits of liability for insurance coverage. Those limits should be considered as minimum requirements only. It is recommended you consider increasing the given limits of liability after analyzing your specific needs.

(2) Builder's Risk Insurance - On all structures and mechanical and electrical equipment in place or stored on the site to the full insurable value thereof.

(3) Workers' Compensation - In accordance with applicable State laws.

c. The contract documents and final plans and specifications must be submitted to RUS for approval.

d. The project must be designed in compliance with Section 504 of the Rehabilitation Act of 1973.

13. State Prevailing Wage Law - You should ensure that all requirements of Article 5A of the West Virginia State Prevailing Wage Law, "Wages for Construction of Public Improvements" are met during construction of the project.

14. Interim Financing - Interim financing will be used for the RUS loan if it is available at reasonable rates and terms. You must provide RUS with a copy of the tentative agreement reached in connection with interim financing. A copy of the proposed agreement should be provided for RUS review. A Sample Credit Agreement is attached for your use in meeting this requirement (Attachment No. 11).

15. Disbursement of Funds - The RUS funds will be advanced as they are needed in the amount(s) necessary to cover the RUS proportionate share of any disbursements required of your PSD, over 30 day periods.

The PSD will establish a separate fund, to be known and hereafter referred to as the Construction Account, with a lending institution insured by the Federal Deposit Corporation. The account shall be used solely for the purpose of paying the costs of the project as outlined in the construction budget. All funds in the account will be secured by a collateral pledge equaling at least 100% of the highest amount of funds expected to be deposited in the Construction Account. All deposits in excess of $100,000 will be secured by a collateral pledge in accordance with Treasury Circular Number 176.

The PSD must assure that all project funds are expended only for the eligible items included in the final project budget or as may be later approved by RUS.

16. Other Project Funds - Prior to advertisement for construction bids, you must provide evidence showing the approval of any other project funds. This evidence should include a

copy of the funding award. Prior to award of the contract(s) to the contractor(s), you must provide evidence that the other project funds are available for expenditure. This evidence should consist of at least a letter from the funding agency stating the funds are available for expenditure.

17. At a properly called meeting, you must adopt and properly execute the following forms, and minutes showing the adoption must be provided:

    Form RD 1940-1 - "Request for Obligation of Funds"
    RUS Bulletin 1780-27 - "Loan Resolution (Public Bodies)"
    Form RD 400-1 - "Equal Opportunity Agreement"
    Form RD 400-4 - "Assurance Agreement"
    Form AD 1047 - "Certification Regarding Debarment - Primary"
    Form RD 1910-11 - "Applicant Certification, Federal Collection Policies"
    FmHA Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans"
    Standard Form LLL - "Disclosure of Lobbying Activities" (If Applicable)
    Certification of Compliance
    Form RD 1942-46, "Letter of Intent to Meet Conditions"

18. The enclosed Water and Waste Processing Checklist (Attachment No. 2) outlines the items needed to complete the loan docket. All the items listed must be included in the loan docket when it is forwarded to the USDA - Rural Development State Office with a request for loan closing instructions to be issued.

19. Upon receipt of the loan docket, which contains all the items required above, RUS may authorize you to advertise the project for construction bids. Such advertisement must be in accordance with appropriate State statutes. Immediately after bid opening you must provide RUS with (a) a bid tabulation, (b) recommendations from you and your engineer as to the acceptability of the bids received, and (c) your recommendations for contract awards. If all parties then agree the construction bids received are acceptable, it is determined that adequate funds are available to cover the total facility costs, and that all the administrative conditions of loan approval have been satisfied, loan closing instructions will be issued. The closing instructions, a copy of which will be forwarded to you, will set forth any further requirements that must be met before the loan can be closed. When all parties agree that the closing requirements can be met, a mutually acceptable date for the loan closing will be scheduled.

    The "RUS Policy Regarding Use of Remaining Funds" is attached for your information and use (Attachment No. 12). This policy should be adhered to when addressing the use of bid underrun funds, as well as any funds remaining after project construction is complete.

Any applicant contribution shall be considered as the first funds expended. After providing for all authorized costs, any remaining RUS project funds will be considered to be RUS loan funds and would be applied as an extra payment toward the loan balance.

If the conditions set forth in this letter are not met within twelve (12) months from the date hereof, RUS reserves the right to discontinue processing of the application. In the event the project has not advanced to the point of loan closing within the twelve-month period and it is determined the authority still wishes to proceed, it will be necessary that the proposed budget be

reviewed again in detail. If during that review, it is determined the budget is no longer current and/or adequate, RUS reserves the right to require that it be revised or replaced.

We believe the information herein clearly sets forth the actions which must be taken; however, if you have any questions, please do not hesitate to contact me.

Sincerely yours,

ROBERT M. STEPTOE III
State Director

Enclosures

cc: Rural Development Specialist
Beckley, WV

John D. Blackwell, CPA
3324 Pennsylvania Avenue
Charleston, WV 25302

H. Wyatt Hanna III
Attorney at Law
P.O. Box 8070
South Charleston, WV 25303

Thrasher Engineering, Inc.
ATTN: Jonathan Carpenter, P.E.
300 Association Drive
Charleston, WV 25311

Greg Isaacs, Vice President
Crews and Associates
300 Summers Street, Suite 930
Charleston, WV 25301

Attachment 1 to Letter of Conditions
For: Union Public Service District
August 1, 2006

PROJECT PLANNING FACTORS

PROJECT COST	CREWS LOAN	RUS LOAN	TOTAL
CONSTRUCTION	$ 2,998,320	$ 2,998,320	$ 5,996,640
CONST. CONTINGENCY	$ 300,180	$ 300,180	$ 600,360
LAND & RIGHTS	$ 25,000	$ 25,000	$ 50,000
LOCAL COUNSEL	$ 17,500	$ 17,500	$ 35,000
PSC COUNSEL	$ 5,000	$ 5,000	$ 10,000
BOND COUNSEL RUS		$ 24,500	$ 24,500
BOND COUNSEL CREWS	$ 24,500		$ 24,500
ACCOUNTING	$ 2,500	$ 2,500	$ 5,000
ENGINEERING FEES	$ 544,500	$ 544,500	$ 1,089,000
BASIC - $635,000			
Design -$425,000			
Eng. Const. - $120,000			
Design Surveying-$80,000			
Arial Mapping - $10,000			
INSPECTION - $300,000			
SPECIAL SERVICES - $154,000			
Applications - $5,000			
ROW Surveying - $55,000			
Stakeout - $55,000			
As Built Drawings - $15,000			
O & M Manual - $15,000			
Start-up Warranty - $6,000			
One Year Certification - $3,000			
INTEREST	$ 233,266	$ 194,500	$ 427,766
UNDERWRITERS DISCOUNT	$ 37,500		
UNDERWRITERS COUNSEL	$ 15,000		
TRUSTEE FEE	$ -		
PROJECT CONTG.	$ 47,500	$ 60,000	$ 107,500
TOTAL PROJECT COST	**$ 4,250,766**	**$ 4,172,000**	**$ 8,422,766**

Rates

Available for general domestic, commercial, and industrial service.

First	2,000	gallons @	$	8.52	per M gallons
Next	3,000	gallons @	$	4.66	per M gallons
Next	15,000	gallons @	$	3.96	per M gallons
Over	20,000	gallons @	$	3.70	per M gallons
Well Cust.	4,500	Flat Rate	$	28.68	

Minimum Charge

The above schedule is subject to a minimum monthly charge of $ $17.03

Flat Rate Charge (Customers with non-metered water supply)

Equivalent of 4,500 gallons of water usage

Delayed Payment Penalty

The above tarrif 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 District will run its line from its main to the boundary line of the property owner's lot and will provide him with a tap. For this service, the property owner shall pay a sewer connection charge of Two Hundred Fifty Dollars ($250.00). This fee is intended to defray the District's actual costs of construction incurred in order to provide a service connection to the customer.

Minimum Monthly Bill $17.03 for 2,000 gallons

Returned Check Charge

If a check received is returned by the bank for any reason, the banks charge to Union Public Service District shall be the District's charge to the customer for such bad check, but such charge to the customer shall not exceed $20.00.

Rules Pertaining to Subdivisions

A. Each such subdivision must obtain the required approval of the Planning and Zoning Commission of Kanawha County.

B. The plans and sketches for the proposed sewer system shall meet all requirements of the Department of Health of West Virginia and shall be approved by the Division of Sanitary Engineering.

C. The subdivider's sewer system shall intself be inspected by Union Public Service District; and, if approved by the Health Department of West Virginia and the aforesaid Planning and Zoning Commission and Union

Water Disconnect - Reconnect Fees

Whenever water service has been disconected for non-payment of sewer bills, a disconnection 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 is reconnected, a reconnection fee of $20.00 shall be charged.

Leak Adjustment

$0.47 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate is to be applied to all such consumption above the customer's historical average usage.

Use and Income Analysis - See Attached

Cash Flow Analysis - See Attached

UNION PUBLIC SERVICE DISTRICT
USE AND INCOME ANALYSIS
EXISTING USERS

Blocking	Cust.	Gal/ Mo.	Minimum Bills	First 2,000	Next 3,000	Next 15,000	Over 20,000	WELL CUSTOMERS	TOTAL REVENUE
0 - 2,000	1,057	1,121	1,057						
2,001 - 5,000	2,297	7,836		4,594	3,242				
5,001 - 20,000	1,517	12,095		3,034	4,551	4,510			
Over 20,000	114	5,711		228	342	1,710	3,431		
								17	
Monthly Total	4,985	26,763	1,057	7,856	8,135	6,220	3,431	17	
Proposed Rates			$ 17.03	$ 8.52	$ 4.66	$ 3.96	$ 3.70	$ 28.68	
Monthly Revenues			$ 18,000.71	$ 66,933.12	$ 37,909.10	$ 24,631.20	$ 12,694.70	$ 487.56	**$ 160,656.39**
Annual Revenues			$ 216,008.52	$ 803,197.44	$ 454,909.20	$ 295,574.40	$ 152,336.40	$ 5,850.72	**$ 1,927,876.68**

AVERAGE MONTHLY BILL (4.5M GAL) = ~~$32.38.00~~
$28.68

UNION PUBLIC SERVICE DISTRICT
USE AND INCOME ANALYSIS
EXTENSION AREA USERS

Blocking	Cust.	MGal/ Mo.	5/8" Minimum Bills	First 2,000	NEXT 3,000	NEXT 15,000	OVER 20,000	WELL CUSTOMERS	TOTAL REVENUE
0 - 2,000									
2,001 - 5,000	254	4		508	508				
5,001 - 20,000									
over 20,000									
Well Customers									
Monthly Total	254	4	0	508	508	0	0		
Proposed Rates			$ 17.03	$ 8.52	$ 4.66	$ 3.96	$ 3.70		
Monthly Revenues			$ -	$ 4,328.16	$ 2,367.28				$ 6,695.44
Annual Revenues			$ -	$ 51,937.92	$ 28,407.36				$ 80,345.28

UNION PUBLIC SERVICE DISTRICT

CASH FLOW ANALYSIS

	EXISTING USERS	ADDITIONAL USERS	PROFORMA
OPERATING INCOME			
Metered Sales	$ 1,462,854	$ 1,523,874	$ 2,008,222
Penalties	$ 37,462	$ 38,096	$ 50,205
Other Income	$ 16,582	$ 16,582	$ 16,582
TOTAL OPERATING INCOME	$ 1,516,898	$ 1,578,552	$ 2,075,009
NON OPERATING INCOME			
Interest income	$ 15,341	$ 15,341	$ 15,341
TOTAL NON OPERATING INCOME		$ 15,341	$ 15,341
TOTAL INCOME	$ 1,532,239	$ 1,593,893	$ 2,090,350
EXPENSES			
O & M	$ 824,075	$ 871,611	$ 871,611
Taxes			
TOTAL EXPENSES	$ 824,075	$ 871,611	$ 871,611
INCOME AVAILABLE FOR D/S (A)	$ 708,164	$ 722,282	$ 1,218,739
DEBT SERVICE			
Existing Bonds P & I (B)*	$ 557,580	557,580	$ 557,580
Proposed Bond P & I (B)		497088	$ 497,088
USDA · $229,800			
Crews - $267,288			
TOTAL DEBT SERVICE	$ 557,580	$ 1,054,668	$ 1,054,668
DEBT SERVICE RESERVE			
Existing Bonds**	0	0	0
Proposed Bonds		$ 49,708	$ 49,709
USDA : $22,980			
Crews $26,728			
TOTAL DEBT SERVICE RESERVE	$ -	$ 49,708	$ 49,709
SURPLUS (DEFICIT)	$ 150,584	$ (382,094)	$ 114,362
DEBT COVERAGE (A/B)	1.27	0.68	1.16
RATE INCREASE REQUIRED			**32%**

*Four bonds are outstanding. WDA Series 1991 A,B & C plus SRF 1996-A
WDA Series 1991-A - $181,956/Yr, or $15,163/Mo
WDA Series 1991-B - $346,668/Yr, or $28,889/Mo
WDA Series 1991-C - $6,156/Yr, or $513/Mo
SRF Series 1996-A - $20,940/Yr, or $1,745/Mo plus 1%fee of $155/Mo or $1,860/Yr
Total existing annual D/S = $557,580

**Debt Service Reserve Fully Funded on All 4 Outstanding Bonds

RATE INCREASE & DEBT COVERAGE FORMULA

Total Debt X 1.15 - Available Income / Rate Dependent Revenue

Attachment No. 2 to Letter of Conditions
For: Union Public Service District (S)
August 1, 2006

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL UTILITIES SERVICE
Water and Waste Processing Checklist

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
SF 424.2	Application for Federal Assistance	3	1780.31(b)	Applicant		Have	3
	DUNS Number	1		Applicant		Have	3
	CAIVRS Number	1		RUS		Have	CPAP Form
	Public Notice of Intent to File App./ Env. Notice	3	1780.19(a) 1794	Applicant			3
Bulletin 1780-22	Applicant Eligibility Certification/ Other Credit Certification	1	1780.33(d)	Applicant			3
	Bond Ordn. or Resol. On Outstanding Debts	1	1780.33(e)	Applicant/ Attorney		Have	5
	Bonds or Notes Outstanding Debt	1	1780.33(e)	Applicant/ Attorney		Have	2
	Audit for last year of operation	1	1780.33(e)	Applicant/ Accountant		Have	1
	Staff Review Financial Statements	1	S.I. 1780.2	RUS		Have	1
EJCDC No. 1910-1-FA	Agreement between Owner & Engineer	3	1780.39(b)	Applicant/ Engineer			6

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
Bulletin 1780-7 or other approved	Legal Services Agreement with Local Attorney	3	1780.39 (b)(2)	Applicant/ Attorney			5
	Site Visit		S.I. 1780-2	RUS		Have	3
	Processing Conference	1	1780.39(a)	RUS		Have	3
	Environmental Report	2	1794	Applicant		Have	3
	Environmental Assessment	2	1794	RUS/ Engineer		Have	3
	FONSI/ Evidence of Publication	1	Exhibit 1 RUS 1794 News Ad	RUS/ Applicant			3
Bulletins 1780-2 1780-3	Preliminary Engineering Report	2	1780.33(c)	Engineer		Have	6
	Staff Engineer PER Review	1	1780.33(c)	RUS		Have	3
	Bill Analysis for existing system(s)	2	1780.33(c)	Applicant/ Engineer		Have	8
	Projected Bill Analysis for New Users	2	1780.33(c)	Applicant/ Engineer		Have	8
	Statement reporting the total number of potential users		1780.33(c)	Applicant/ Engineer			8
	Rate Tariff	2	1780.33	Applicant		Have	8
	Applicant's IRS Tax Number(TIN)	1	1780.33(g)	Applicant		Have	3

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
	Agency Determination on the Availability of "Other Credit" with Documentation	1	1780.7(d)	RUS			3
	Documentation on Service Area	1	1780.11	RUS			3
Bulletin 1780-1	Project Selection Criteria	2	1780.17	RUS		Have	1
	Letter of Conditions	7	1780.41 (a)(5)	RUS		Have	3
Exhibit A / A-1	Certifications Regarding Lobbying	2	1780.33(h)	Applicant			2
CPAP Form	Project Information	3	1780.41(a)	RUS		Have	1
CPAP Form	Underwriting Information	3	1780.33(h)	Applicant		Have	3
RD 1940-1	Request for Obligation of Funds	4	1780.41(a)	RUS/ Applicant		Have	2
RD 1942-46	Letter of Intent to Meet Conditions	2	1780.41 (a)(6)	Applicant			3
AD 1047	Certification Regarding Debarment (Primary)	1	1780.33(h)	Applicant			5
	Relationships/ Associations with Agency Employees	1	1780.1(f)	RUS			3
RD 1910-11	Applicant Certification, Federal Collection Policies	1	1780.33(h)	Applicant			3

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
Bulletin 1780-27	Loan Resolution	1	1780.45 (a)(2)	Applicant			5
RD 400-1	Equal Opportunity Agreement	1	1901-E	Applicant			6
RD 400-4	Assurance Agreement	1	1901-E	Applicant			3
	Legal Services Agreement with Bond Counsel	1	1780.39 (b)(3)	Applicant/ Bond Counsel			5
	Agreement for Accounting Services	1	1780.39 (b)(2)	Applicant/ Accountant		Have	5
	Sewer Users Agreement or State Health Dept. Mandatory Hook-Up Commitment Ltr.	1	1780.39 (c)(3)	Applicant			5
	Certification Relative to Existing Users	1	LOC	Applicant			5
	Verification of Users	1	1780.44(b)	RUS			3
	Accountant's Certification	1	LOC	Applicant/ Accountant			3
	RUS Review of Accounting Records	1	S.I. 1780-4 (1)(ii)	RUS			3
	Copy of PSC Rule 42 Exhibit	1	State	Attorney/ Accountant			3
Lender Agreement/ Bulletin 1780-10/ 1780-10a	Interim Financing Documentation	1	1780.39(d)	Applicant/ RUS			1

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
	DOH Permit	1	1780.15(d)	Applicant			6
	Railroad Permit	1	1780.15(d)	Applicant			6
	Public Land Corp. Permit	1	1780.15(d)	Applicant			6
	Corps of Engineers Permit	1	1780.15(d)	Applicant			6
	Dept. of Health Approval	1	1780.15(d)	Engineer			6
	Dept. of Environmental Protection Permit	1	1780.15(d)	Engineer			6
	Contract Documents, Plans & Specifications	2	1780.61(a)	Engineer			Separate File
	Agency Determination on Procurement	1	1780.70(d)	RUS			6
	Preliminary Bond Transcript Documents w/o Defeasance Provisions	2	1780.83	Bond Counsel			5
	Right-of-Way Map	1	1780.44(g)	Engineer			Separate File
	Deeds and/or Options		1780.44.(g)	Applicant/ Attorney			5
RD 1927-9	Preliminary Title Opinion	1	1780.44 (g)(2)	Applicant/ Attorney			5
	Narrative Opinion from Attorney	1	1780.44(g)	Attorney			5
	Waiver of Title Defects Letter	1	1780.44(g)	RUS			5

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
RD 442-22	Opinion of Counsel Relative to R/Ways		1780.44 (g)(1)	Attorney			5
	Review of Outstanding Judgment	1	1780.7(g)	RUS/ Attorney			3
	Evidence of "Other Funds"	1	1780.44(f)	Applicant			2
SF 3881	Electronic Funds Transfer Payment Enrollment Form	1	31 CFR 208	Applicant/ Financial Institution			2
	Positive Program to Encourage Connections when Completed	1	1780.39 (c)(5)	Applicant			5
RD 442-10	Appraisal Report	1	1780.44(g)	RUS			8
	PSC Approval	1	1780.15(b)	Applicant/ Attorney			6
	Bid Tabulation	1	1780.61(b)	Engineer			6
	OGC Closing Instructions	1	1780.44(h)	RUS			5
	S/O Closing Instructions	1	1780.44(h)	RUS			5
RD 1927-10	Final Title Opinion	1	1780.44 (g)(2)	Applicant/ Attorney			5
	Bond Transcript Documents w/o Defeasance Provisions	3	1780.83	Bond Counsel			Separate File
RD 400-8	Compliance Review	1	1780.44(c)	RUS			5

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
	Liability Insurance	1	1780.39(g)	Applicant			7
	Workers' Compensation Certificate	1	1780.39(g)	Applicant			7
	Flood Insurance Policy	1	1780.39(g)	Applicant			7
440-24	Fidelity Bond	1	1780.39(g)	Applicant			7
1924-16	Record of Pre-Construction Conference	1	1780.76(a)	RUS/ Engineer			6
AD 1048	Certification Regarding Debarment (Contractor)	1 each	1780.33(h)	All Appropriate Vendors			5
	OGC Final Opinion	1	1780.45(g)	RUS			5

RUS - WV SUPPLEMENTAL GENERAL CONDITIONS

These Supplementary Conditions amend or supplement the Engineers Joint Contract Documents Committee Standard General Conditions of the Construction Contract Funding Agency Edition (EJCDC C-710, 2002 Edition) and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions will have the meanings indicated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings indicated below, which are applicable to both the singular and plural thereof.

1. WVSC 1.01 A 4 - Add the following language to the end of paragraph 1.01 A 4:

   a. Quantities completed on the "Final Application for Payment", must equal the final adjusted contract quantities on unit price contracts.

   b. Two executed copies with all attachments will be provided for RUS use.

2. WVSC 1.01 A 10 - Add the following language to the end of paragraph 1.01 A 10:

   c. Work added by change order will not be considered for payment until the change order has been signed by Engineer, Owner, Contractor, and Agency.

3. WVSC 5.04 - Add the following new paragraph immediately after paragraph 5.04 B:

   C. The limits of liability for insurance required by paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

      1. Workers' Compensation, and related coverages under paragraphs 5.04 A.1 and A.2 of the General Conditions:

a. State:	Statutory
b. Applicable Federal (e.g., Longshoremen's)	Statutory
c. Employer's Liability	$500,000

      2. Contractor's General Liability under paragraphs 5.04 A 3 and A 6 of the General Conditions which shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody, and control of the Contractor:

a. General Aggregate	$2,000,000
b. Products - Completed Operations Aggregate	$1,000,000
c. Personal and Advertising Injury	$1,000,000

d. Each Occurrence (Bodily Injury and Property Damage) $1,000,000

e. Property Damage liability insurance will provide Explosion, Collapse, and Underground coverages where applicable.

f. Excess or Umbrella Liability
   1) General Aggregate $3,000,000
   2) Each Occurrence $3,000,000

3. Automobile Liability under paragraph 5.40 A 6 of the General Conditions:
   a. Combined Single Limit of $1,000,000

4. The Contractual Liability coverage required by paragraph 5.04 B 4 of the General Conditions shall be provided by the CONTRACTOR as part of the CONTRACTOR'S General Liability coverage.

5. List additional types and amounts of insurance that may be required by OWNER.

6. List by name other persons or entities to be included on policy as additional insureds.

4. WVSC 6.02 - Add the following new paragraph immediately after paragraph 6.02 B:

C. Wage rates. In any case where the Owner is a Public Body (Municipalities and Public Service Districts), the CONTRACTOR must pay wages at least equal to the State Prevailing Wage Rates. The Engineer will be responsible to see that current wage rates are included in the contract documents. The CONTRACTOR will be responsible for keeping a clearly legible statement of a fair prevailing wage rates posted in a prominent and easily assessable place at the job site for those projects where such rates apply.

5. WVSC 12.03 A - Add the following to the end of the paragraph.

When establishing the contract time, allowance will be made for four (4) days of work lost per month due to adverse weather conditions or the impact of the adverse weather. At the time of each contractor's application for payment, the contractor shall submit to the Engineer and Owner for approval, a list of all days lost due to adverse weather or the impacts of the adverse weather and shall indicate which days are to be subtracted as part of the four (4) day allowance for that month as established by this paragraph. Accompanying this list will be data supplied by the National Oceanic and Atmospheric Administration, National Weather Service that supports rain or snow in excess of 0.1 inch of precipitation or temperatures at 32 degrees F or below.

For the purposes of this paragraph, impact days will be defined as days where conditions were unfavorable for construction due to an adverse weather day

exceeding a tenth (0.1) inch of precipitation. The list of all days lost will be reviewed and approved by the Owner and Engineer who shall then determine the number of days lost which exceed the four (4) day allowance for that month. If applicable, the National Weather Service data will be attached to the contractor's application for payment. The adverse weather days and impact days are to be part of the Resident Project Representative's job documentation.

Approval of the contractor's application for payment by the Engineer, Owner, and Funding Agency will also include approval of the adverse weather days and impact days. After Substantial Completion and not until such time, a contract change order will be executed to extend the contract construction time by the entire number of approved adverse weather days and impact days which exceeded the 4 day allowance for each month. This extension of contract time must be based solely on the adverse weather days and impact days submitted by the contractor at the time of each contractor's application for payment, approved by the Owner and Engineer and which the Owner and Engineer have determined to exceed the 4 day allowance per month. There will not be a decrease in contract construction time if the contractor loses less than 4 days of work per month due to adverse weather or the impact of adverse weather.

6. WVSC 14.07 - Add the following new paragraph immediately after paragraph 14.07 A 3:

   Listed are the necessary documents required before final payment is made to contractors on projects financed in whole or in part by RUS. Some of the items may not be applicable on each project or in all contracts of the same project. When more than one contractor is on the same project, most of the following items will be submitted for each.

   1. Final adjusting change order shall be updated and reflect the changes to correlate with the as-built drawings.

   2. For project where performance and payment bonds are in effect, a "Consent of Surety as to Final Payment" is needed. When surety bonds are not provided, contractors will furnish the owner required evidence of payment in full for all materials, labor, and any other items procured under the contract. Form RD 1924-10, "Release by Claimants," and/or Form RD 1924-9, "Certificate of Contractor's Release." may be used for this purpose.

   3. A statement of acceptance from WVDOT, if required, stating that satisfactory repairs were made to the roadways which were disturbed during the construction period and that all expenses associated with WVDOT inspections have been paid in full.

   4. A statement signed by the Engineer stating that the work has been inspected and completed in accordance with the approved contract documents.

   5. Release from the West Virginia Department of Tax and Revenue.

7. WVSC 16.01 B – Add the following immediately below paragraph 16.01B:
   Arbitration by Mutual Agreement

1. All claims, disputes, and other matters in question arising out of, or relating to, the CONTRACT DOCUMENTS or the breach thereof, except for claims which have been waived by making an acceptance of final payment as provided by Section 20, may be decided by arbitration if the parties mutually agree. Any agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in any court having jurisdiction thereof.

2. Notice of the request for arbitration shall be filed in writing with the other party to the CONTRACT DOCUMENTS and a copy shall be filed with the ENGINEER. Request for arbitration shall in no event be made on any claim, dispute, or other matter in question which would be barred by the applicable statute of limitations.

3. The CONTRACTOR will carry on the WORK and maintain the progress schedule during any arbitration proceedings, unless otherwise mutually agreed in writing.

8. WVSC 18.10 - Add the following new paragraph immediately after paragraph 18.10 C:

D. For each contract exceeding $100,000, the CONTRACTOR shall furnish, erect and maintain one project sign in accordance with according to the specifications set forth below:

Size:	4' x 8' x 3/4"
Material:	APA Rated A-B Grade-Exterior
Framing:	2" x 4" nominal on four sides and center cross bracing
Supports:	4" x 4" x 12' nominal post
Mounting:	Sign is to be mounted to the 4" x 4" post with a 3/8" minimum bolt and nut, four on each side of the sign. Each bolt is to have two washers, one between the sign and the head of the bolt and the other between the post and the nut.
Erection:	4" x 4" posts are to set three to four feet deep into concrete 12" in diameter.
Paint:	Face: three coats outdoor enamel (sprayed) Rear: one coat outdoor enamel (sprayed)
Colors:	White background with black lettering except for USDA logo which will be in accordance with Exhibit 1-A.
Lettering:	Silk screen enamel. Lettering sizes and positioning will be as illustrated.

Location and height of sign will be coordinated with the agency responsible for highway and street safety in the area, if any possibility exists for obstruction

of traffic line of sight.

The project sign will be substantially in accordance with Exhibits 1-A and B, placed in a prominent location, and maintained in good condition until the completion of the project.

Information for items will be supplied by the Engineer/Architect.

Cost of sign, including erection and removal, shall be included in the lump sum of or unit prices bid.

9. WVSC 18.12 - Add the following new paragraph immediately after paragraph 18.12 A 4:

   B. Lead Based Paints: CONTRACTORS must comply with Lead Base Paints Poisoning and Prevention Act and National Consumer Health Information and Health Promotion Act of 1976 with reference to specifications for paints used in construction.

UNITED STATES DEPARTMENT OF AGRICULTURE
Rural Utilities Service

BULLETIN 1780-26

SUBJECT: **Guidance for the Use of EJCDC Funding Agency Edition Documents on Water and Waste Projects with RUS Financial Assistance**

TO: Rural Development State Directors, RUS Program Directors, and State Engineers

EFFECTIVE DATE: Date of approval.

OFFICE OF PRIMARY INTEREST: Environmental and Engineering Staff, Water and Environmental Programs

INSTRUCTIONS: This bulletin replaces RUS Bulletin 1780-26, dated December 16, 1997. For projects initiated prior to the effective date of this bulletin, agreements for engineering services and construction contract documents approved under the previous bulletin will be considered acceptable until the project is completed.

AVAILABILITY: This bulletin and all the exhibits, as well as any Rural Development instruction or Rural Utilities Service instructions, regulations, or forms referenced in this bulletin are available at any Rural Development State Office. The State Office staff is familiar with the use of the documents in their States and can answer specific question on Agency requirements.

This bulletin is available on the Rural Utilities Service website at www.usda.gov/rus/water.

PURPOSE: This bulletin assists Rural Development staff in providing information and guidance to applicants and professional consultants in the development of engineering agreements and construction contract documents that are legally sufficient, ensure appropriate services are provided for a reasonable fee, and expedite the achievement of the applicant's goals.

MODIFICATIONS: Rural Development State Offices may modify this guidance when appropriate to comply with State statutes. For reference, the State Office will submit an electronic file containing any modifications and a justification for changes to the Assistant Administrator for Water and Environmental Programs.

September 10, 2003

Date

Water and Environmental Program

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Exhibit G	Supplementary Conditions

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Agreement for Engineering Services
Construction Contract Documents
Water and Waste Facilities

ABBREVIATIONS

CFR – Code of Federal Regulations
EJCDC – Engineers Joint Contract Documents Committee
EO – Executive Order
PER – Preliminary Engineering Report
PL – Public Law
USC – United States Code

The EJCDC documents and this bulletin contain references to the USC, the CFR, EO, and PL. The current versions of the referenced documents are available over the Internet.

Type of Document	Web Site URL
USC	uscode.house.gov/usc.htm
CFR	www.access.gpo.gov/nara/cfr
EO	www.whitehouse.gov/news/orders(Only partial list, others being added periodically)
PL	thomas.loc.gov/bss/bdquery.html#laws

Guidance for the Use of EJCDC Funding Agency Edition Documents on Water and Waste Projects with RUS Financial Assistance

Rural Utilities Service
September 2003

1 GENERAL

The United States Department of Agriculture, Rural Utilities Service (RUS) and the Engineers Joint Contract Documents Committee (EJCDC) have developed a Funding Agency Edition of selected standard documents as follows:

a. Standard Form of Agreement between Owner and Engineer for Professional Services, Funding Agency Edition (EJCDC No. E-510, including Exhibits A through J, 2002 Edition),
b. Suggested Form of Agreement between Owner and Contractor on the Basis of Stipulated Price, Funding Agency Edition (EJCDC No. C-521, 2002 Edition), and
c. Standard General Conditions of the Construction Contract, Funding Agency Edition (EJCDC No. C-710, 2002 Edition).

When these documents are properly coordinated with standard documents in the EJCDC set of Construction Related Documents, the documents are acceptable for use by RUS applicants and borrowers in the procurement of engineering professional services and utility construction services for projects with financial assistance under the Water and Waste programs.

2 AVAILABILITY

The EJCDC documents are available from any of the sponsoring organizations: the National Society of Professional Engineers (www.nspe.org or 1-800-417-0348), American Council of Engineering Companies (www.acec.org or 1-202-347--7474), or American Society of Civil Engineers (www.asce.org or 1-800-548-2723). RUS offices will not distribute EJCDC documents for any purpose other than training or to illustrate the appropriate use of the integrated set of documents on RUS financially assisted projects.

Any utility or consulting engineer that is anticipating funding all or part of a water or waste improvement project with financial assistance from RUS should contact the USDA, Rural Development State Office for guidance before executing a professional services agreement or preparing a set of construction contract documents. The RUS Water and Waste programs are delivered through the USDA, Rural Development offices.

Any Rural Development or RUS instructions, regulations, or forms referenced in this bulletin are available from any Rural Development State Office. Typical forms to be used are:

a. Compliance Statement (RD 400-6).
b. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions (AD-1048).
c. RD Instruction 1940-Q, Exhibit A-1, Certification for Contracts, Grants, and Loans.

The RUS National Office maintains a web site for Water and Environmental Programs at www.usda.gov/rus/water. In addition to other valuable information, this site provides a listing of all the Rural Development State Offices (State Staff), the capability to download a copy of Bulletin 1780-26 and the Exhibits in a MS Word format (Regulations/Bulletins), and copies of most Rural Development and RUS forms (Forms).

3 PURPOSE

This bulletin on the use of the EJCDC documents is to be used by Rural Development staff in providing information and guidance to applicants and professional consultants in the development of agreements that are legally sufficient, ensure appropriate services are provided for a reasonable fee, and expedite the achievement of the applicant's goals. Many of the EJCDC standard forms must be used with the Funding Agency Editions of the agreements to develop a complete set of construction contract documents. This guidance package consists of exhibits that can assist with the integration of those standard documents with the Funding Agency Edition documents. However, the guidance or model documents in these exhibits are not to be used as a substitute for the careful evaluation of the requirements for a project. The owner, their engineer and legal counsel, with Rural Development consultation, must determine the best approach for a successful outcome.

4 OWNER RESPONSIBILITY

Before an applicant or consultant proceeds with the development of an agreement or a set of construction contract documents, they should contact the Rural Development State Office to verify they have the most current information specific to the type of project and State where the project is located. Consultants may use these electronic files as the starting point in preparing a set of construction contract documents for a project. This bulletin and the exhibits are formatted for copying as a doubled sided document to reduce paper usage after the first computer printing.

The Owner is responsible for the settlement of all contractual and administrative issues arising out of procurement entered into in support of a loan or grant. These include, but are not limited to: source evaluation, protests, disputes, and claims. Matters concerning violations of laws are to be referred to the applicable local, State, or Federal authority.

Owner-Engineer Agreement Document List

The Rural Utilities Service (RUS) and the Engineers Joint Contract Documents Committee (EJCDC) have developed a Funding Agency Edition of the Owner-Engineer Agreement that when properly assembled is acceptable for use on water and waste projects funded by RUS. These documents are 2002 edition and should be used in coordination with the EJCDC construction related documents, Funding Agency Editions. The Exhibits referenced here were specifically drafted to be used with the Owner-Engineer Agreement, Funding Agency Edition and should not be mixed with Exhibits from the Standard Edition.

Because the EJCDC documents are fully integrated, when making a modification in one document you should ensure that appropriate modifications are made in all effected documents. It is RUS policy that the applicants use the EJCDC documents with minimal modification. However, RUS recognizes each project is unique and that modifications may be required to satisfy project requirements or State statutes.

For a Project that will not be clearly defined until the Preliminary Engineering Report (PER) is approved and fees for basic services are to be either a lump sum or hourly rates with a not to exceed limit, the Owner and Engineer may wait until the Project is defined in the approved PER to negotiate services and compensation for the Design and Construction Phases.

Before applicants or consultants proceed with the development of an agreement, they should contact the Rural Development State Office to verify they have the most current information specific to the type of project and State where the project is located.

This table provides a list of the component parts of a complete Owner-Engineer Agreement and RUS Notes on their use.

EJCDC Title	Form	RUS Notes: Necessary actions, important points
Standard Form of Agreement Between Owner and Engineer for Professional Services Funding Agency Edition	E-510 (02)	• Before an "Effective Date" is entered the Owner should consult with a Rural Development representative regarding funding requirements, appropriate services, and reasonable fees. • Insert Rural Utilities Service and names of other Federal or State funding agencies that will be concurring in the Agreement. • 4.01, If the Owner has specific invoicing requirements, those requirements should be outlined in Exhibit I, Special Provisions, as an amendment to this paragraph. • 8.02, This Agreement constitutes the entire agreement between Owner and Engineer for the Project. No agreements for additional compensation for services provided under this Agreement are permitted. • 8.04, Any additional Federal funding agency requirements should be outlined in Exhibit I, Special Provisions, as a supplement to this paragraph. • 8.05, State funding agency requirements not in conflict with Federal requirements should be outlined in Exhibit I, Special Provisions, as a new paragraph 8.05. • RUS funding can be used for payment of engineering services only after RUS has concurred in the agreement. • In addition to copies customarily provided for Owner, Engineer, and others, two executed copies with all Exhibits will be provided for Rural Development use.

EJCDC Title	Form	RUS Notes: Necessary actions, important points
Engineer's Services	E-510 Exhibit A (Required)	• A1.01.A.4, Insert number of alternatives or list of alternatives to be evaluated, but leave option to add any required by funding agencies. • A1.01.A.6, Typical tasks and deliverables are listed, but list should be reviewed and adjusted as appropriate. • A1.02.A.4, A1.03.A.4, A1.04.A.6, A1.05.A.19, and A1.06.A.5, Any unique tasks or deliverables not covered in the standard language must be added in the appropriate phase. • A1.06.B, The Engineer should provide a number of hours commensurate with the size and complexity of the project.
Owner's Responsibilities	E-510 Exhibit B (Required)	• Any of the listed responsibilities that have been moved to Exhibit A or are included in Additional Engineer's Services should be deleted here. • B2.01.R, Any unique tasks or deliverables not covered in the standard language must be added.
Payments to Engineer for Services and Reimbursable Expenses	E-510 Exhibit C (Must Select One Option)	• Rural Development State Staff, in consultation with an ad hoc coordination group of professional engineers familiar with RUS funded water and waste projects, may modify Exhibit C and appendixes to be consistent with state requirements and local practices that do not conflict with Federal requirements. • Compensation Decision Guide, The Owner and Engineer have several methods of compensation available. The choice of the method of compensation determines which Exhibit C Sheets must be part of the Agreement. Although no specific format is provided, the Owner and Engineer may negotiate a Lump Sum method of compensation for well defined tasks under Additional Services. • All Sheets, Each sheet requires items to be entered to make the document complete. The estimates of total compensation associated with Standard Hourly Rates method of compensation are required for project budgeting. • Sheet C-8, Reimbursable expenses are included in the amount stated in C2.04.A.1. • Be specific about fees for providing PER and Environmental Report. • The Owner and Engineer may wait until the Project is defined in the approved PER to negotiate services and compensation for the Design and Construction Phases. • Be specific about fees regarding bidding and advertising multiple construction contracts and change order adjustments of contract amount and time.
Reimbursable Expenses Schedule	E-510 Exhibit C, Appendix 1 (Required when any reimbursable expenses are not part of basic fees)	• This suggested format will normally be replaced by the Engineer's standard schedule. • Note that agreement provides for rates to be adjusted annually. Budget for expenses at time of service. Revised rates should be submitted to State Engineer for approval prior to implementation.

EJCDC Title	Form	RUS Notes: Necessary actions, important points
Standard Hourly Rates Schedule	E-510 Exhibit C, Appendix 2 (Required when any Standard Hourly Rates method of compensation is selected)	• This suggested format will normally be replaced by the Engineer's standard schedule. • Note that agreement provides for rates to be adjusted annually. Budget for expenses at time of service. Revised rates should be submitted to State Engineer for approval prior to implementation.
Duties, Responsibilities, and Limitations of Authority of Resident Project Representative	E-510 Exhibit D (Required)	• Required if Engineer provides this service • A similar document outling duties, responsibilities and limitations of authorities must be used if others provide service.
Notice of Acceptability of Work	E-510 Exhibit E (Required)	• Executed copy will be provided to Rural Development at Project final inspection.
Construction Cost Limit	E-510 Exhibit F (Optional)	• If Owner has strict budgetary limitations, this Exhibit assigns Engineer more responsibility for cost control.
Insurance	E-510 Exhibit G (Required)	• The purpose of this Exhibit is two fold: a) disclosure of insurance coverages by each party, and b) confirmation of each party's insurance requirements for this Agreement. Owner and Engineer are not required to carry each type of insurance listed. • Owner should review and update insurance coverage where necessary to maintain adequate protection during construction period. • Owner should consider requiring Engineer to carry comparable types of coverage and limits Owner is carrying. • The default condition is that the contractor is required to provide "all risk" builders risk insurance coverage. If the Work is modifying existing facilities, the Owner may consider providing the property damage builders risk insurance. This requires a modification of General Conditions
Dispute Resolution	E-510 Exhibit H (Optional)	• Use only if it is desirable to settle disputes using a process other than the court system. • Sample entries for blanks: A. Name a specific mediator or mediation service/agency i.e. American Arbitration Association. B. Name a specific arbitration service/organization i.e. American Arbitration Association. B.1. Same as entry in B. B.2. Insert appropriate dollar amounts e.g. $50,000.
Special Provisions	E-510 Exhibit I (Optional)	• Use only if specific modifications are required by State statute or unique project requirements. • Follow document format.
Amendment to Owner-Engineer Agreement	E-510 Exhibit J (Required)	• Exhibit J is not a critical part of the initial Agreement, but is the agreed format for amending the Agreement.

Owner's Instructions Regarding Bidding Procedures And Construction Contract Documents

The Rural Utilities Service (RUS) and the Engineers Joint Contract Documents Committee (EJCDC) have developed Funding Agency Editions of specific documents that are acceptable for use as the foundation of the Construction Contract Documents on water and waste projects funded by RUS. This exhibit is adapted from EJCDC No. C-050 (2002 edition) and is provided to indicate RUS requirements and recommendations in preparation of the Construction Contract Documents and to expedite the entire process of preparing for the project construction. RUS recognizes each project is unique and that modifications may be required to satisfy specific project requirements or State statutes.

This exhibit is a model letter that the Owner and Engineer can use to delineate the issues and conclusions reached by the Owner and Engineer before preparing documents. The Owner and their Engineer should collaborate in the development of this or a similar document in consultation with the Owner's legal counsel before the Engineer begins development of the Construction Contract Documents.

Text enclosed in {} indicates a choice is necessary or information should be inserted.

PROJECT: *{Insert name}*

OWNER: *{Insert name}*

TO: *{Insert Engineer's name}*

CC: USDA, Rural Development

You are hereby instructed to proceed with preparation of necessary Bidding Requirements and Contract Documents on the basis of the advice and information given below or provided in attachments. This letter is to confirm decisions made and does not change any relationships or assignment of responsibilities established in the Owner-Engineer Agreement.

1. Project name to be used: *{Insert name,* if other than above*}*

2. Legal name and address of the Owner for construction contract purposes: *{Insert Owner's legal name and address}*

3. Form of Owner's organization: ___Not-for-Profit Corporation ___Municipality ___Utility District ___County ___Township ___Tribe.

4. Detailed description of property, including designation of property owner if different from the Owner identified above: *{Insert detailed description of property}*

5. During the Construction Phase, Owner's Representative (point of contact) will be: *{Insert name}*

6. The Project will be constructed utilizing: *{Single/Multiple}* contract{s}, stipulated sum *{, Portions of construction by Owner's own forces, Other (specify)}*.

7. The method of selecting the Contractor(s) shall be open and competitive.

8. If multiple contracts are to be utilized on the same site, the activities of the Contractors will be coordinated by a designated prime contractor.

9. The Bidding Documents, Contract Forms, and General Conditions will be as follows:

a. Advertisement (RUS B1780-26, Exhibit D).
b. Instructions to Bidders (RUS B1780-26, Exhibit E). Will clearly define process for determining lowest responsive, responsible bidder.
c. Bid Form (RUS B1780-26, Exhibit F). Base bid with alternative deducts format will not be used.
d. Bid Bond shall be EJCDC No. C-430 (2002 Edition)
e. Notice of Award shall be EJCDC No. C-510 (2002 Edition).
f. Agreement between Owner and Contractor(s) shall be EJCDC No. C-521 (2002 Edition)
g. General Conditions shall be EJCDC No. C-710 (2002 Edition).
h. Supplementary Conditions (RUS B1780-26, Exhibit G).
i. Performance Bond shall be EJCDC No. C-610 (2002 Edition).
j. Payment Bond shall be EJCDC No. C-615 (2002 Edition).
k. Application for Payment shall be EJCDC No. C-620 (2002 Edition).
l. Change Order shall be EJCDC No. C-941 (2002 Edition).
m. Notice to Proceed shall be EJCDC No. C-550 (2002 Edition).
n. Certificate of Substantial Completion shall be EJCDC No. C-625 (2002 Edition).

10. Development of Supplementary Conditions of the Contract prior to bidding will be discussed and reviewed with Owner's Representative.

11. Entire package of Bidding Documents must be submitted to Rural Development for review and approval obtained prior to beginning advertisement for bids. No changes will be made after Rural Development approval without concurrence.

12. Contractor's applications for payment will be paid by the *{20th}* day of each month. The Application for Payment will be based on EJCDC No. C-620 (2002 Edition) with Funding Agency signature.

13. Interest on late contractor payments will be paid at the rate of *{8}*% per annum (see C-521, article 7.01).

14. For Item 12 above to apply, applications for payment must be received by Owner 10 days before payment is due. Funding Agency must approve all contractor applications for payment.

15. Retainage will be as stated in Owner-Contractor Agreement (EJCDC No. C-521). Retainage can not be paid to contractor prior to Substantial Completion, nor can the retainage be invested for contractor's benefit.

16. Liquidated Damages are required in each construction contract.

Owner's records for calculation of liquidated damages amount for each calendar day required to (calculate separately for each contract):

	Achieve Substantial Completion	Readiness for Final Payment (Optional)
Interest	_____	_____
Inspection	_____	_____
Administration	_____	_____
Engineering	_____	_____
Impact on other Contractors	_____	_____
Other	_____	_____
TOTAL	_____	_____

16. Special Instructions to Bidders regarding Site visits are as follows: *{Insert visit instructions or N/A}*

17. Bid Form shall be prepared by Engineer and based on RUS B1780-26, Exhibit F.

18. Bids shall be solicited by Public Advertisement, Arranged by *{Owner/Engineer}*. Actions will be taken to encourage small, minority, and woman-owned businesses to participate in Project. Publications may include: local and regional newspapers, builders exchange, etc. *{Add places where construction is normally advertised in specific States and where small, minority, and woman-owned businesses obtain bid information.}*

19. Instructions, if any, on the method of selection or qualification of Bidders: *{Insert special selection method or N/A}*

20. Bid Security is required, in the amount of 5% of the total Bid in the form of a Bid Bond using EJCDC No. C-430 (2002 Edition) or Certified Check.

21. Copies of the Bidding Documents may be made available in plan rooms: *{Selected by Engineer}*.

22. Date and time for receipt of Bids will be determined later by Owner and Engineer, with Rural Development concurrence.

23. Place of receipt of Bids will be *{determined by Owner and Engineer}*.

24. Detailed bid tabulation forms will be prepared by Engineer.

25. Bids shall be publicly opened and read aloud.

26. In addition to the usual original signed Bid, the Owner requires the following (See RUS Bulletin 1780-26, Exhibit F): *{Insert any additional requirements or N/A}*

27. Bids shall not be withdrawn by Bidders for 60 days after the receipt of Bids.

28. Before a Contract is awarded, all Funding Agencies must concur prior to announcement of award. Construction at the site by the Contractor may commence upon, but not before, receipt of a Notice to Proceed.

29. Work shall be substantially complete *{_____}* calendar days after Contract Times commence to run.

30. The Change Order will be based on EJCDC No. C-941 (2002 Edition) with Funding Agency signature. Funding Agency must approve all Change Orders.

31. Special instructions are attached for the following items:
{Archeological/Environmental mitigation conditions
Equal opportunity requirements
Lien waivers
Limited access during bidding
Limited access during construction
Maintaining operations of existing facilities
Milestones (interim)
Monthly affidavits
Other contracts, not in this project
Phased occupancy
Phasing or Sequencing of specific elements of the Work
Pre-bid conference
Schedule of completion
Separate contracts in this project

Site security requirements
Special time periods during which Contractor cannot perform construction
Tax exemptions
Wage standards or determinations, to which Contractor must conform (check with Rural Development)
Work by Owner's own forces
Other (specify)}

Owner:

By: _____ Date: _____

Phone: _____ Fax: _____
E-mail: _____

Owner-Contractor Agreement Document List

The Rural Utilities Service (RUS) and the Engineers Joint Contract Documents Committee (EJCDC) have developed Funding Agency Editions of the Owner-Contractor Agreement and the General Conditions that when properly assembled with other Standard Edition construction related documents is acceptable for use as the foundation of the Construction Contract Documents on water and waste projects funded by RUS. These Funding Agency Edition documents are 2002 edition. The other forms referenced here are part of the EJCDC set of Construction Related Documents, Standard Edition. Therefore, these forms may require minor modifications before use with the Funding Agency Editions.

Because the EJCDC documents are fully integrated, when making a modification in one document you should ensure that appropriate modifications are made in all effected documents. It is the Rural Utilities Service (RUS) policy that the applicants use the EJCDC documents with minimal modification. However, RUS recognizes each project is unique and that modifications may be required to satisfy specific project requirements or State statutes that do not conflict with federal statutes or regulations.

Before applicants or consultants proceed with the development of a set of contract documents, they should contact the Rural Development State Office to verify they have the most current information specific to the type of project and State where the project is located.

It is customary that project signs identifying the Owner, Contractor, Engineer, and Funding Agencies be displayed during project construction. The sign requirements are not included in the Supplementary Conditions, but should be a part of the specifications prepared by the Engineer. These sign requirements vary by State. Therefore, the Engineer should contact the Rural Development State Engineer for the specific requirements in the State where the project will be constructed. Multiple contractors or funding agencies may be listed on one project sign.

To eliminate unnecessary delays after Bid Opening, the full set of Construction Contract Documents must be submitted to Rural Development for review and acceptance before start of the Bidding or Negotiation process.

This table lists guidance documents and forms needed for compilation of a complete set of contract documents and RUS Notes on their use.

Title or Source	Form	RUS Notes: Necessary actions, important points
Advertisement		• Use Exhibit D, **Advertisement for Bids**
Suggested Instructions to Bidders for Construction Contracts	C-200 (02)	• Use Exhibit E, **Instructions to Bidders.** • One critical area that requires additional information is Article 14 - Basis of Bid, Evaluation of Bids. This information will vary whether bid is Lump Sum or Unit Price. If the Evaluation of Bids involves anything other than checking the contractor's qualifications and calculation of unit prices, such as additive alternates, life-cycle costs, etc., the evaluation process must be clearly stated (given the bid documents, a third party would identify the same Successful Bidder as the Engineer) in the Instructions to Bidders.

Title or Source	Form	RUS Notes: Necessary actions, important points
Suggested Bid Form for Construction Contracts	C-410 (02)	• Use Exhibit F, **Bid Form**. • All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition. Procurement procedures shall not restrict or eliminate competition. Examples of what are considered to be restrictive of competition include, but are not limited to: placing unreasonable requirements on firms in order for them to qualify to do business; noncompetitive practices between firms; organizational conflicts of interest; specifying only a brand name product instead of either allowing an equal product to be offered, or describing the performance of the relevant requirements of the procurement; and unnecessary experience and bonding requirements
Bid Bond	C-430 (02)	• Must be at least 5% of Bid amount.
Notice of Award	C-510 (02)	• Owner will not announce award of contract without consultation with Agency.
Suggested Form of Agreement Between Owner and Contractor (Stipulated Price) Funding Agency Edition	C-521 (02)	• Read Introduction and Notes to User within document and make appropriate modifications. • 4.03, The amount entered for liquidated damages should cover all the Owner's additional costs for the project not being operational: interest, professional fees, administrative costs, etc. (see Exhibit B, item 16 of this bulletin). • 7.01, Interest rate comparable to short term lending rate or State law. • In addition to copies customarily provided for Owner, Contractor, Engineer, and others, two executed copies will be provided for Rural Development use.
Standard General Conditions of the Construction Contract Funding Agency Edition	C-710 (02)	Includes: • Federal Requirements – Article 18. • Certificate of Owner's Attorney - Exhibit GC-A, to be completed by Owner's attorney prior to submittal to Rural Development for concurrence in Agreement.
Guide to the Preparation of Supplementary Conditions	C-800 (02)	• Use Exhibit G, **Supplementary Conditions**. • Special attention should be focused on the types and amounts of insurance, and those to be listed as additional insureds under paragraph 5.04. These should be reviewed for each project in terms of the specific conditions associated with that project and the risks involved, and then the paragraphs in the Supplementary Conditions drafted accordingly. RUS does not support unfair allocation of risk or the burden of excessive insurance coverage.
Performance Bond	C-610 (02)	• Must be full amount of Contract. • Surety must be listed in TC-570, have adequate bonding capacity, and be licensed to do business in the State where project is located.
Payment Bond	C-615 (02)	• Must be full amount of Contract. • Surety must be listed in TC-570, have adequate bonding capacity, and be licensed to do business in the State where project is located.

Title or Source	Form	RUS Notes: Necessary actions, important points
Application for Payment	C-620 (02)	• Must retain signature blocks for Owner's Approval and Agency Concurrence. C-620 is pre-approved for use under 7 CFR 1780.76 (e). • It is anticipated that an attachment to the Application for Payment for the detailed tracking of quantities, materials stored, etc. will be developed by the Engineer and Contractor. • Work added by Change Order will not be considered for payment until Change Order has Agency Concurrence. • Quantity Completed on Final Application for Payment must equal final adjusted contract quantities on unit price contracts. • In addition to copies customarily provided for Owner, Contractor, Engineer, others, an executed copy with all attachments will be provided for Rural Development use.
Change Order	C-941 (02)	• Must retain signature block for Agency Concurrence. C-941 is pre-approved for use under 7 CFR 1780.76 (h) (2). • In addition to copies customarily provided for Owner, Contractor, Engineer, others, two executed copies will be provided for Rural Development use.
Notice to Proceed	C-550 (02)	• Executed copy will be provided to Rural Development.
Certificate of Substantial Completion	C-625 (02)	• Executed copy will be provided to Rural Development.

The following attachments are models that can be used as the starting point for preparing the actual Advertisement, Instructions to Bidders, Bid Form, and Supplementary Conditions for RUS funded water and waste projects. Any additions should follow the same format as the model document.

Text enclosed in {} indicates a choice is necessary or information must be inserted. This information must be provided and the {} eliminated prior to submittal to Rural Development for review.

Advertisement for Bids

_____
Owner

_____
Address

_____

Separate sealed Bids for the construction of (briefly describe nature, scope, and major elements of the Work)

_____

_____

_____

_____

will be received by

_____

at the office of

_____

until _____, (Local Time) _____, _____(year), and then at said office publicly opened and read aloud.

The Contract Documents may be examined at the following locations:

_____

_____

_____

Copies of the Contract Documents may be obtained at the Issuing Office, _____,

located at _____ upon payment of $ _____ for each set.

_____

_____
Date

Instructions to Bidders

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ARTICLE 1 - DEFINED TERMS

1.01 Terms used in these Instructions to Bidders will have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:

A. Issuing Office--The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.

ARTICLE 2 - COPIES OF BIDDING DOCUMENTS

2.01 Complete sets of the Bidding Documents in the number and for the deposit sum, if any, stated in the Advertisement for Bids may be obtained from the Issuing Office. The deposit will be refunded to each document holder of record who returns a complete set of Bidding Documents in good condition within 30 days after opening of Bids.

2.02 Complete sets of Bidding Documents must be used in preparing Bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

2.03 Owner and Engineer in making copies of Bidding Documents available on the above terms do so only for the purpose of obtaining Bids for the Work and do not confer a license or grant for any other use.

ARTICLE 3 - QUALIFICATIONS OF BIDDERS

3.01 To demonstrate Bidder's qualifications to perform the Work, within five days of Owner's request, Bidder shall submit written evidence such as financial data, previous experience, present commitments, and such other data as may be called for below.

{A. _____}
{B. _____}
{If a bidder's qualification form is to be completed and submitted by bidders, it should be listed here and included in the Project Manual. AGC Document No. 220, "Construction Contractor's Qualification Statement for Engineered Construction," may be used.}

ARTICLE 4 - EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA, AND SITE

4.01 Subsurface and Physical Conditions

A. The Supplementary Conditions identify:

1. Those reports of explorations and tests of subsurface conditions at or contiguous to the Site that Engineer has used in preparing the Bidding Documents.

2. Those drawings of physical conditions in or relating to existing surface and subsurface structures at or contiguous to the Site (except Underground Facilities) that Engineer has used in preparing the Bidding Documents.

B. Copies of reports and drawings referenced in paragraph 4.01.A will be made available by Owner to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which Bidder is entitled to rely as provided in paragraph 4.02 of the General Conditions has been identified and established in paragraph 4.02 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any "technical data" or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

4.02 Underground Facilities

A. Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the Site is based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities, including Owner, or others.

4.03 Hazardous Environmental Condition

A. The Supplementary Conditions identify those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that ENGINEER has used in preparing the Bidding Documents.

B. Copies of reports and drawings referenced in paragraph 4.03.A will be made available by Owner to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which Bidder is entitled to rely as provided in paragraph 4.06 of the General Conditions has been identified and established in paragraph 4.06 of the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any "technical data" or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

4.04 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions and Underground Facilities, and possible changes in the Bidding Documents due to differing or unanticipated conditions appear in paragraphs 4.02, 4.03, and 4.04 of the General Conditions. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to a Hazardous Environmental Condition at the Site, if any, and possible changes in the Contract Documents due to any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work appear in paragraph 4.06 of the General Conditions.

4.05 On request, Owner will provide Bidder access to the Site to conduct such examinations, investigations, explorations, tests, and studies as Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies. Bidder shall comply with all applicable Laws and Regulations relative to excavation and utility locates.

4.06 Reference is made to Article 7 of the Supplementary Conditions for the identification of the general nature of other work that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) that relates to the Work contemplated by these Bidding Documents. On request, Owner will provide to each Bidder for examination access to or copies of Contract Documents (other than portions thereof related to price) for such other work.

4.07 It is responsibility of each Bidder before submitting a Bid to:

A. Examine and carefully study the Bidding Documents, the other related data identified in the Bidding Documents, and any Addenda;

B. Visit the Site and become familiar with and satisfy Bidder as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;

C. Become familiar with and satisfy Bidder as to all Federal, State, and local Laws and Regulations that may affect cost, progress, or performance of the Work;

D. Carefully study all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions, and (2) reports and drawings of Hazardous Environmental Conditions at the Site which have been identified in the Supplementary Conditions as provided in paragraph 4.06 of the General Conditions;

E. Obtain and carefully study (or accept consequences for not doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto;

F. Agree at the time of submitting its Bid that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents;

G. Become aware of the general nature of the work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents;

H. Correlate the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents;

I. Promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder; and

J. Determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work.

4.08 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Bidding Documents and applying any specific means, methods, techniques, sequences, and procedures of construction that may be shown or indicated or expressly required by the Bidding Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has discovered in Bidding Documents and the written resolutions thereof by Engineer are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

ARTICLE 5 - PRE-BID CONFERENCE

5.01 A pre-Bid conference will be held at *{_____} {a.m.}{p.m.} on {_____} at {_____}*. Representatives of Owner and Engineer will be present to discuss the Project. Bidders are encouraged to attend and participate in the conference. Engineer will transmit to all prospective Bidders of record such Addenda as Engineer considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

ARTICLE 6 - SITE AND OTHER AREAS

6.01 The Site is identified in the Bidding Documents. Easement for permanent structures or permanent changes in existing facilities are to be obtained and paid for by Owner unless otherwise provided in the Bidding Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by Contractor.

ARTICLE 7 - INTERPRETATIONS AND ADDENDA

7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to Engineer in writing. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Bidding Documents. Questions received less than five days prior to the date for opening of Bids may not be answered. Only questions answered by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

7.02 Addenda may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by Owner or Engineer.

ARTICLE 8 - BID SECURITY

8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of 5 % of Bidder's maximum Bid price and in the form of a certified check or a Bid bond (EJCDC No. C-430, 2002 Edition) issued by a surety meeting the requirements of paragraphs 5.01 and 5.02 of the General Conditions.

8.02 The Bid security of the Successful Bidder will be retained until such Bidder has executed the Contract Documents, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within 15 days after the Notice of Award, Owner may annul the Notice of Award and the Bid security of that Bidder will be forfeited. The Bid security of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of seven days after the Effective Date of the Agreement or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be returned.

8.03 Bid security of other Bidders whom OWNER believes do not have a reasonable chance of receiving the award will be returned within seven days after the Bid opening.

ARTICLE 9 - CONTRACT TIMES

9.01 The number of days within which, or the dates by which, the Work is to be substantially completed and ready for final payment are set forth in the Agreement.

ARTICLE 10 -LIQUIDATED DAMAGES

10.01 Provisions for liquidated damages are set forth in the Agreement.

ARTICLE 11 - SUBSTITUTE AND "OR-EQUAL" ITEMS

11.01 The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, or "or-equal" materials and equipment as defined in paragraph 6.05 of the General Conditions, or those substitute materials and equipment approved by the Engineer and identified by Addendum. The materials and equipment described in the Bidding Documents establish a standard of required type, function and quality to be met by any proposed substitute or "or-equal" item. Request for Engineer's clarification of materials and equipment considered "or-equal" prior to the Effective Date of the Agreement must be received by the Engineer at least 5 days prior to the date for receipt of Bids. No item of material or equipment will be considered by Engineer as a substitute unless written request for approval has been submitted by Bidder and has been received by Engineer at least 15 days prior to the date for receipt of Bids. Each request shall conform to the requirements of paragraph 6.05 of the General Conditions. The burden of proof of the merit of the proposed item is upon the Bidder. Engineer's decision of approval or disapproval of a proposed item will be final. If Engineer approves any proposed substitute item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

ARTICLE 12 - SUBCONTRACTORS, SUPPLIERS, AND OTHERS

12.01 If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, individuals, or entities to be submitted to Owner in advance of a specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within five days after Bid opening, submit to Owner a list of all such Subcontractors, Suppliers, individuals, or entities proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, individual, or entity if requested by Owner. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier,

individual, or entity, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit a substitute, without an increase in the Bid.

12.02 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest responsible Bidder that proposes to use acceptable Subcontractors, Suppliers, individuals, or entities. Declining to make requested substitutions will not constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual, or entity so listed and against which Owner and Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to revocation of such acceptance after the Effective Date of the Agreement as provided in paragraph 6.06 of the General Conditions.

12.03 Contractor shall not be required to employ any Subcontractor, Supplier, individual, or entity against whom Contractor has reasonable objection.

12.04 The Contractor shall not award work to Subcontractor(s) in excess of the limits stated in SC 6.06.

ARTICLE 13 - PREPARATION OF BID

13.01 The Bid form is included with the Bidding Documents. Additional copies may be obtained from Engineer.

13.02 All blanks on the Bid form shall be completed by printing in ink or by typewriter and the Bid signed in ink. Erasures or alterations shall be initialed in ink by the person signing the Bid From. A Bid price shall be indicated for each *{section, Bid item, alternative, adjustment unit price item, and unit price item}* listed therein, or the words "No Bid," "No Change," or "Not Applicable" entered.

13.03 A Bid by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence of authority to sign. If required by State where work is to be performed, the corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporation business address and state of incorporation shall be provided on the Bid Form.

13.04 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The business address of the partnership shall be provided on the Bid Form.

13.05 A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the business address of the firm must be provided on the Bid Form.

13.06 A Bid by an individual shall show the Bidder's name and business address.

13.07 A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid form. The business address of the joint venture must be provided on the Bid Form.

13.08 All names shall be typed or printed in ink below the signatures.

13.09 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers and dates of which shall be filled in on the Bid form.

13.10 The address and telephone number for communication regarding the Bid shall be shown.

13.11 The Bid shall contain evidence of Bidder's authority and qualification to do business in the state where the Project is located or covenant to obtain such qualification prior to award of the Contract. Bidder's state contractor license number for the state of the Project, if any, shall also be shown on the Bid Form.

ARTICLE 14 - BASIS OF BID; COMPARSION OF BIDS

{Owner and Engineer must choose the applicable items under this article and delete the remaining paragraphs}

14.01 Lump Sum

A. Bidders shall submit a Bid on lump sum basis as set forth in the Bid Form.

{or}

A. Bidders shall submit a Bid on a lump sum basis for the Bid and include a separate price for each alternate described in the Bidding Documents as provided for in the Bid Form. The price for each alternate will be the amount added to the Bid if OWNER selects the alternate. In the comparison of Bids, alternates will be applied in the same order as listed in the Bid Form.

{or}

14.01 Unit Price

A. Bidders shall submit a Bid on a unit price basis for each item of Work listed in the Bid schedule.

B. The total of all bid prices will be the sum of the products of the estimated quantity of each item and the corresponding unit price. The final quantities and Contract Price will be determined in accordance with paragraph 11.03 of the General Conditions.

C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.

ARTICLE 15 - SUBMITTAL OF BID

15.01 With each copy of the Bidding Documents, a Bidder is furnished one separate unbound copy of the Bid Form, and the Bid bond form. The unbound copy of the Bid Form is to be completed and submitted with all the attachments outlined in Article 7 of the Bid Form.

15.02 A Bid shall be submitted no later than the date and time prescribed and at the place indicated in the Advertisement for Bids and shall be enclosed in an opaque sealed envelope plainly marked with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted), the name and address of Bidder, and shall be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate envelope plainly marked on the outside with the notation "BID ENCLOSED." When using the mail or other delivery system, the Bidder is totally responsible for the mail or other delivery system delivering the Bid at the place and prior to the time indicated in the Advertisement for Bid. A mailed Bid shall be addressed to Owner at address in Article 1.01 of Bid Form.

ARTICLE 16 - MODIFICATION AND WITHDRAWAL OF BID

16.01 A Bid may be modified or withdrawn by an appropriate document duly executed in the manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids.

16.02 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid or negotiated, that Bidder will be disqualified from further bidding on the Work. This provision to withdraw a Bid without forfeiting the Bid security does not apply to Bidder's errors in judgment in preparing the Bid.

ARTICLE 17 - OPENING OF BIDS

17.01 Bids will be opened at the time and place indicated in the Advertisement for Bids and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the Bids and major alternates, if any, will be made available to Bidders after the opening of Bids.

ARTICLE 18 - BIDS TO REMAIN SUBJECT TO ACCEPTANCE

18.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form.

ARTICLE 19 - EVALUATION OF BIDS AND AWARD OF CONTRACT

19.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to be non-responsible. Owner also reserves the right to waive all informalities not involving price, time, or changes in the Work and to negotiate contract terms with the Successful Bidder.

19.02 More than one Bid for the same Work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.

19.03 In evaluating Bids, Owner will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.

19.04 In evaluating Bidders, Owner will consider the qualifications of Bidders and may consider the qualifications and experience of Subcontractors, Suppliers, and other individuals or entities proposed for those portions of the Work for which the identity of Subcontractors, Suppliers, and other individuals or entities must be submitted as provided in the Supplementary Conditions.

19.05 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, individuals, or entities to perform the Work in accordance with the contract Documents.

19.06 If the Contract is to be awarded, Owner will award the Contract to the responsible Bidder whose Bid, conforming with all the material terms and conditions of the Instructions to Bidders, is lowest, price and other factors considered.

ARTICLE 20 - CONTRACT SECURITY AND INSURANCE

20.01 Article 5 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance and payment bonds and insurance. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by such bonds.

ARTICLE 21 - SIGNING OF AGREEMENT

21.01 When Owner gives a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of unsigned counterparts of the Agreement with the other Contract Documents which are identified in the Agreement as attached thereto. Within 15 days thereafter, Successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to Owner. Within ten days thereafter, Owner shall deliver one fully signed counterpart to Successful Bidder with a complete set of the Drawings with appropriate identification.

21.02 This Contract is expected to be funded in part with funds provided by the United States Department of Agriculture, Rural Utilities Service (RUS). Refer to Article 18 of the General Conditions for information on the Federal Requirements.

21.03 Concurrence by RUS in the award of the Contract is required before the Contract is effective.

{Additional Articles - It is often necessary to add additional articles to address such issues as Owner's special tax exemption and prepurchasing by Owner and subsequent assignment of procurement contracts to Contractor. If any funding source requires the contractor to comply with wage standards, the Information to Bidders and Supplementary Conditions language will be provided by that funding Agency. The following articles are examples that may be used to address these issues. Delete those articles that do not apply and renumber as necessary.}

ARTICLE 22 - SALES AND USE TAXES

22.01 OWNER is exempt from _____ State sales and use taxes on materials and equipment to be incorporated in the Work. Exemption No. _____. Said taxes shall not be included in the Bid. Refer to paragraph 6.10 of the Supplementary Conditions for additional information.

ARTICLE 23 - CONTRACTS TO BE ASSIGNED

23.01 Owner as "buyer" [has executed] [will execute] a contract with _____ as "seller" for the procurement of goods and special services for _____. The materials and equipment provided for in the procurement contract are to be furnished and delivered to the Site [or other location] for installation by Contractor. The said procurement contract will be assigned by Owner to Contractor as set forth in the Agreement. Contractor will accept the assignment and assume responsibility for the "seller", who will become a Subcontractor to Contractor.

23.02 Bidders may examine the contract documents for the procurement of goods and special services for _____ at _____.

Bid Form

Project Identification: *{Project or portion of Project to which Bid applies}*

Contract Identification and Number: *{Title, Number, etc. that appears elsewhere in Bidding Documents}*

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ARTICLE 1 - BID RECIPIENT

1.01 This Bid Is Submitted To: *{Name and Address of OWNER}*

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in the Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 - BIDDER'S ACKNOWLEDGMENTS

2.01 Bidder accepts all of the terms and conditions of the Advertisement and Instructions to Bidders, including without limitations those dealing with the dispositions of Bid security. The Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

ARTICLE 3 - BIDDER'S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

A. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged.

Addendum No.	Addendum Date
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Bidder is familiar with and is satisfied as to all Federal, State, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in SC-4.02, and (2) reports and drawings of a Hazard Environmental Condition, if any, which has been identified in SC-4.06.

E. Bidder has obtained and carefully studied (or accepts the consequences for not doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by the Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.

F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.

G. Bidder is aware of the general nature of the Work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.

H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.

I. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.

J. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

K. Bidder will submit written evidence of its authority to do business in the State where the Project is located not later than the date of its execution of the Agreement.

ARTICLE 4 - FURTHER REPRESENTATIONS

4.01 Bidder further represents that:

A. This Bid is genuine and not made in the interest of or on the behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation;

B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;

C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and

D. Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.

ARTICLE 5 - BASIS OF BID

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

[SUGGESTED FORMAT FOR LUMP SUM BID]

Lump Sum Bid Price _____ ($ _____)
(use words) (numerals)

{OR}

Lump Sum Bid Price for Section I Only _____ ($ _____)
(use words) (numerals)

Lump Sum Bid Price for Section II Only _____ ($ _____)
(use words) (numerals)

Lump Sum Bid Price for Sections I and II _____ ($ _____)
(use words) (numerals)

[SUGGESTED FORMAT FOR UNIT PRICE BID]

Attached Itemized Unit Price Sheets

{Using a format similar to the following layout:}

Item No.	Description	Unit	Estimated Quantity	Unit Price	Total Estimated Price
___	_____	_____	_____	$ _____	$ _____
___	_____	_____	_____	$ _____	$ _____
___	_____	_____	_____	$ _____	$ _____

Total of All Bid Prices ($ _____)

A. Unit Prices have been computed in accordance with paragraph 11.03.A of the General Conditions.

B. Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities, determined as provided in the contract Documents.

[END OF SUGGESTED BID FORMATS]

ARTICLE 6 - TIME OF COMPLETION

6.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with paragraph 14.07.B of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.

6.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the work within the Contract Times.

ARTICLE 7 - ATTACHEMENTS TO THIS BID

7.01 The following documents are attached to and made a condition of the Bid:

A. Required Bid security in the form of a Bid Bond (EJCDC No. C-430) or Certified Check (circle type of security provided);

B. If Bid amount exceeds $10,000, signed Compliance Statement (RD 400-6). Refer to specific equal opportunity requirements set forth in paragraph 18.10 of the General Conditions;

C. If Bid amount exceeds $25,000, signed Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions (AD-1048);

D. If Bid amount exceeds $100,000, signed RD Instruction 1940-Q, Exhibit A-1, Certification for Contracts, Grants, and Loans. Refer to paragraph 18.11 of the General Conditions;

{E. A tabulation of Subcontractors, Suppliers [and others] individuals and entities required to be identified in this Bid;}

{F. Required bidder qualifications statement with supporting data; and}

{G. List other documents as pertinent.}

ARTICLE 8 - DEFINED TERMS

8.01 The terms used in this Bid with the initial capitol letters have the meanings indicated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 9 - BID SUBMITTAL

9.01 This Bid submitted by:

If Bidder is:

An Individual

Name (typed or printed): _____ SEAL, if required by State

By: _____
(Individual's signature)

Doing business as: _____

A Partnership

Partnership Name: _____ SEAL, if required by State

By: _____
(Signature of general partner -- attach evidence of authority to sign)

Name (typed or printed): _____

A Corporation

Corporation Name: _____

State of Incorporation: _____

Type (General Business, Profession, Service, Limited Liability): _____

By: _____
(Signature -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Attest _____
(Signature of Corporate Secretary)

CORPORATE SEAL, if required by State

Date of Qualification to do business in _____ [State where Project is located] is ___/___/_____

A Joint Venture

Name of Joint Venture: _____

First Joint Venture Name: _____

By: _____
(Signature of joint venture partner -- attach evidence of authority to sign)

SEAL, if required by State

Name (typed or printed): _____

Title: _____

Second Joint Venture Name: _____

By: _____
(Signature of joint venture partner -- attach evidence of authority to sign)

SEAL, if required by State

Name (typed or printed): _____

Title: _____

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is party to the venture should be in the manner indicated above.)

Bidder's Business address:

_____

_____

Business Phone No. (_____)_____

Business FAX No. (_____)_____

Business E-Mail Address _____

State Contractor License No. _____. (If applicable)

Employer's Tax ID No. _____

Phone and FAX Numbers, and Address for receipt of official communications, if different from Business contact information:

_____

_____

9.02 Bid submitted on _____, 20___.

Supplementary Conditions

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract Funding Agency Edition (No. C-710, 2002 Edition) and other provisions of the Contract Documents as indicated below. All provisions that are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions will have the meanings indicated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

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SC-1.01.A.2. Add the following language to the end of Paragraph 1.01.A.2:

The Project is financed in whole or in part by USDA Rural Utilities Service pursuant to the Consolidated Farm and Rural Development Act (7 USC Section 1921 et seq.). The Rural Utilities Service programs are administered through the USDA Rural Development offices, therefore, the Agency for these documents is USDA Rural Development. *{add other funding sources and modify when necessary.}*

SC-1.01.A.4. Add the following language to the end of Paragraph 1.01.A.4:

The Application for Payment form to be used on this Project is EJCDC No. C-620. The Agency must approve all Applications for Payment before payment is made.

SC-1.01.A.10. Add the following language to the end of Paragraph 1.01.A.10:

The Change Order form to be used on this Project is EJCDC No. C-941. Agency approval is required before Change Orders are effective.

SC-1.01.A.21. Add the following language to the end of Paragraph 1.01.A.21:

The Engineer's Consultants on this project are: *{list all consultants}*.

SC-2.03.A. Delete Paragraph 2.03.A in its entirety and insert the following in its place:

A. The Contract Times will commence to run on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement.

{SC-4.02. Add the following new paragraphs immediately after Paragraph 4.02.B:

C In the preparation of Drawings and Specifications, Engineer relied upon the following reports of exploration and tests of subsurface conditions at the Site:

1. See EJCDC No.C-800 for examples.

D. In the preparation of Drawings and Specifications, Engineer relied upon the following drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilitates) which are at or contiguous to the Site:

1. See EJCDC No. C-800 for examples.

E. Copies of reports and drawings itemized in SC-4.02.C and SC-4.02.D that are not included with Bidding Documents may be examined at _____ during regular business hours. These reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which the Contractor may rely as identified and established above are incorporated therein by reference. Contractor is not entitled to rely upon other information and data utilized by Engineer in the preparation of the Drawings and Specifications.

OR

SC-4.02. Delete Paragraphs 4.02.A and 4.02.B in their entirety and insert the following:

A. No reports or explorations or tests of subsurface conditions at or contiguous to the Site are known to the Owner or Engineer.}

{SC-4.06. Add the following new paragraphs immediately after Paragraph 4.06.A:

1. In the preparation of Drawings and Specifications, Engineer relied upon the following reports of Hazardous Environmental Conditions at the Site:

a. See EJCDC No.C-800 for examples.

2. In the preparation of Drawings and Specifications, Engineer relied upon the following drawings of Hazardous Environmental Conditions which are at or contiguous to the Site:

a. See EJCDC No. C-800 for examples.

3. Copies of reports and drawings itemized in SC-4.06.A.1 and SC-4.06.A.2 that are not included with Bidding Documents may be examined at _____ during regular business hours. These reports and drawings are not part of the Contract Documents, but the "technical data" contained therein upon which the Contractor may rely as identified and

established above are incorporated therein by reference. Contractor is not entitled to rely upon other information and data utilized by Engineer in the preparation of the Drawings and Specifications.

OR

SC-4.06. Delete Paragraphs 4.06.A and 4.06.B in their entirety and insert the following:

A. No reports or explorations or tests of subsurface conditions at or contiguous to the Site are known to the Owner or Engineer.

B. Not used.}

SC-5.03. Add the following new paragraph immediately after Paragraph 5.03.B:

C. Failure of the Owner to demand such certificates or other evidence of full compliance with these insurance requirements or failure of the Owner to identify a deficiency from evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

{The amounts of coverage for each type of insurance under paragraph 5.04 are recommended amounts that should be used to provide the Owner adequate protection. These amounts should be reviewed in the context of the specific project and adjusted accordingly.}

SC-5.04. Add the following new paragraph immediately after Paragraph 5.04.B:

C. The limits of liability for insurance required by Paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

1. Workers' Compensation, and related coverages under Paragraphs 5.04.A.1 and A.2 of the General Conditions:

a. State:	Statutory
b. Applicable Federal (e.g., Longshoremen's)	Statutory
c. Employer's Liability	*{$ 500,000}*

2. Contractor's General Liability under Paragraphs 5.04.A.3 through A.6 of the General Conditions which shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody, and control of the Contractor:

a. General Aggregate	*{$ 2,000,000}*
b. Products - Completed Operations Aggregate	*{$ 1,000,000}*
c. Personal and Advertising Injury	*{$ 1,000,000}*
d. Each Occurrence (Bodily Injury and Property Damage)	*{$ 1,000,000}*
e. Property Damage liability insurance will provide Explosion, Collapse, and Underground coverages where applicable.	
f. Excess or Umbrella Liability	
1) General Aggregate	*{$ 5,000,000}*

2) Each Occurrence *{$ 5,000,000}*

3. Automobile Liability under Paragraph 5.04.A.6 of the General Conditions:

a. Bodily Injury:
Each Person *{$ 1,000,000}*
Each Accident *{$ 1,000,000}*
b. Property Damage:
Each Accident *{$ 1,000,000}*
c. Combined Single Limit of *{$ 1,000,000}*

4. The Contractual Liability coverage required by paragraph 5.04.B.4 of the General Conditions shall provide coverage for not less than the following amounts:

a. Bodily Injury:
Each Person *{$ 2,000,000}*
Each Accident *{$ 2,000,000}*
b. Property Damage:
Each Accident *{$ 2,000,000}*
Annual Aggregate *{$ 2,000,000}*

{5. List additional types and amounts of insurance that may be required by Owner.}

{6. List by name other persons or entities to be included on policy as additional insureds.}

{SC-5.06.A. In the case of multiple prime contractors on a single Site (multiple prime contractors for the Project may each need to provide property insurance), it is necessary to define the Contractor responsible for providing the Property Insurance. If there is only one contractor on the site, do not modify paragraph 5.06.A of the General Conditions.}

{SC-5.06.A.1. List by name other persons or entities to be included on policy as additional insureds.}

SC-6.05.C. Amend the paragraph by making two subparagraphs under the title C. Engineer's Evaluation. The paragraph text is retitled, 6.05.C.2 After Effective Date of Agreement. A new paragraph is added before this paragraph to read as follows:

1. During Bidding. The Contract, if awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, or "or-equal" materials and equipment as defined in paragraph 6.05 of the General Conditions, or those substitute materials and equipment approved by the Engineer and identified by Addendum. The materials and equipment described in the Bidding Documents establish a standard of required type, function, and quality to be met by any proposed substitute or "or-equal" item. Request for Engineer's clarification of materials and equipment considered "or-equal" prior to the Effective Date of the Agreement must be received by the Engineer at least 5 days prior to the date for receipt of Bids. No item of material or equipment will be considered by Engineer as a substitute unless written request for approval has been submitted by Bidder and has been received by Engineer at least 15 days prior to the date for receipt of Bids. Each request shall conform to the requirements of Paragraph 6.05 of the General Conditions. The burden of proof of the merit of the proposed item is upon the Bidder. Engineer's decision of approval or disapproval of a proposed item will be final. If Engineer approves any proposed substitute item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

SC-6.06 Add a new paragraph immediately after Paragraph 6.06.G:

H. The Contractor shall not award work valued at more than fifty (50%) percent of the Contract Price to Subcontractor(s), without prior written approval of the Owner.

{If OWNER qualifies for sales or use tax exemptions, language similar to the following should be inserted here and coordinated with the language of Article 22 of the Instructions to Bidders.

SC-6.10. Add a new paragraph immediately after Paragraph 6.10.A:

B. Owner is exempt from payment of sales and compensating use taxes of the [State] and of cities and counties thereof on all materials to be incorporated into the Work.

1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work.

2. Owner's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work}

{SC-7.01.A. If the Owner is planning to have Work performed by more than one prime contractor, by Owner, or others, it should be specifically stated here.}

{When multiple prime contractors are working on a single Site, the following modification should be made.

SC-7.02.A.1. Delete paragraphs 7.02.A.1-3 in their entirety and insert the following:

1. The _____ Contractor shall have the authority and be responsible for coordination of the activities among the other prime contractors and subcontractors on the Site to ensure a safe, efficient working environment. This authority covers scheduling delivery of materials, storage of materials, sequencing of construction involving different crafts, resolving interface issues between crafts, scheduling testing, and all other aspects of the Work that do not impact the design or function of the Work.}

SC-9.03.A. Add the following language at the end of paragraph 9.03.A:

The Engineer will provide Resident Project Representative services for this project. The Duties, Responsibilities, and Limitations of Authority of the Resident Project Representative will be as stated in Exhibit D of the Agreement Between Owner and Engineer, E-510, 2002 Edition, as amended and executed for this specific Project. *{If anyone other than the Engineer is providing the Resident Project Representative, this language must be modified.}*

SC-14.02.A.3 Add the following language at the end of paragraph 14.02.A.3:

No payments will be made that would deplete the retainage, place in escrow any funds that are required for retainage, or invest the retainage for the benefit of the Contractor.

SC-14.02.C.1. Delete Paragraph 14.02.C.1 in its entirety and insert the following in its place:

1. The Application for Payment with Engineer's recommendations will be presented to the Owner and Agency for consideration. If both the Owner and Agency find the Application for Payment acceptable, the recommended amount less any reduction under the provisions of Paragraph 14.02.D will become due ten days after the Application for Payment is presented to the Owner, and the Owner will make payment to the Contractor.

{If the Project Owner is a Tribe, it is important to clarify that this agreement does not modify any relationships that the Tribe may have outside this Project. Recommend this language be added for Tribal construction contracts.

United States Department of Agriculture
Rural Development
West Virginia State Office

November 17, 2009

Wilma Davis, Chairperson
Union Public Service District
5110 West Washington Street
Cross Lanes, WV 25313

RE: Amendment No. 1 to Letter of Conditions

Dear Ms. Davis:

This letter, with Attachment No. 1 amends the letter of conditions dated August 1, 2006 and further establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan will be administered by the State and Area staff of USDA, Rural Development. Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by USDA, Rural Development by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

The docket may be completed on the basis of an RD loan in the amount of $4,172,000 and other funding in the amount of $4,437,907, for a total project cost of $8,609,907. The other funding is in the form of a DEP ARRA loan in the amount of $1,363,613 and a DEP SRF loan in the amount of $3,074,294.

Subject to the requirements noted herein, all of the conditions of the August 1, 2006 letter of conditions remain in effect and must be satisfied prior to loan closing.

Extra copies of this letter are being provided for use by your engineer, attorney, bond counsel and accountant. The enclosures and attachments listed below are attached to the copies as noted.

Enclosed are the following:

Attachment No. 1 - Project Construction Budget (All Copies)

The conditions referred to above are as follows:

1. Public Service Commission Approval - You must obtain PSC approval of the project's proposed financing and user rates as may result from this amendment to the letter of conditions.

1550 Earl Core Road • Suite 101 • Morgantown, WV 26505
Phone: (304) 284-4860 OR 1-800-295-8226 • Fax: (304) 284-4893 • TDD: (304) 284-4836
Web: http://www.rurdev.usda.gov/wv

Committed to the future of rural communities.

"USDA is an equal opportunity provider, employer and lender."
To file a complaint of discrimination write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, DC 20250-9410 or call (800)795-3272 (voice) or (202) 720-6382 (TDD).

2. At a properly called meeting, you must adopt and properly execute the following forms, and minutes showing the adoption must be provided (you must also provide us with a copy of the minutes showing the adoption of the forms associated with the original letter of conditions):

   Form RD 1942-46 - "Letter of Intent to Meet Conditions"

If the conditions set forth in this letter are not met within six (6) months from the date hereof, RD reserves the right to discontinue processing of the application. In the event the project has not advanced to the point of loan closing within the six-month period and it is determined the PSD still wishes to proceed, it will be necessary that the proposed budget be reviewed again in detail. If, during that review, it is determined the budget is no longer current and/or adequate, RD reserves the right to require that it be revised or replaced.

We believe the information herein clearly sets forth the actions which must be taken; however, if you have any questions, please do not hesitate to contact me.

Sincerely,

BOBBY LEWIS
State Director

Enclosures

cc: Community Programs Specialist, Cross Lanes

H. Wyatt Hanna III
Attorney at Law
P.O. Box 8070
South Charleston, WV 25303

Thrasher Engineering, Inc.
ATTN: Jonathan Carpenter, P.E.
300 Association Drive
Charleston, WV 25311

Michael Griffith, CPA
950 Little Coal River Road
Alum Creek, WV 25003

Jackson Kelly
ATTN: Samme Gee, Attorney at Law
P.O. Box 553
Charleston, WV 25322

Union PSD - DRAFT
Attachment No. 1 to Letter of Conditions
Date: October 23, 2009

Project Construction Budget

PROJECT COST	RUS LOAN	ARRA LOAN	SRF LOAN	TOTAL
CONSTRUCTION				$ 6,251,907
Contract #1: $3,338,000	$ 1,836,750		$ 1,551,250	
Contract #2: $1,340,863		$ 1,340,863		
Contract #3: $1,343,044			$ 1,343,044	
Scada Change Order			$ 180,000	
CONST. CONTINGENCY	$ 437,000			$ 437,000
LAND & RIGHTS	$ 50,000			$ 50,000
LEGAL FEES	$ 70,000			$ 70,000
BOND COUNSEL	$ 34,250	$ 22,250		$ 56,500
REGISTRAR		$ 500		$ 500
ACCOUNTING	$ 25,000			$ 25,000
ENGINEERING FEES	$ 1,139,000			$ 1,139,000
Basic: $635,000				
Insp.: $300,000				
Special: $154,000				
* Amendments: $50,000				
INTEREST	$ 355,000			$ 355,000
INTERIM INTEREST	$ 40,000			$ 40,000
ELECTRIC SERVICE	$ 20,000			$ 20,000
PERMITS AND FEES	$ 10,000			$ 10,000
WV DOH INSPECTION/BOND	$ 30,000			$ 30,000
PROJECT CONTG.	$ 125,000			$ 125,000
TOTAL	**$ 4,172,000**	**$ 1,363,613**	**$ 3,074,294**	**$ 8,609,907**

* Pending RUS approval

Form RD 1942-46
(Automated 6-98)

FORM APPROVED
OMB NO. 0575-0015

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT

LETTER OF INTENT TO MEET CONDITIONS

Date 11/18/09

TO: Rural Development
United States Department of Agriculture
481 Ragland Rd
Beckley WV 25801
(Office Address)

We have reviewed and understand the conditions set forth in your letter dated 8/1/06

It is our intent to meet all of them not later than 5/17/09

We are also requesting that we be given the interest rate in effect at the time of loan approval or at the time of loan closing, whichever is lower. In other words, we want the lowest interest rate possible.

Union Public Service District
(Name of Association)

BY Wilma J Davis
Wilma Davis
Chairperson

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0015. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data. needed, and completing and reviewing the collection of information.

USDA-RD
Form RD 440-11
(Rev. 10-00)

ESTIMATE OF FUNDS NEEDED
FOR
30-Day Period Commencing

November 18, 2009

FORM APPROVED
OMB NO. 0575-0015

Name of Borrower Union PSD

Items	Amount of Funds
Development	$
Contract or Job No.	
Contract or Job No.	
Contract or Job No.	
Land and Rights-of-Way	5,121.00
Legal Services ..... Bond Council $34,250-Wyatt Hanna $60,671	95,031.00
Engineering Fees	571,142.19
Interest	
Equipment	
Contingencies	
Refinancing	
Initial O & M	
Other ..... Acct. $20,000-Permits $3,295-Interim Fin. $43,185.26 Proj. Cont.-$3,937.72-Rounding $.83	70,418.81
TOTAL	$ 741,713.00

Prepared by Union PSD
Name of Borrower

By [signature]

Date 11/18/09

Approved by Tracey Rowan, Community Programs Specialist [signature]

Date 11/18/09

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person in not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0015. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

UNION PSD - FIRST DRAW

DATE	VENDOR	AMOUNT
9-Sep-09	Charleston Newspap	$ 222.72
	Thrasher	$ 1,142.19
	H. Wyatt Hanna III	$ 3,150.00
	TOTAL	**$ 4,514.91**
29-Feb-09	Griffith & Associates	$ 1,127.50
	TOTAL	**$ 1,127.50**
13-May-09	Griffith & Associates	$ 5,000.00
	TOTAL	**$ 5,000.00**
8-Apr-09	H. Wyatt Hanna III	$ 2,500.00
	Union PSD	$ 2,125.00
	TOTAL	**$ 4,625.00**
7-Jan-09	H. Wyatt Hanna III	$ 718.75
	TOTAL	**$ 718.75**
10-Feb-09	H. Wyatt Hanna III	$ 406.25
	TOTAL	**$ 406.25**
9-Dec-08	H. Wyatt Hanna III	$ 937.50
	TOTAL	**$ 937.50**
5-Nov-08	H. Wyatt Hanna III	$ 596.75
	Thrasher	$ 5,000.00
	TOTAL	**$ 5,596.75**
8-Oct-08	H. Wyatt Hanna III	$ 3,282.50
	Union PSD	$ 1,170.00
	Thrasher	$ 20,000.00
	TOTAL	**$ 24,452.50**
11-Sep-08	H. Wyatt Hanna III	$ 10,708.25
	TOTAL	**$ 10,708.25**
9-Apr-08	Griffith & Associates	$ 5,718.76
	H. Wyatt Hanna III	$ 6,832.00
	Thrasher	$ 15,000.00
	TOTAL	**$ 27,550.76**
13-Feb-08	Thrasher	$ 10,000.00
	TOTAL	**$ 10,000.00**
12-Dec-07	Thrasher	$ 42,500.00
	TOTAL	**$ 42,500.00**
19-Sep-07	Jackson Kelly	$ 12,000.00
	TOTAL	**$ 12,000.00**
11-Jun-08	Griffith & Associates	$ 8,153.74
	H. Wyatt Hanna III	$ 10,126.00
	Thrasher	$ 10,000.00
	TOTAL	**$ 28,279.74**
22-Aug-07	Thrasher	$ 270,000.00
	TOTAL	**$ 270,000.00**
30-Aug-07	Union PSD	$ 3,715.00
	H. Wyatt Hanna III	$ 406.25
	TOTAL	**$ 4,121.25**
21-Oct-09	Union PSD	$ 150.00
	Union PSD	$ 150.00
	Union PSD	$ 200.00
	Union PSD	$ 150.00
	Union PSD	$ 300.00
	H. Wyatt Hanna III	$ 2,468.50
	TOTAL	**$ 3,418.50**
REIMBURSE TO PSD		**$ 455,957.66**
18-Nov-09	**Wyatt Hanna**	**$ 17,304.50**
	David Casto	**$ 2,200.00**
	JacksonKelly	**$ 22,250.00**
	Trasher Environme	**$ 197,500.00**
	***Union PSD**	**$ 46,500.01**
	TOTAL	**$ 285,754.51**
GRAND TOTAL FIRST DRAW		**$ 741,712.17**

NOTE: ROUNDING = $741,713.00

Union PSD Reimbursement Summary:

	$459,451.24	**Funds Paid Out through 10/19/09**
*	**$1,786.68**	**Interest Pd 10/19/2009**
*	**$1,848.53**	**Interest Due 11/17/09**
*	**$1,971.00**	**Land and Rights fees 11/6/09**
*	**$1,375.00**	**Loan Origination Fee**
*	**$38,175.05**	**Interest paid from O&M**
*	**$1,343.75**	**Payment to Wyatt Hanna**
	$505,951.25	

THRASHER ENGINEERING, INC.
P.O. BOX 2431
CHARLESTON, WV 25329
(304)-343-7601

INVOICE

UNION PSD
P.O. BOX 7350
CROSS LANES, WV 25356

Invoice number 1038230
Date 10/7/2009

Contract: 202-020-0786
UNION PSD

Client ID: 02UNI004

Scope of Work: UPGRADE 40TH STREET WWTP AND EXTENDING SEWER SERVICE ALONG BIG TYLER ROAD AND LITTLE TYLER ROAD

ENGINEERING DESIGN

PROFESSIONAL SERVICES - NET 30

Total fee	425,000.00	
Percent complete	100.00	
Total fee billed	425,000.00	
Fee previously billed	232,500.00	
Current fee billing		192,500.00
Invoice total		192,500.00

Project Summary

Fee	425,000.00
Invoiced to date	425,000.00
Fee remaining	0.00

THRASHER ENGINEERING, INC.
P.O. BOX 2431
CHARLESTON, WV 25329
(304)-343-7601

INVOICE

UNION PSD
P.O. BOX 7350
CROSS LANES, WV 25356

Invoice number 1038231
Date 10/7/2009

Contract: 202-020-0786
UNION PSD

Client ID: 02UNI004

Scope of Work: UPGRADE 40TH STREET WWTP AND EXTENDING SEWER SERVICE ALONG BIG TYLER ROAD

LANDS/R.O.W.

PROFESSIONAL SERVICES - NET 30

Total fee	55,000.00	
Percent complete	100.00	
Total fee billed	55,000.00	
Fee previously billed	50,000.00	
Current fee billing		5,000.00
Invoice total		5,000.00

Project Summary

Fee	55,000.00
Invoiced to date	55,000.00
Fee remaining	0.00

JACKSONKELLY
ATTORNEYS AT LAW PLLC
1600 LAIDLEY TOWER • P.O. BOX 553 • CHARLESTON, WEST VIRGINIA 25322 • TELEPHONE: 304-340-1000 • TELECOPIER: 304-340-1130
www.jacksonkelly.com

November 20, 2009

6233/303

Union Public Service District
5110 West Washington Street
Cross Lanes, WV 25313

Re: Union Public Service District
Sewer Revenue Bonds, Series 2009 A
(United States Department of Agriculture)
Sewer Revenue Bonds, Series 2009 B
(West Virginia CWSRF/ARRA)
Sewer Revenue Bonds, Series 2009 C
(West Virginia CWSRF Program)

For legal services rendered as Bond Counsel with respect to the above-referenced financing.

LEGAL SERVICES:	$44,500.00
TOTAL STATEMENT:	$44,500.00

{C1248234.1}

David C. Casto

Certified General Appraiser WV004
Real Estate Appraiser • Consultant

5325 WESTBROOK DRIVE · CROSS LANES, WV 25313
(304) 776-3114

DAVID C. CASTO, SRA

INVOICE

CLIENT:

Wilma J. Davis, Chairperson
Union Public Service District
5110 W. Washington Street
P.O. Box 7350
Cross Lanes, WV 25356

INVOICE	DATE 11/4/09	TOTAL $2,200.00

Appraisal Fee for Professional Services Rendered

Contract #2		
Sadie Cadle Estate	4714 Big Tyler Rd., Cross Lanes	$300.00
Frances Gambrel	4734 Big Tyler Rd., Cross Lanes	$300.00
Mary Roberts	4728 Big Tyler Rd., Cross Lanes	$300.00
Paul & Margaret Stover	4949 Big Tyler Rd., Cross Lanes	$300.00
Contract #2		
Albert Tinsley Sr.	4736 Big Tyler Rd., Cross Lanes	
Albert Tinsley	4935 Big Tyler Rd., Cross Lanes	
Albert Tinsley	4939 Big Tyler Rd., Cross Lanes	
(Consulting Fee with Mr. Tinsley regarding all three properties)		$100.00
Contract #3		
Kenneth N. Edwards	4751 West Washington St., Cross Lanes	$300.00
Kenneth N. Edwards	4751B West Washington St., Cross Lanes	$300.00
Ray H. Mariani	4696 West Washington St., Cross Lanes	$300.00
	Total Due	$2,200.00

NOTE: **Court Testimony and Revisions of the appraisal reports will be charged at a rate of $125.00/hr.**

David C. Casto

David C. Casto ,SRA
WVCG #004

DUE UPON RECEIPT. Thank you.

H. Wyatt Hanna, III

ATTORNEY AT LAW

P.O. BOX 8070 • SOUTH CHARLESTON, WEST VIRGINIA 25303
(304) 744-3150 • FAX (304) 744-3157

November 5, 2009

Union Public Service District
5110 W. Washington Street
P.O. Box 7350
Cross Lanes, WV 25356

VIA FAX AND U.S. MAIL

For Professional Services Rendered regarding the District's 40th Street wastewater treatment plant upgrade and Big Tyler and Little Tyler extension projects, being Case No. 08-1369-PSD-CN:

STATEMENT

10-19-09	Telephone conference with Joe Nunes, right of way agent, regarding project rights of way	.25
10-30-09	Review of project file; Telephone conference with Jonathan Carpenter; Faxing of reopening request to Jonathan Carpenter for review; Letter to Sandra Squire, Director-Executive Secretary Division of the Public Service Commission, via fax and U.S. Mail, filing the same; Review of project rights of way; Telephone conference with Jonathan Carpenter	2.50
11-4-09	Review of information; Telephone conference with Joe Nunes; Telephone conference with Joe Nunes and Dave Casto; Telephone conference with Dave Casto; Telephone conference with Steve Swisher, Esquire; Review of right of way file	5.00
11-4-09	Telephone conference with Karen Buckley of the Public Service Commission Staff regarding funding letters	.25
11-5-09	Initial review of Restricted Appraisal Reports prepared by Dave Casto; Conference with Dave Casto; Telephone conference with Jonathan Carpenter of Thrasher Engineering; Letter to Steve Swisher, Esquire, via hand delivery, regarding Mary Roberts and Frances N. Gambrel right of way matter	4.50
	Total Hours	12.50
	12.50 hours @ $125.00 / hr.	$ 1,562.50
	Eight (8) Title Searches (List Attached) @ $450.00 per search	$ 3,600.00
	Seventeen (17) Title Verifications @ $110.00 / Verification (List Attached)	$ 1,870.00

Reimbursement for recording costs @ $16.00 per Verification	$ 272.00
Review of information; Preparation of Condemnation Petitions for filing in the Circuit Court of Kanawha County, West Virginia, regarding certain real property owned by Paul and Margaret Stover, Sadie Cadle, Kenneth N. Edwards (2), and Ray H. Mariani; Preparation of Orders filing said Condemnations in the Office of the Clerk of the Circuit Court of Kanawha County, West Virginia; Service upon all parties; $2,000.00/Condemnation	$10,000.00
TOTAL BALANCE DUE THIS STATEMENT	**$17,304.50**

EASEMENT LIST

1. Isaiah Z. & Tonya Myers DB 2695/Pg 914
2. Gladys Reed Mullins Dwg 14
3. Gladys Reed Mullins Dwg 14
4. Ronnie D. & Molly M. Miller (TEMP) Dwg 2 TM 28A/P 31 C3
5. Jennifer S. Biros Sht 7 TM 28A P 23 C3 DB 2439/Pg 305
6. Valley View Baptist Church C3 Dwg 5 TM 28A P 11 DB 978/Pg 374
7. Dillon Rhett C3 Sht 12 TM 29 P 6 DB 1502/Pg 541
8. Linda K. Buffington TM 28A P 115 Dwg 2 C3
9. Eva C. Harris Dwg 9 TM 28P 145.1 C3 DB 2065/Pg 332
10. Eva C. Harris (TEMP) Dwg 9 TM 28P 145.1 C3
11. C.V. Wilkinson Dwg 9 TM 28 P 145 C3 DB 147/Pg 15
12. William V. Foster by William D. Foster, POA TM 29 P 52 C3 Dwg 10 DB 1674/Pg 667
13. Ronnie L. Faulknier Dwg 11 TM 29 P 12 C3
14. Kenneth H. & Pearlie J. Tinsley Dwg 8 TM 23 P 124 C 2
15. Kenneth H. & Pearlie J. Tinsley Dwg 8 C2 TM 23 P 126
16. Kenneth H. & Pearlie J. Tinsley Dwg 8 TM 23 P 145 C2
17. James A. Tinsley Dwg 8 TM 23 P 145.2 C2 DB 2169/Pg 380

TITLE SEARCHES

1. Paul and Margaret Stover
   TM 23/P 31.3
   DB 2427/Pg 474

2. Frances Gambrel
   TM 29 P 85.3
   DB 2366/Pg 828

3. Mary Roberts
   TM 29 P 85.4
   DB 2366/Pg 831

4. Sadie Cadle
   TM 29 P 86
   DB 1597/Pg 328

5. Ray H. Mariani
   TM 29 P 10
   DB 734/Pg 176

6. Albert Tinsley
   TM 23 P 33
   DB 1817/Pg 546

7. Albert Tinsley
   TM 23 P 34
   DB 1231/Pg 74

8. Albert Tinsley, Sr.
   TM 29 P 21
   DB 2057/Pg 53

UNITED BANK
WEST VIRGINIA'S BANK

I N V O I C E

Date: November 20, 2009

To: Union Public Service District
5110 Washington Street
Cross Lanes, WV 25314
Attention: Chairperson

Re: Union Public Service District
Sewer Revenue Bonds, Series 2009 B
(West Virginia CWSRF Program/ARRA)

Amount Due: $ 500.00

Acceptance Fee	$ 500.00

Please remit to United Bank
Corporate Trust Department
P. O. Box 393
Charleston, WV

United States Department of Agriculture
Rural Development
West Virginia State Office

November 4, 2009

Wilma Davis, Chairperson
Union Public Service District
5110 West Washington Street
Cross Lanes, WV 25313

SUBJECT: Union Public Service District
Sewer System Improvements and Extension
(RUS Loan - $4,172,000)
Closing Instructions

Dear Ms. Davis:

The preliminary closing for the subject loan will be held on November 18, 2009 at 10:00 am at the Union PSD office in Cross Lanes. The loan must be handled and closed in accordance with your letter of conditions August 1, 2006. All of the requirements of this letter must be met and in addition, the loans and grant must be closed in accordance with RD Instruction 1942-A and RUS Instruction 1780. The following instructions and comments are offered:

1. RUS will need to sign and date the RD Grant Agreement at closing.

2. Form AD 1048, "Certification Regarding Debarment – Lower Tier Covered Transactions," should be provided on contractor(s).

3. Form RD 1927-10, "Final Title Opinion," effective the date of loan closing (November 20, 2009) must be provided for all property owned by the PSD.

4. Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way," must be provided showing no exceptions dated for November 20, 2009.

5. A narrative from your attorney dated November 20, 2009 concerning all permits, certifications, or other items necessary to show all legal requirements can be met. This narrative should identify the condemnation proceedings and how they will be handled now that right of entry has been obtained. This should include a certification that all requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and WV State Code Chapter 54 have been met with all acquisitions.

75 High Street Federal Building • Suite 320 • Morgantown, WV 26505-7500
Phone: 304.284.4860 • 1.800.295.8228 • Fax: 304.284.4893 • TTY/TDD: 304.284.4836 • Web: http://www.rurdev.usda.gov/wv

Committed to the future of rural communities.

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To file a complaint of discrimination write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD).

6. The certification on the Loan Resolution will need to be completed at closing.

7. You are reminded that the loan was obligated at the market rate. This rate is currently 4.25%. Bond Counsel will be notified with a copy of this letter.

8. On November 18, 2009, the date of the preliminary closing, the applicant must provide evidence of all required insurance and position fidelity bond coverage in compliance with Item 11 of the letter of conditions dated August 1, 2006.

9. A compliance review will need to be conducted by the RUS prior to the start of construction.

If you have any questions regarding the above, please do not hesitate to contact me at (304) 776-5298 ext. 116.

Sincerely,

Tracey Rowan
Community Programs Specialist

Enclosure (Budget)

cc: USDA State Director
Samme Gee
Rose Brodersen
Mike Johnson
Jonathon Carpenter
Wyatt Hanna
Michael Griffith

United States Department of Agriculture
Rural Development
West Virginia State Office

November 4, 2009

Wilma Davis, Chairperson
Union Public Service District
5110 West Washington Street
Cross Lanes, WV 25313

SUBJECT: Union Public Service District
Sewer System Improvements and Extension
(RUS Loan - $4,172,000)
Notice of Award of Contracts

Dear Ms. Davis:

The bidding documentation for the referenced project has been reviewed and USDA Rural Development hereby concurs with the Union PSD in the award of the following contracts:

Contract 1	Breckenridge Corporation	$3,338,000.00
Contract 2	Rover Construction, Inc.	$1,340,863.00
Contract 3	Rover Construction, Inc.	$1,343,044.00

A preconstruction conference has been arranged for 10:00 am on November 30, 2009 at the Union PSD office in Cross Lanes. By copy of this letter to Thrasher Engineering, we are requesting they arrange for the contractor, the job superintendent, and themselves to be present at the conference. Additionally, a representative from the West Virginia Department of Highways District Office, along with the representatives from the utility companies that could be involved with the project, should also be invited by the engineer to attend the preconstruction conference. Also enclosed is the engineer's copy of form RD 400-3 with the nondiscrimination poster to be distributed to each contractor.

On the day of the preconstruction conference, the engineer must have available five (5) sets of contract documents for the contract to be distributed as follows: **USDA RD - two (2) small sets**; Borrower - one (1) set; Contractor - one (1) set; and the Project Engineer - one (1) set. Additional copies may be provided as required by other interested parties.

The documents should include the following items:

1. A reproduced copy of the contractor's bid.

2. The contract agreement, completely filled in, signed by the contractor and dated November 20, 2009.

3. Performance and payment bonds in the amount of 100 percent of the contract amount and

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dated November 20, 2009. The payment bonds must be notarized so that they may be recorded at the local county courthouse.

4. Certificate of Insurance evidencing that payment into Workers' Compensation Fund is current.

5. Certificate of Insurance evidencing contractors' general public liability and property damage coverage in the amounts listed in the specifications and containing the provisions preventing the cancellation without 15 days prior written notice to the owner. Coverage must be shown for blasting if it will be done on the project.

6. Certificate of Insurance evidencing contractual liability coverage so that the provisions of Paragraph 24 of the General Conditions will be met. The contractors may provide an owner's protective liability policy if they so choose.

7. Certificate of Insurance evidencing builder's risk insurance coverage on a 100 percent basis of the insurable portion of the project for the benefit of the owner and contractor as their interest may appear.

8. Form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions."

9. RD Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans."

The engineer should assemble items 1-9 and send one (1) copy to USDA-Rural Development, ATTN: Harry Taylor, 75 High Street, Suite 320, Morgantown, WV 26505-7500 by November 20, 2009.

A copy of the final project budget is attached for your information.

If you should have any questions, please contact our office at 304-776-5298 ext. 116 at your earliest convenience.

Sincerely,

Tracey Rowan
Community Programs Specialist

Attachment (revised budget)

cc. USDA State Director
Samme Gee
Rose Brodersen
Mike Johnson
Jonathon Carpenter
Wyatt Hanna
Michael Griffith

Union PSD - DRAFT
Attachment No. 1 to Letter of Conditions
Date: October 23, 2009

Project Construction Budget

PROJECT COST	RUS LOAN	ARRA LOAN	SRF LOAN	TOTAL
CONSTRUCTION				$ 6,251,907
Contract #1: $3,338,000	$ 1,836,750		$ 1,551,250	
Contract #2: $1,340,863		$ 1,340,863		
Contract #3: $1,343,044			$ 1,343,044	
Scada Change Order			$ 180,000	
CONST. CONTINGENCY	$ 437,000			$ 437,000
LAND & RIGHTS	$ 50,000			$ 50,000
LEGAL FEES	$ 70,000			$ 70,000
BOND COUNSEL	$ 34,250	$ 22,250		$ 56,500
REGISTRAR		$ 500		$ 500
ACCOUNTING	$ 25,000			$ 25,000
ENGINEERING FEES	$ 1,139,000			$ 1,139,000
Basic: $635,000				
Insp.: $300,000				
Special: $154,000				
* Amendments: $50,000				
INTEREST	$ 355,000			$ 355,000
INTERIM INTEREST	$ 40,000			$ 40,000
ELECTRIC SERVICE	$ 20,000			$ 20,000
PERMITS AND FEES	$ 10,000			$ 10,000
WV DOH INSPECTION/BOND	$ 30,000			$ 30,000
PROJECT CONTG.	$ 125,000			$ 125,000
TOTAL	**$ 4,172,000**	**$ 1,363,613**	**$ 3,074,294**	**$ 8,609,907**

* Pending RUS approval

RUS BULLETIN 1780-27
(Automated 8-97

FORM APPROVED
OMB. No. 0575-0015

LOAN RESOLUTION
(Public Bodies)

A RESOLUTION OF THE **Board of Directors**

OF THE **Union Public Service District**

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS **Sewer**

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO

WHEREAS, it is necessary for the **Union Public Service District**
(Public Body)
(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

FOUR MILLION ONE HUNDRED SEVENTY-TWO THOUSAND AND XX / 100 DOLLARS ($4,172,000.00)

pursuant to the provisions of **Chapter 16, Article 13A, West Virginia Code** ; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning. financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of $10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0575-0015), Washington, DC 20503.

11. To acquire and maintain suc urance and fidelity bond coverage as may be requir the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities, and replacement of short lived assets.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed **$ 0.00**

    under the terms offered by the Government; that **Chairman**

    and **Secretary** of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

Yeas 2 Nays 0 Absent 1

IN WITNESS WHEREOF, the **Board of Directors** of the

Union Public Service District has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this 20th day of September, 2006

Union Public Service District

(SEAL)

By **Wilma Davis**

Attest:

Title **Chairperson**

Title Board Member

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as Secretary of the **Union Public Service District**

hereby certify that the **Board of Directors** of such Association is composed of

_____ members, of whom _____ constituting a quorum, were present at a meeting thereof duly called and

held on the 20th day of September 2006 ; and that the foregoing resolution was adopted at such meeting

by the vote shown above, I further certify that as of November 19, 2009 , the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this 19th day of November , 2009

Joe Williams

Title Secretary

UNION PUBLIC SERVICE DISTRICT

Regular Monthly Meeting Minutes

The regular monthly meeting of the Commissioners of Union Public Service District was held at the District's office located at 5110 Washington Street, West, Cross Lanes, West Virginia, on Wednesday, September, 2006, at 4:00 p.m.

Present were:

Wilma Davis, Chairperson
Dr. Charles Warner, Commissioner
William D. Carter, General Manager
Earl Burks, Assistant General Manager
Jonathan Carpenter, Thrasher Engineering
Steve Collins, US Department of Agriculture, RUS

The meeting was called to order by Chairperson Davis. The minutes of the District's monthly meeting held on August 16, 2006, were circulated for review and approval. Upon motion made by Dr. Charles Warner and seconded by Wilma Davis, the minutes for this meeting were approved. In the absence of Commissioner Joe Williams, Dr. Charles Warner was appointed Acting Secretary and authorized to sign the August 16, 2006, meeting minutes.

The discussion then moved to matters under old business and the District's proposed Big Tyler/Little Tyler sewer expansion project and the 40th Street wastewater plant upgrade project. Steve Collins with the United States Department of Agriculture, Rural Utility Service, presented the District's Commissioners with a Letter of Conditions committing an RUS Loan in the amount of $4,172,000.00 and other funding in the amount of $4,250,766.00 for a total project cost of $8,422,766.00. The other funding is anticipated to be in the form of private financing obtained through

Crews & Associates. After explaining the Letter of Conditions, the District's Commissioners were presented with the following forms for consideration and adoption: Form RD 1940-1 (Request for Obligation of Funds), RUS Bulletin 1780-27 (Loan Resolution [Public Bodies]), Form RD 400-1 (Equal Opportunity Agreement), Form 400-4 (Assurance Agreement), Form AD 1047 (Certification Regarding Debarment-Primary), Form RD 1910-11 (Applicant Certification, Federal Collection Policies), FmHA Instruction 1940-Q, Exhibit A-1 (Certification for Contracts, Grants and Loans), Standard Form LLL (Disclosure of Lobbying Activities) (If Applicable), Certification of Compliance, Form RD 1942-46 (Letter of Intent to Meet Conditions). It was moved by Dr. Warner and seconded by Chairperson Davis that the forms as presented by approved and that the District's Chairperson be authorized to sign these documents and any other necessary documents regarding the proposed project on behalf of the District. This motion unanimously passed.

The discussion then moved to the matter involving a pending discrimination complaint filed with the West Virginia Human Rights Commission by a former District employee. The District Board was provided with the current status of this matter.

Under new business, a request from Cadle Sanitary to the District was discussed. The District's consulting engineer, Thrasher Engineering, was directed to review the request made by Cadle Sanitary that it be permitted to increase the amount of sewage accepted by the District at its Rocky Fork wastewater plant and present a report to the District Board at the next meeting. No further action was taken concerning this matter.

Bill Carter, the District's General Manager, then informed the Commissioners on matters concerning the District's current operations.

There being no further business to discuss under either old or new business, a motion for adjournment was made by Dr. Charles Warner, and seconded by Wilma Davis. The meeting was adjourned upon passage of said motion. The regular October 2006, meeting will be held on Wednesday, October 25, 2006, at 4:00 p.m., at the District's offices.

Joe Williams, Secretary

Wilma Davis, Chairperson

UNION PUBLIC SERVICE DISTRICT 2.4
SEWER REVENUE BONDS, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

BOND RESOLUTION

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EXHIBIT A - PROJECT DESCRIPTION

UNION PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE PAYMENT OF THE UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM DESIGN NOTES, SERIES 2007 A (PUTNAM COUNTY BANK) AND THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWER FACILITIES OF UNION PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $4,172,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 A (UNITED STATES DEPARTMENT OF AGRICULTURE); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING 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 UNION PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

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

"Bond Registrar" means the Issuer, which shall so serve by the Secretary of the Issuer.

"Bonds" means the Series 2009 A Bonds, the Series 2009 B Bonds, the Series 2009 C Bonds, the Prior Bonds and any Parity Bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution.

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

"Closing Date" means the date upon which there is an exchange of the Series 2009 A Bonds for all or a portion of the proceeds of the Series 2009 A Bonds.

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

"Consulting Engineers" means Thrasher Engineering, Wheeling, West Virginia, or any engineer or firm of engineers, licensed by the State, which shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended.

"Costs" or "Costs of the Project" means those costs described in Section 1.03E hereof to be a part of the cost of acquisition and construction of the Project.

"CWSRF Resolution" means the bond resolution authorizing the Series 2009 B Bonds and the Series 2009 C Bonds.

"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 thereof.

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

"First Lien Bonds" means, collectively, Issuer's (1) Sewer Revenue Bonds dated August 28, 1991, issued in the original aggregate principal amount of $2,139,656, (2) Sewer Revenue Bonds, Series 1991 B dated August 28, 1991, issued in the original aggregate principal amount of $4,229,604, and (3) Sewer Revenue Bonds, Series 1996 A dated April 4, 1996, issued in the original principal amount of $344,416.

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

"Government" means the United States of America, United States Department of Agriculture, Rural Utilities Service, which is expected to be the original purchaser of the Series 2009 A Bonds.

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

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

"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.

"Issuer" means Union Public Service District, a public service district, public corporation and political subdivision of the State in Kanawha County, West Virginia, and includes the Governing Body.

"Letter of Conditions" means, collectively, the Letter of Conditions of the Government dated August 1, 2006, and all amendments thereto.

"Net Revenues" means Gross Revenues less Operating Expenses.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System as hereinafter defined and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, fees and expenses of fiscal agents, depository banks, registrars, paying agents and trustees, 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 Section 10.01 hereof; and (iv) for purposes of consents, notices or other action by a specified percentage of Registered Owners, any Bonds registered to the Issuer.

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

"Prior Bonds" means, collectively, the First Lien Bonds and the Second Lien Bonds.

"Prior Resolutions" means, collectively, the resolutions adopted by the Issuer, authorizing the Prior Bonds.

"Project" means the acquisition and construction of certain extensions, additions, betterments and improvements to the System, a description of which is attached hereto as Exhibit A and incorporated herein by reference.

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

"PSC Order" means, collectively, the final order or orders of the PSC, granting the Issuer a certificate of convenience and necessity to construct the Project and approving the financing for the Project 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; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

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

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

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

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

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

(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 Investors Service, Inc. or Standard & Poor's Corporation; and

(j) Advanced-Refunded Municipal Bonds.

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

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

"Reserve Accounts" means, collectively, the respective reserve accounts of the Series 2009 A Bonds, the Series 2009 B Bonds, the Series 2009 C Bonds and the Prior Bonds.

"Reserve Requirements" means, collectively, the respective reserve requirements of the Series 2009 A Bonds, the Series 2009 B Bonds, the Series 2009 C Bonds and the Prior Bonds.

"Resolution" means this Bond Resolution and all orders and resolutions supplemental hereto or amendatory hereof.

"Revenue Fund" means the Revenue Fund established by the Prior Resolutions and continued by Section 5.01 hereof.

"Second Lien Bonds" means the Issuer's Sewer Revenue Bonds, Series 1991 C dated August 28, 1991, issued in the original aggregate principal amount of $237,602.

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

"Series 2009 Bonds Construction Trust Fund" means the construction trust fund established by Section 5.01 hereof.

"Series 2007 A Notes" means the Issuer's Sewerage System Design Notes, Series 2007 A (Putnam County Bank) dated August 7, 2007, issued in the original aggregate principal amount of $559,000.

"Series 2009 A Bonds" means the Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture), of the Issuer, authorized to be issued hereby.

"Series 2009 A Bonds Reserve Account" means the Series 2009 A Bonds Reserve Account established by Section 5.02 hereof.

"Series 2009 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2009 A Bonds in the then current or any succeeding year.

"Series 2009 A Bonds Sinking Fund" means the Series 2009 A Bonds Sinking Fund established by Section 5.03A(2) hereof.

"Series 2009 B Bonds" means the Sewer Revenue Bonds, Series 2009 B (WV CWSRF Program/ARRA), of the Issuer, issued in the original aggregate principal amount of $1,363,613, authorized to be issued simultaneously with the Series 2009 A Bonds by the CWSRF Resolution.

"Series 2009 C Bonds" means the Sewer Revenue Bonds, Series 2009 C (WV CWSRF Program) of the Issuer, issued in the original aggregate principal amount of $3,074,294, authorized to be issued simultaneously with the Series 2009 A Bonds by the CWSRF Resolution.

"Sinking Funds" means, collectively, the respective sinking funds of the Series 2009 A Bonds, the Series 2009 B Bonds, the Series 2009 C Bonds and the Prior Bonds.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution of the Issuer supplementing or amending this Resolution and, when preceded by the article "the," refers specifically to the Supplemental Resolution authorizing the sale of the Series 2009 A Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 2009 A Bonds and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by this Resolution to be set aside and held for the payment of or security for the Series 2009 A Bonds, the Series 2009 B Bonds, the Series 2009 C Bonds and the Prior Bonds, including the Sinking Funds, the Reserve Accounts, the Depreciation Account and the Renewal and Replacement Fund.

"System" means the complete public service properties of the Issuer for the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of sewer to or for the public for industrial, public, private or other uses 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.

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; and any requirement for execution or attestation of the Bonds or any certificate or other document by the Chairperson or the Secretary shall mean that such Bonds, certificate or other document may be executed or attested by an Acting Chairperson or Acting Secretary.

Section 1.02. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of the Act and other applicable provisions of law.

Section 1.03. Findings. It is hereby found, determined and declared as follows:

A. The Issuer is a public service district, public corporation and political subdivision of the State in Kanawha County of said State. The Issuer presently owns and operates a public sewer system. However, the Issuer deems it necessary and desirable for the health, welfare and safety of the inhabitants of the Issuer that there be acquired and constructed the Project, in accordance with the plans and specifications prepared by the Consulting Engineer, which plans and specifications have been approved by the Government and the Issuer.

B. The Issuer has issued its Sewerage System Design Notes, Series 2007 A (Putnam County Bank), dated August 7, 2007, in the original principal amount of $550,000, to temporarily finance a portion of the costs of design of the Project. The Series 2007 A

Notes are secured by a first lien on the proceeds of any revenue bonds, refunding bonds or other obligations of the Issuer, issued subsequent to the issuance of the Series 2007 A Notes, for the acquisition and construction of the Project. The Issuer hereby determines that it is in its best interest to pay the entire outstanding principal of and all accrued interest on the Series 2007 A Notes in full with proceeds of the Series 2009 A Bonds on the date of issuance thereof. The Issuer intends to permanently finance a portion of the costs of acquisition and construction of the Project and the costs of prepayment of the Series 2007 A Notes through the issuance of its revenue bonds to the Government.

C. Simultaneously herewith, the Issuer is issuing its Sewer Revenue Bonds, Series 2009 B (WV CWSRF Program/ARRA) and Sewer Revenue Bonds, Series 2009 C (WV CWSRF Program) to be authorized by the CWSRF Resolution, in the aggregate principal amount of $1,363,613 and $3,074,294, respectively, to pay the remainder of the Cost of the Project. The Series 2009 A Bonds and the Series 2009 B Bonds will be purchased by the West Virginia Water Development Authority on behalf of the West Virginia Department of Environmental Protection as a part of its Clean Water SRF Program.

D. The Issuer intends to permanently finance a portion of the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the Government.

E. The estimated maximum cost of acquisition and construction of the Project is $8,609,907, of which $4,172,000 will be obtained from the Series 2009 A Bonds, $1,363,613 will be obtained from the loan proceeds from the Series 2009 B Bonds and $3,074,294 will be obtained from the loan proceeds from the Series 2009 C Bonds.

F. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all Operating Expenses of the System, the principal of and interest on the Prior Bonds, the Series 2009 A Bonds, the Series 2009 B Bonds, the Series 2009 C Bonds and to make payments into all funds and accounts provided for in this Resolution, the Prior Resolutions and the CWSRF Resolution.

G. It is deemed necessary for the Issuer to issue the Series 2009 A Bonds in the aggregate principal amount of not more than $4,172,000, to permanently finance a portion of the costs of acquisition and construction of the Project. Such costs shall be deemed to include the cost of acquisition or construction of any public service properties and any improvements and extensions thereto, the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest on the Series 2009 A Bonds prior to and during acquisition or construction and for six months after completion of acquisition or construction of the Project; engineering and legal expenses; expenses for

estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense and such other expenses as may be necessary or incident to the financing herein authorized, the acquisition or construction of the Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof.

H. The Series 2009 A Bonds shall be issued on a parity with the First Lien Bonds, the Series 2009 B Bonds and the Series 2009 C Bonds with respect to liens, and senior and prior to the Second Lien Bonds, pledge and source of and security for payment and in all other respects. The Issuer has met the parity and coverage requirements of the first Lien Bonds and the Prior Resolutions and has substantially complied with all other parity requirements, except to the extent that noncompliance with any such other parity requirements is not of a material nature. Prior to the issuance of the Series 2009 A Bonds, the Issuer will obtain (1) the certificate of an Independent Certified Public Accountant stating that the parity and coverage tests of the First Lien Bonds have been met; (2) the written consent of the Registered Owners of the First Lien Bonds to the issuance of the Series 2009 A Bonds on a parity with the First Lien Bonds and (3) the written consent of the Registered Owners of the Second Lien Bonds to the issuance of the 2009 A Bonds senior and prior to the Second Lien Bonds. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

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

J. It is in the best interests of the Issuer that the Series 2009 A Bonds be sold to the Government pursuant to the terms and provisions of the Letter of Conditions.

K. The Issuer has complied with all requirements of West Virginia law and the Letter of Conditions relating to authorization of the acquisition, construction and operation of the Project and the System, the payment of the Series 2007 A Notes and issuance of the Series 2009 A Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the approval of the Project and the financing thereof by the United States Department of Agriculture and the obtaining of the PSC Order, the time for rehearing and appeal of which has expired or will have been waived prior to the issuance of the Series 2009 A Bonds.

Section 1.04. Resolution Constitutes Contract. In consideration of the acceptance of the Series 2009 A Bonds by those who shall be the Registered Owners of the same from time to time, this Resolution shall be deemed to be and shall constitute a contract

between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF PROJECT AND THE PAYMENT OF THE SERIES 2007 A NOTES

Section 2.01. Authorization of Acquisition and Construction of Project and the Payment of the Series 2007 A Notes. There is hereby authorized and ordered the payment of the Series 2007 A Notes, the acquisition and construction of the Project, at an estimated cost of not to exceed $8,609,907, in accordance with the plans and specifications prepared by the Consulting Engineers, approved by the Government and the Issuer and heretofore filed in the office of the Governing Body. The proceeds of the Series 2009 A Bonds shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, which are in an amount and otherwise compatible with the financing plan submitted to the Government.

The cost of the Project is estimated to be $8,609,907, of which $4,172,000 will be obtained from the proceeds of the Series 2009 A Bonds, $1,363,6913 will be obtained from the proceeds of the Series 2009 B Bonds and $3,074,294 will be obtained from the proceeds of the Series 2009 C Bonds.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS

Section 3.01. Authorization of Bonds. For the purposes of paying the costs of payment of the Series 2007 A Notes, paying a portion of the costs of the Project and paying the costs of issuance of the Series 2009 A Bonds and related costs, there shall be and hereby are authorized to be issued negotiable Series 2009 A Bonds of the Issuer. The Series 2009 A Bonds shall be issued in one series, as a single bond, designated respectively as "Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture)," in the aggregate principal amount of not more than $4,172,000, and shall have such terms as are set forth hereinafter or in the Supplemental Resolution.

Section 3.02. Terms of Bonds. The Series 2009 A Bonds shall be issued in such principal amounts; shall bear interest at such rate or rates, not exceeding the legal maximum rate, payable monthly 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 the Supplemental Resolution or as specifically provided in the Series 2009 A Bonds.

The Series 2009 A Bonds shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, shall be payable as provided in the respective Bond form hereinafter set forth, and shall have such other terms not inconsistent with this Resolution, as shall be set forth in the Supplemental Resolution and such Bond form.

Section 3.03. Execution of Bonds. The Series 2009 A Bonds shall be executed in the name of the Issuer by the manual or facsimile signature of the Chairperson, and the seal of the Issuer shall be impressed thereon and attested by the manual or facsimile signature of the Secretary. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Negotiability, Transfer and Registration. The Series 2009 A Bonds shall be and have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State , but the Bonds, and the right to principal of and stated interest on the Bonds, may only be transferred by transfer of the registration thereof upon the books of the Bond Registrar, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Bonds for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Bond Registrar.

Whenever the Series 2009 A Bonds shall be surrendered for registration of transfer, the Issuer shall execute and deliver a new Bond or Bonds in authorized denominations, for a like aggregate principal amount. The Bond Registrar shall require the payment by the new owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer.

No registration of transfer of the Series 2009 A Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on such Bonds.

The Issuer shall be the Bond Registrar and will keep, or cause to be kept by its agent, at its office, books for the registration and transfer of the Series 2009 A Bonds and, upon presentation for such purpose, the Bond Registrar shall, under such reasonable regulations as it may prescribe, register the Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Bonds as hereinbefore provided.

The Bond Registrar shall accept the Series 2009 A Bonds for registration or transfer only if ownership thereof is to be registered in the name of the Government, an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or the social security numbers of the settlor and beneficiaries of each trust and the federal employer identification number and date of each trust and the name of the trustee of each trust and/or such other identifying number and information as may be required by law. The Series 2009 A Bonds shall initially be fully registered as to both principal and interest in the name of the United States of America. So long as the Series 2009 A Bonds shall be registered in the name of the United States of America, the address of the United States of America for registration purposes shall be National Finance Office, 1520 Market Street, St. Louis, Missouri 63103, or such other address as shall be stated in writing to the Issuer by the United States of America.

Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2009 A Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Registered Owner's furnishing the Issuer proof of ownership and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur. All Bonds so surrendered shall be canceled 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 3.06. Bonds not to be Indebtedness of the Issuer. The Series 2009 A Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System, as herein provided. No Registered Owner of the Series 2009 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2009 A Bonds or the interest thereon.

Section 3.07. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to First Lien Bonds. The payment of the debt service of the Series 2009 A Bonds shall be secured by a first lien on the Net Revenues on a parity with the lien on the Net Revenues in favor of the Registered Owners of the First Lien Bonds, the Series 2009 B Bonds and the Series 2009 C Bonds and senior and prior to the lien of the Net Revenues in favor of the Second Lien Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 2009 A Bonds, the Prior Bonds, the Series 2009 B Bonds and the Series 2009 C Bonds and to make the payments into all funds and accounts provided for in this Resolution and the Prior Resolutions, are hereby irrevocably pledged to such payments as they become due.

Section 3.08. Form of Bonds. The text of each series of the Series 2009 A 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 2009 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
UNION PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

No. BR-1 $4,172,000

FOR VALUE RECEIVED, on this ___ day of _____, 200_, UNION PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Kanawha County of said State (the "Issuer"), promises to pay to the order of the UNITED STATES OF AMERICA (the "Government"), at its National Finance Office, 1520 Market Street, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, and in the manner provided below, the principal sum of FOUR MILLION ONE HUNDRED SEVENTY-TWO THOUSAND DOLLARS ($4,172,000), or such lesser amount as is set forth on the Record of Advances attached hereto and incorporated herein by reference, plus interest on the unpaid principal balance at the rate of 4.25% per annum.

The principal of and interest on this Bond shall be paid in the following installments on the following dates: Monthly installments of interest only on the amounts advanced hereunder, commencing 30 days following the date of delivery of this Bond and continuing on the corresponding day of each month thereafter for the first 24 months after the date hereof, and thereafter, on the corresponding day of each month in installments of principal and interest in the aggregate amount of $19,150, except that the final installment shall be paid at the end of 40 years from the date of this Bond in the sum of the unpaid principal and interest due on the date thereof and except that prepayments may be made as provided below. This consideration shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to the Issuer as requested by the Issuer and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Issuer. Extra payments, as defined in the regulations of the Government, shall, after payment of interest, be applied to the installment last to come due under this Bond and shall not affect the obligation of the Issuer to pay the remaining installments as scheduled herein.

Any amount advanced or expended by the Government for the collection hereof, or to preserve or to protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government, shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by the Issuer to the Government without demand. The Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Government. The Issuer has granted to the Government a lien on the proceeds of this Bond until such proceeds are expended for authorized purposes.

This Bond is issued (i) to pay in full the entire outstanding principal of and all accrued interest on the Issuer's Sewerage System Design Bonds, Series 2007 A (Putnam County Bank); (ii) to pay 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"); and (iii) to pay certain costs of issuance of this Bond and related costs. The existing public sewer facilities of the Issuer, the Project and any further improvements and 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 of the Code of West Virginia, 1931, as amended (the "Act"), a Bond Resolution duly adopted by the Issuer on _____, 200_, and a Supplemental Resolution duly adopted by the Issuer on _____, 200_ (collectively, the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution 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 Resolution.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S (1) SEWER REVENUE BONDS, SERIES 1991 A, DATED AUGUST 28, 1991, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,139,656; (2) SEWER REVENUE BONDS, SERIES 1991 B, DATED AUGUST 28, 1991, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $4,229,604; (3) SEWER

REVENUE BONDS, SERIES 1996 A, DATED APRIL 4, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $344,416 (THE "FIRST LIEN BONDS"); (4) SEWER REVENUE BONDS, SERIES 2009 B (WV CWSRF PROGRAM/ARRA), DATED _____, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____ (THE "SERIES 2009 B BONDS"); AND (5) SEWER REVENUE BONDS, SERIES 2009 C, DATED _____, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____ (THE "SERIES 2009 C BONDS").

THIS BOND IS ISSUED SENIOR AND PRIOR TO LIENS, PLEDGE AND SOURCE OF SECURITY FOR PAYMENT WITH THE ISSUER'S SEWER REVENUE BONDS, SERIES 1991 C, DATED AUGUST 28, 1991, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $237,602 (THE "SECOND LIEN BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Resolution) to be derived from the System, on a parity with the pledge of Net Revenues in favor of the registered owners of the First Lien Bonds, the Series 2009 B Bonds and the Series 2009 C Bonds, and from moneys in the reserve account created under the Resolution for this Bond (the "Series 2009 A Bonds Reserve Account") and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and 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 or the interest hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 2009 A Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on this Bond and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the First Lien Bonds, the Series 2009 B Bonds and the Series 2009 C Bonds; provided however, that so long as there exists in the Series 2009 A Bonds Reserve Account, an amount equal to the maximum amount of principal and interest which will become due on this Bond in any year, and in the respective reserve accounts for any other obligations outstanding on a parity with this Bond, including the First Lien Bonds, the Series 2009 B Bonds and the Series 2009 C Bonds, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has

entered into certain further covenants with the Registered Owner of this Bond for the terms of which reference is made to the Resolution. Remedies provided the Registered Owner of this Bond are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

Subject to the registration requirements in the Resolution, this Bond is transferable, as provided in the Resolution, only upon the books of the Secretary of the Issuer, as registrar (the "Registrar"), which shall be kept for that purpose at the office of the Registrar, by the Registered Owner or by its attorney or legal representative duly authorized in writing, upon surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its attorney or legal representative duly authorized in writing.

Subject to the registration requirements in the Resolution, 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 Resolution, shall be applied solely to payment of the costs of acquisition and construction of the Project and the costs of issuance hereof as described in the Resolution, 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.

The Issuer hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for such purposes and periods of time.

If at any time it so appears to the Government that the Issuer may be able to obtain a loan from a responsible cooperative or private creditor at reasonable rates and terms for loans for such purposes and period of time, the Issuer will at the Government's request apply for and accept such loan in sufficient amount to repay the Government.

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 of this Bond 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.

This Bond is given as evidence of a loan to the Issuer made or insured by the Government pursuant to the Rural Development Act of 1972. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

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 Resolution, 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, UNION 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 as of the date first written above.

_____
Chairperson

[SEAL]

ATTEST:

_____
Secretary

(Form of)

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) $		(19) $	
(2) $		(20) $	
(3) $		(21) $	
(4) $		(22) $	
(5) $		(23) $	
(6) $		(24) $	
(7) $		(25) $	
(8) $		(26) $	
(9) $		(27) $	
(10) $		(28) $	
(11) $		(29) $	
(12) $		(30) $	
(13) $		(31) $	
(14) $		(32) $	
(15) $		(33) $	
(16) $		(34) $	
(17) $		(35) $	
(18) $		(36) $	
		$	
TOTAL			

(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 3.09. Sale of Bonds. The Series 2009 A Bonds shall be sold to the Government pursuant to the terms and conditions of the Letter of Conditions. The Letter of Conditions is hereby approved and the provisions of the Letter of Conditions are specifically incorporated in this Resolution.

ARTICLE IV

[RESERVED]

ARTICLE V

SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created with (or continued if previously established by the Prior Resolutions) and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and from each other:

(1) Revenue Fund (established by the Prior Resolutions);

(2) Depreciation Account (established by the Prior Resolutions);

(3) Renewal and Replacement Fund (established by the Prior Resolutions); and

(4) Series 2009 Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special accounts are created with and shall be held by the Commission:

(1) Series 2009 A Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System and all parts thereof shall be deposited by the Issuer in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Resolution and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. Funds in the Revenue Fund shall be disposed of only in the following manner and order of priorities and as provided in the Prior Resolutions.

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

(2) The Issuer shall next, each month, from the moneys in the Revenue Fund, (i) make the interest payments on the First Lien Bonds in the amounts and on the dates required by the Prior Resolutions; and (ii) commencing on the day which is 30 days following the date of delivery of the Series 2009 A Bonds and continuing on the corresponding day of each month, remit to the National Finance Office for deposit in the Series 2009 A Bonds Sinking Fund hereby established at the National Finance Office, the amount of interest set forth in the Series 2009 A Bonds.

(3) The Issuer shall next, each month, from the moneys in the Revenue Fund, (i) make the principal payments of the First Lien Bonds in the amounts and on the dates required by the Prior Resolutions; (ii) make the principal payments of the Series 2009 B Bonds and the Series 2009 C Bonds in the amounts and on the dates required by the CWSRF Resolution; and (iii) commencing on the day which is 24 months following the date of delivery of the Series 2009 A Bonds and continuing on the corresponding day of each month, remit to the National Finance Office for deposit in the Series 2009 A Bonds Sinking Fund, the amount of principal set forth in the Series 2009 A Bonds.

The deposits into the Series 2009 A Bonds Sinking Fund provided in this paragraph and in Section 5.03A (2) above, constitute actual payments of principal of and interest on the Series 2009 A Bonds to the Government.

(4) The Issuer shall next, each month, from the moneys in the Revenue Fund, (i) make the reserve account payments into the Reserve Accounts of the First Lien Bonds in the amounts and on the dates required by the Prior Resolutions; (ii) make the reserve account payments into the Reserve Account of the Series 2009 B Bonds and the Series 2009 C Bonds in the amounts and on the dates required by the CWSRF Resolution; and (iii) commencing on the day which is 24 months following the date of delivery of the Series 2009 A Bonds and continuing on the corresponding day of each month, remit to the Commission for deposit in the Series 2009 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2009 A Bonds Reserve Requirement.

(5) The Issuer shall next, each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund, an amount equal to 2 1/2% of the Gross Revenues each month (as previously set forth in the Prior Resolutions and not in addition thereto), exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency 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.

(6) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission for deposit in the Sinking Fund for the Second Lien Bonds the amount required on the Prior Resolutions to pay principal of the Second Lien Bonds.

(7) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission for deposit in the Reserve Account for the Second Lien Bonds the amount required under the Prior Resolutions.

(8) If all of the above required payments are then current, the Issuer may use any moneys remaining in the Revenue Fund for the following purposes: (a) for prepayment of the amount, or any part thereof, of the Bonds Outstanding in accordance with the terms thereof, (b) additions, betterments, improvements, or extensions to the System which the Consulting Engineers certify are needed and/or (c) payments of principal and interest on subordinate sewer revenue bonds, or other obligations which may hereafter be issued by the Issuer on account of the System.

Moneys in the Series 2009 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 2009 A Bonds as the same shall become due. Moneys in the Series 2009 A Bonds Reserve Account shall be used only for the purposes of paying principal of and interest on the Series 2009 A Bonds as the same shall come due, when other moneys in the respective Sinking Funds are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2009 A Bonds Reserve Account (if fully funded) shall be transferred, not less than once each year, to the Series 2009 A Bonds Construction Trust Fund during construction of the Project and thereafter, to the Revenue Fund and applied in full, first to the next ensuing interest payment due on the Series 2009 A Bonds and then to the next ensuing principal payment due thereon on a pro rata basis.

Any withdrawals from the Series 2009 A Bonds Reserve Account which result in a reduction in the balance therein to below the respective 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 2009 A Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay any interest on such 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.

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 Series 2009 A Bonds and the Prior 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 2009 A Bonds Reserve Account created hereunder, and all amounts required for such account shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Government, the Issuer shall make the necessary arrangements whereby required payments into the Series 2009 A Bonds Reserve Account shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates hereunder.

Moneys in the Series 2009 A Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2009 A Bonds Sinking Fund and the Series 2009 A Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2009 A Bonds under the conditions and restrictions set forth herein.

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

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

D. The moneys in excess of 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.

E. If, on any monthly payment date, the revenues are insufficient to place the required amount in any of the funds and accounts as herein above 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, that all deposits, including on account of deficiencies, shall be made in the order of priority set forth in Section 5.03A hereof, and no payment of lower priority shall be made if there exists a deficiency in a fund or account of higher priority.

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

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

ARTICLE VI

APPLICATION OF BOND PROCEEDS

Section 6.01. Application of Bond Proceeds. All moneys received from time to time from the sale of the Series 2009 A Bonds shall be deposited in the Series 2009 Bonds Construction Trust Fund and shall be used solely to pay costs of the Project and until so expended, are hereby pledged as additional security for the Series 2009 A Bonds.

Section 6.02. Disbursements from Bond Construction Trust Fund. The Series 2009 Bonds Construction Trust Fund shall be kept separate and apart from all other funds of the Issuer, and shall be drawn out, used and applied by the Issuer solely for the payment of the costs of the Project and purposes incidental thereto, including payment of any borrowings by the Issuer made for the purpose of temporarily financing a portion of the costs of the Project and payment of interest on the Series 2009 A Bonds prior to and during construction and for a period up to six months after completion of construction and for no other purposes whatsoever. If approved by the Government, the moneys in said fund shall be secured at all times by Government Obligations having a fair market value at least equal to the balance in said fund in excess of the amount insured by the FDIC. If for any reason the amounts on deposit in the Series 2009 A Bonds Construction Trust Fund are not necessary for, or are not applied to, such purposes, then such unapplied amounts shall be deposited by the Issuer as determined by the rules and regulations of the Government. All such proceeds shall constitute a trust fund for such purposes, and there is hereby created a lien upon such moneys, until so applied, in favor of the Registered Owners of the Series 2009 A Bonds.

Expenditures or disbursements from the Series 2009 Bonds Construction Trust Fund shall be made only after such expenditures or disbursements have been approved in writing by the Governing Body, the Consulting Engineers and the Government.

The Issuer shall coordinate with the Government on the monthly payment of the costs of the Project and shall submit invoices and requisitions as directed by the Government.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Resolution shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Registered Owner of the Series 2009 A Bonds. In addition to the other covenants, agreements and provisions of this Resolution, the Issuer hereby covenants and agrees with the Registered Owner of the Series 2009 A Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as the Series 2009 A Bonds or the interest thereon are Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2009 A Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Resolution. No Registered Owner of the Series 2009 A Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay the Series 2009 A Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Series 2009 A Bonds shall be secured by a first lien on the Net Revenues on a parity with the lien on the Net Revenues in favor of the Registered Owners of the First Lien Bonds, the Series 2009 B Bonds and the Series 2009 C Bonds and senior and prior to the lien on the Net Revenues in favor of the Registered Owners of the Second Lien Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest on the Prior Bonds, the Series 2009 A Bonds, the Series 2009 B Bonds and the Series 2009 C Bonds and to make the payments into all funds and accounts and all other payments provided for in this Resolution and the Prior Resolutions are hereby irrevocably pledged, in the manner provided herein and therein, to such payments as the same become due, and for the other purposes provided in this Resolution and the Prior Resolutions.

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 this Resolution and the Prior Resolutions. The initial

schedule of rates and charges for the services and facilities of the System shall be as set forth and approved in the PSC Order and such rates are hereby adopted.

So long as the Series 2009 A 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 Resolution. In the event the schedule of rates, fees and charges initially established for the System in connection with the Series 2009 A Bonds shall prove to be insufficient to produce the required sums set forth in this Resolution, 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 Resolution.

Section 7.05. Sale of the System. So long as the Prior Bonds are Outstanding, the System may not be sold, transferred, mortgaged, leased or otherwise disposed of, except in accordance with the terms of the Prior Resolutions. So long as the Series 2009 A Bonds are Outstanding and except as otherwise required by law or with the written consent of the Government, the System may not be sold, transferred, 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 Section 10.01 hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2009 A Bonds, immediately be remitted to the Government for payment of principal of and interest on the Series 2009 A Bonds. Any balance, remaining after the payment of principal of and interest on the Series 2009 A Bonds, 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, 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 with respect to the Bonds Outstanding. 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

Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of $10,000 and not in excess of $50,000, shall, upon receipt of approval of the Registered Owners, if needed, be remitted by the Issuer to the Government and the Commission for deposit in the Renewal and Replacement Fund with respect to the Bonds Outstanding. 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 Resolution. 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 or redeem prior to maturity all Bonds then Outstanding without the prior approval and consent in writing of the Registered Owners of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Registered Owners of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. So long as the Series 2009 A Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2009 A Bonds; provided, however, that Parity Bonds may be issued as provided for in Section 7.07 hereof and in the Prior Resolutions (so long as the First Lien Bonds are Outstanding). All obligations hereafter issued by the Issuer payable from the revenues of the System, except such 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 2009 A 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 and in the Prior Resolutions 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 liens of the Series 2009 A Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 2009 A Bonds and the interest thereon in this Resolution, or upon the System or any part thereof.

Section 7.07. Parity Bonds. So long as the First Lien Bonds, the Series 2009 B Bonds and the Series 2009 C Bonds are Outstanding, no Parity Bonds shall be issued except in accordance with the terms of the Prior Resolutions and the CWSRF Resolution. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Resolution, except under the conditions and in the manner provided herein and with the prior written consent of the Government.

All Parity Bonds issued hereunder shall be on a parity in all respects with the First Lien Bonds, the Series 2009 A Bonds, the Series 2009 B Bonds and the Series 2009 C Bonds.

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

So long as the Series 2009 A Bonds are Outstanding, no Parity Bonds shall be issued at any time, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues for the Fiscal Year following the year in which such Parity Bonds are to be issued shall be at least 120% of the average annual debt service requirements on the following:

(1) The Bonds then Outstanding;

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

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

The foregoing limitation may be waived or modified by the written consent of the Registered Owners of the Series 2009 A Bonds, representing 75% of the then-outstanding principal indebtedness. In the event the foregoing limitation is waived or when the Series 2009 A Bonds are no longer Outstanding, the following parity requirement shall be met:

No Parity Bonds shall be issued at any time, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the three 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 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 three succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from the improvements to be financed by such Parity Bonds and any increase in rates 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 and approved by the PSC, the period for appeal of which has expired prior to issuance of such Parity Bonds.

All covenants and other provisions of this Resolution (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Registered Owners of the Series 2009 A Bonds and the Registered Owners of any Parity Bonds 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 respective liens on the revenues of the System and their respective source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of another series on a parity therewith. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Resolution required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to

the prior and superior liens of the Outstanding 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 2009 A Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the funds and accounts provided for in this Resolution with respect to the Bonds then Outstanding, and any other payments provided for in this Resolution, 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 Resolution.

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 Government and its 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 Issuer shall submit to the Government such documents and information as it may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any State and federal grants or other sources of financing for the Project.

The Issuer shall permit the Government and its agents and representatives to inspect all records 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.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Registered Owner of the Series 2009 A Bonds issued pursuant to this Resolution shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles in accordance with the rules and regulations of the PSC and the Act. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body.

The Issuer shall provide the Government each year or any Registered Owner of the Series 2009 A Bonds requesting the same, with 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 Resolution and the status of all said funds and accounts.

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

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants (and to the extent legally required) in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Registered Owner of the Series 2009 A Bonds and shall submit said report to the Government. Such audit report submitted to the Government shall include a statement that the Issuer is in compliance with the terms and provisions of the Act and this Resolution and that the Gross Revenues are adequate to meet the Operating Expenses and debt service and reserve requirements.

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

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

Section 7.09. Rates. Prior to issuance of the Series 2009 A Bonds, approvals of equitable rates or charges for the use of and service rendered by the System shall have

been obtained 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 reductions 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 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 Series 2009 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2009 A Bonds, including the Prior Bonds, the Series 2009 B Bonds and the Series 2009 C Bonds; provided that, in the event that amounts equal to or in excess of the Reserve Requirements are on deposit respectively in the Series 2009 A Bonds Reserve Account and the Reserve Accounts for obligations on a parity with the Series 2009 A Bonds, including the Prior Bonds and the Series 2009 A Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest on the Series 2009 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2009 A 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. 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 Government within 30 days of the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made, except upon the further certificate of a professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance

to the Government and to any Registered Owner of the Series 2009 A Bonds who shall file his address with the Issuer 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 Government and any Registered Owner of the Series 2009 A Bonds or anyone acting for and on behalf of such Registered Owner.

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain the certificate of the Consulting Engineers, certifying that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Government, the Project will be adequate for the purposes for which it was designed, the funding plan as submitted to the Government is sufficient to pay the costs of the acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained. The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the Government, covering the supervision and inspection of the development and construction of the Project. The Issuer shall employ qualified operating personnel properly certified by the State to operate the System so long as the Series 2009 A Bonds are Outstanding.

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

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

Whenever any fees, rates, rentals or other charges for the services or facilities of the System shall remain unpaid for a period of 20 days after the same shall become due and payable, 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, fees, rates, rentals and other charges, if not paid when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that it will, to the full extent permitted by law and the rules and regulations of the PSC, discontinue and shut off the services of the System to all delinquent users of the services of the System, and will not restore such services of the System until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the

restoration of service, have been fully paid, and shall take all further actions to enforce collections to the maximum extent permitted by law.

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

Section 7.15. Insurance and Construction Bonds. The Issuer hereby covenants and agrees that, so long as the Series 2009 A 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:

(A) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured prior to acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground insurable portions of the System, including machinery and equipment housed therein, in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(B) Public Liability Insurance, with limits of not less than $1,000,000 for personal liability to protect the Issuer from claims for bodily injury and/or death and not less than $500,000 from claims for damage to property of others which may arise from the operation of the System.

(C) Vehicular Public Liability Insurance, in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated for the benefit of the Issuer, with limits of not less than $1,000,000 for personal liability to protect the Issuer from claims for bodily injury and/or death and not less than $500,000 from claims for damage to property of others which may arise from such operation of vehicles.

(D) Workers' Compensation Coverage for All Employees of the System Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each contractor dealing directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with Chapter 38, Article 2, Section 39 of the Code of West Virginia, 1931, as amended.

(E) Fidelity Bonds will be provided as to every member, officer and employee of the Issuer having custody of the Revenue Fund or of any other funds or property of the System in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount required by the Government and to be increased thereafter as necessary to cover the maximum amount of funds under control of that position at any one time.

(F) Flood Insurance will be obtained by the Issuer if available; however, if the System is located in a community which has been notified as having special flood or mudslide prone areas, flood insurance must be obtained.

(G) Construction Bonds. 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. The Issuer shall verify such insurance prior to commencement of construction.

Section 7.16. Connections. To the extent permitted by the laws of the State and rules and regulations of the PSC, the Issuer shall require every owner, tenant or occupant of any house, dwelling or building intended to be served by the System to connect thereto.

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 acquisition and construction of the Project, all orders and approvals from the PSC and other state agencies necessary for the acquisition and construction of the Project and the operation of the System and all approvals for the issuance of the Series 2009 A Bonds required by state law, with all requisite appeal periods having expired without successful appeal.

Section 7.18. Statutory Mortgage Lien. For the further protection of the Registered Owners of the Series 2009 A 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 2009 A Bonds; provided however, that the statutory mortgage lien in favor of the Registered Owners of the Series 2009 A Bonds shall be on a parity with the statutory mortgage lien in favor of the Registered Owners of the First Lien Bonds, the Series 2009 B Bonds and the Series 2009 C Bonds.

Section 7.19. Compliance with Letter of Conditions and Law. The Issuer shall perform, satisfy and comply with all the terms and conditions of the Letter of Conditions, this Resolution and the Act. The Issuer shall also comply with all applicable laws, rules and regulations issued by the Government or other state, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

Section 7.20. Contracts. The Issuer shall, simultaneously with the delivery of the Series 2009 A Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

ARTICLE VIII

INVESTMENT OF FUNDS

Section 8.01. Investment of Funds. Any moneys held as a part of the funds and accounts created by this Resolution, other than the Revenue Fund, shall be invested and reinvested by the Commission or the Depository Bank, 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 Resolution, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section.

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 owner, including the value of accrued interest and giving effect to the amortization of discount or at par if such investment is held in the "Consolidated Fund." The Commission shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank may make any and all investments permitted by this Section through its own 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 2009 A Bonds are Outstanding.

Notwithstanding the foregoing, any investments made pursuant to this Resolution shall comply with the guidelines of the Government.

ARTICLE IX

DEFAULTS AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2009 A Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest on any Series 2009 A Bonds; or

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2009 A Bonds set forth in this Resolution, any Supplemental Resolution or the Series 2009 A Bonds and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Government, the Depository Bank, the Bond Registrar, any Paying Agent or a Registered Owner of a Bond; or

(C) 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; or

(D) If a default occurs under the Prior Resolutions or the Prior Bonds.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of the Series 2009 A Bonds may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his 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 this Resolution relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Series 2009 A Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Series 2009 A Bonds, and (v) by action at law or bill in equity enjoin any acts in violation of the Resolution with respect to the Series 2009 A Bonds, or the rights of such Registered Owners; provided however, that all rights and remedies of the Registered Owners of the Series 2009 A Bonds shall be on a parity with those of the Registered Owners of the First Lien Bonds, the Series 2009 B Bonds and the Series 2009 C Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of the Series 2009 A Bonds may, by proper legal action, compel the performance of the duties of the Issuer under this Resolution and the Act, including, the completion of the Project, 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 the Bonds, the Registered Owner shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project, or both, 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 any interest thereon and the deposits into the funds and accounts herein provided and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Resolution and the Act.

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

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Resolution for any 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 Resolution 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 Event of Default, any Registered Owner of Bonds issued pursuant to this Resolution 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 herein above conferred upon him, 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 Bonds issued pursuant to this Resolution. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the

possession, operation and maintenance of the System, for the sole purpose of the protection of both the Issuer and Registered Owners, and the curing and making good of any default under the provisions of this Resolution, and the title to and ownership of the System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage, or otherwise dispose of any assets of the System.

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Bonds. If the Issuer shall pay, or there shall otherwise be paid, to the Registered Owners of the Series 2009 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, then this Resolution and the pledge of Net Revenues and other moneys and securities pledged under this Resolution and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2009 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Modification or Amendment of Resolution. Prior to the issuance of the Series 2009 A Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2009 A Bonds, no material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto that would materially and adversely affect the rights of Registered Owners of the Series 2009 A Bonds shall be made without the consent in writing of the Registered Owners of the Series 2009 A Bonds then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein 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 the Series 2009 A Bonds required for consent to the above-permitted amendments or modifications.

Section 11.02. Resolution Constitutes Contract. The provisions of this Resolution shall constitute a contract between the Issuer and the Registered Owners of the Series 2009 A Bonds and no change, variation or alteration of any kind of the provisions of the Resolution shall be made in any manner, except as in this Resolution provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Resolution, any Supplemental Resolution or the Series 2009 A 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; Prior Resolutions. Except for the Prior Resolutions, all orders or resolutions and parts thereof in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed; provided that, in the event of any conflict between the Resolution and the Prior Resolutions, the Prior Resolutions shall control (unless less restrictive), so long as the Prior Bonds are outstanding.

Section 11.06. Covenant of Due Procedure. 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 its adoption.

Adopted this 18th day of November, 2009.

Chairperson

Joe Williams

Member

Charles C. Warner by

Member H. Wyatt A III

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of Union Public Service District on the 18th day of November, 2009.

Dated this 20th day of November, 2009.

[SEAL]

Secretary

EXHIBIT A

PROJECT DESCRIPTION

The Project consists of the construction of improvements to the District's 40th Street wastewater treatment facility and the construction of an extension of its wastewater collection lines, together with all appurtenant facilities.

UNION PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE UNION PUBLIC SERVICE DISTRICT SEWER REVENUE BONDS, SERIES 2009 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DESIGNATING A DEPOSITORY BANK AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board (the "Governing Body") of Union Public Service District (the "Issuer") has duly and officially adopted a Bond Resolution on November 18, 2009 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE PAYMENT OF THE UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM DESIGN NOTES, SERIES 2007 A (PUTNAM COUNTY BANK) AND THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWER FACILITIES OF UNION PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $4,172,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 A (UNITED STATES DEPARTMENT OF AGRICULTURE); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Resolution provides for the issuance of the Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture) of the Issuer, in the aggregate principal amount not to exceed $4,172,000 (the "Bonds"), in accordance with Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (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 Bonds are proposed to be purchased by the Government; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, 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 UNION 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 2009 A (United States Department of Agriculture), of the Issuer, in the original aggregate principal amount of $4,172,000. The Bonds shall be issued in the form of one Bond, shall be dated the date of delivery, shall mature forty years from the date thereof, shall be numbered AR-1, and the principal amount advanced under the Bonds shall bear interest at the rate of 4.25% per annum. Monthly installments of interest only on the amounts advanced under the Bonds are payable 30 days following the date of delivery of the Bonds and on the corresponding day of each month thereafter for the first 24 months after the date of delivery of the Bonds, and thereafter, monthly installments of principal of and interest on the Bonds, in the aggregate amount of $18,482, are payable on the corresponding day of each month, except that the final installment on the Bonds shall be paid at the end of 40 years from the date of the Bonds in the sum of the unpaid principal and interest due on the date thereof. The Bonds are subject to prepayment as set forth in the Resolution and the Bonds. All principal and interest payments

on the Bonds will be paid by the Issuer directly to the order of the United States of America at its National Finance Office, 1520 Market Street, St. Louis, Missouri 63103.

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 approves and accepts the Letter of Conditions and all amendments thereto, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed. 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, Charleston, West Virginia, to serve as the Depository Bank under the Resolution.

Section 5. Series 2009 A Bonds proceeds in the amount of $485,693.91 will be deposited with Putnam County Bank, which shall be sufficient to pay in full the entire outstanding principal of and all interest on the Issuer's Sewerage System Design Notes, Series 2007 A (Putnam County Bank) (the "Notes").

Section 6. The remaining proceeds of the Bonds, as advanced from time to time, shall be deposited in the Series 2009 A Bonds Construction Trust Fund for payment of the costs of the Project and the costs of issuance of the Bonds and related costs.

Section 7. 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 Bonds may be delivered to the Government on or about November 20, 2009.

Section 8. The payment of the Notes, the acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 9. 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 Series 2009 Bonds

Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 10. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 11. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project and the Chairperson is hereby authorized and directed to execute and deliver all such contracts.

Section 12. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 18th day of November, 2009.

Chairperson

Member

Charles C. Warner by

Member

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of Union Public Service District on the 18th day of November, 2009.

Dated this 20th day of November, 2009.

[SEAL]

Secretary

UNION PUBLIC SERVICE DISTRICT

Special Meeting Minutes

A Special Meeting of the Commissioners of Union Public Service District was held at the District's business office located at 5110 Washington Street, West, Cross Lanes, Kanawha County, West Virginia, on Wednesday, November 18, 2009, at 10:00 a.m.

Present were:

Wilma J. Davis, Chairperson
Dr. Charles Warner, Commissioner (Via Telephone)
Joe Williams, Commissioner
William D. Carter, General Manager
Earl Burks, Assistant General Manager
Jacob Pack, Office Manager
H. Wyatt Hanna, III, Attorney
Tracey Rowan, US Dept. Of Agriculture, RUS
Samme Gee, Esquire

The Special Meeting was called to order by Chairperson Davis. Noting a quorum, and that there was no old business on the meeting agenda, the Board proceeded to new business. The first item concerned Amendment No. 1 to the Letter of Conditions the District had received from the United States Department of Agriculture, Rural Utility Service, with regard to the District's loan with that agency for the proposed Big Tyler/Little Tyler extension project and upgrade of the 40th Street wastewater treatment plant facility. Tracey Rowan, a representative of RUS, circulated the Amendment and a proposed letter from the District to meet all loan conditions. After a brief presentation by Ms. Rowan, it was moved by Joe Williams and seconded by Dr. Charles Warner that the Amendment and the letter be approved and that the District's Chairperson, Wilma J. Davis, be authorized to sign the documents on behalf of the District. This Motion was unanimously passed.

The Board then proceeded to the next item on the agenda under New Business. Samme Gee, Esquire, the District's Bond Counsel, with Jackson

Kelly, presented a series of bond resolutions which were read by title. The first resolution was as follows: RESOLUTION AUTHORIZING THE PAYMENT OF THE UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM DESIGN NOTES, SERIES 2007 A (PUTNAM COUNTY BANK) AND THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWER FACILITIES OF UNION PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $4,172,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 A (UNITED STATES DEPARTMENT OF AGRICULTURE); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO. After an explanation of the Bond Resolution by Ms. Gee, it was moved by Joe Williams and seconded by Dr. Charles Warner, that the Bond Resolution as presented be approved and that the District's Chairperson, Wilma J. Davis, Joe Williams, as Secretary, and Dr. Charles Warner be authorized to sign the document on behalf of the District. This Motion was unanimously passed.

Ms. Gee next presented a Supplemental Resolution titled SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE UNION PUBLIC SERVICE DISTRICT SEWER REVENUE BONDS, SERIES 2009 A (UNITED STATES DEPARTMENT OF AGRICULTURE), DESIGNATING A DEPOSITORY BANK AND MAKING OTHER PROVISIONS AS TO THE BONDS. After an explanation by Ms. Gee of this Supplemental Resolution, it was moved by Joe Williams and seconded by Dr. Charles Warner, that this Supplemental Bond Resolution as presented be approved and that the District's Chairperson, Wilma J. Davis, Joe Williams, as Secretary, and Dr. Charles Warner be authorized

to sign the document on behalf of the District. This Motion was unanimously passed.

Ms. Gee then presented a Resolution titled RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWER FACILITIES OF UNION PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF $1,363,613 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 B (WVCWSRF PROGRAM/ARRA) AND $3,074,294 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS SERIES 2009 C (WVCWSRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING ARRA ASSISTANCE AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO. After an explanation of this Bond Resolution by Ms. Gee, it was moved by Joe Williams and seconded by Dr. Charles Warner, that the Bond Resolution as presented be approved and that the District's Chairperson, Wilma J. Davis, Joe Williams, as Secretary, and Dr. Charles Warner be authorized to sign the document on behalf of the District. This Motion was unanimously passed.

Ms. Gee then proceeded to read by title the following Supplemental Resolution: SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE UNION PUBLIC SERVICE DISTRICT SEWER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA CWSRF/ARRA), SEWER REVENUE BONDS, SERIES C (WEST VIRGINIA CWSRF PROGRAM); DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS. After an

explanation by Ms. Gee of the Supplemental Resolution, it was moved by Joe Williams and seconded by Dr. Charles Warner, that the Supplemental Bond Resolution as presented be approved and that the District's Chairperson, Wilma J. Davis, Joe Williams, as Secretary, and Dr. Charles Warner be authorized to sign the document on behalf of the District. This Motion was unanimously passed.

The Board was then provided with a Resolution designating United Bank, Inc., as Registrar for the subject bonds. After an explanation of the Resolution by Ms. Gee, it was moved by Joe Williams and seconded by Dr. Charles Warner, that the Resolution as presented by approved and that the District's Chairperson, Wilma J. Davis, Joe Williams, as Secretary, and Dr. Charles Warner be authorized to sign the document on behalf of the District. This Motion was unanimously passed.

A Sweep Resolution concerning the monthly debt service payments on the bonds was presented with an explanation being provided by Ms. Gee. After discussion, it was moved by Dr. Charles Warner and seconded by Joe Williams that the District authorize the Sweep Resolution as presented and that the District's Chairperson, Wilma J. Davis, be authorized to sign the Sweep Resolution on behalf of the District. This Motion was unanimously passed. A copy of said Sweep Resolution is attached hereto and made a part of these meeting minutes for all pertinent purposes.

A Resolution was then presented to the District Board concerning certain invoices totaling $794,198.42 relating to the District's project and authorizing payment thereof. Upon motion made by Joe Williams and seconded by Dr. Charles Warner, it was moved that the Resolution be approved and that the District's Chairperson, Wilma J. Davis, and Joe Williams be authorized to sign the document on behalf of the District. This Motion was unanimously passed. A copy of the Resolution is attached

hereto and made a part of these meeting minutes for all pertinent purposes.

Upon motion made by Joe Williams and seconded by Dr. Charles Warner, it was moved that the meeting be recessed in order to permit the Commissioners to sign all of the necessary documents. This Motion was unanimously passed and the meeting was recessed.

After the recess, it was moved by Joe Williams and seconded by Dr. Charles Warner that the Board return to the regular order of business as specified on the Special Meeting agenda.

There being no further business to discuss under either old or new business, a motion for adjournment was made by Joe Williams and seconded by Dr. Charles Warner. The meeting was adjourned upon passage of said motion.

Joe Williams, Secretary

Wilma J. Davis, Chairperson

RESOLUTION OF THE PUBLIC SERVICE BOARD OF UNION PUBLIC SERVICE DISTRICT APPROVING INVOICES RELATING TO THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWER FACILITIES OF THE DISTRICT AND AUTHORIZING PAYMENT THEREOF

WHEREAS, Union Public Service District (the "District") has reviewed the invoices attached hereto and incorporated herein by reference relating to the completion of acquisition and construction of certain improvements and extensions to the existing public sewer system of the District to be financed in part by the proceeds of the District's Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture), Sewer Revenue Bonds, Series 2009 B (WVCWSRF Program/ARRA) and the Sewer Revenue Bonds, Series 2009 C (WVCWSRF Program), and by other sources, and finds as follows:

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF UNION PUBLIC SERVICE DISTRICT AS FOLLOWS:

There is hereby authorized and directed the payment of the attached invoices as summarized as follows:

Vendor		Amount
Jackson Kelly PLLC	$	44,500.00
Thrasher Engineering, Inc.	$	192,500.00
Thrasher Engineering, Inc.	$	5,000.00
H. Wyatt Hanna, III	$	17,304.50
David C. Casto	$	2,200.00
United Bank	$	500.00
Union PSD	$	46,500.01
Putnam County Bank (2007 Note)	$	485,693.91
	$	794,198.42

Adopted by the Public Service Board of the District at a meeting held on the 18th day of November, 2009.

Chairperson

[SEAL]

Secretary

{C1633931.1}

SWEEP RESOLUTION

WHEREAS, Union Public Service District (the "Issuer") a public service district, public corporation and political subdivision of the State of West Virginia;

WHEREAS, the Issuer has issued bonds, as more specifically set forth on Exhibit A, attached hereto and incorporated herein by reference (the "Bonds");

WHEREAS, the Issuer makes or will make monthly debt service payments on and transfers reserve funds for the Bonds by check to the West Virginia Municipal Bond Commission (the "MBC") which in turn pays the owners of the Bonds and deposits funds in the reserve accounts;

WHEREAS, the MBC may accept such monthly payments by electronic funds transfer, thereby eliminating delay in payments and lost checks;

WHEREAS, the Issuer finds and determines that it is in the best interest of the Issuer, its citizens and the owners of the Bonds that the monthly debt service and reserve fund payments be made by electronic funds transfer with the State Treasurer sweeping the Issuer's account.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1) The monthly debt service payments on the Bonds, as set forth in Exhibit A, shall be made to the MBC by an electronic transfer by the State Treasurer from the accounts set forth in Exhibit A in such form and at such directions as are provided by the MBC.

2) The Chairperson and Secretary are hereby authorized to sign and execute all such documents as are necessary to facilitate the electronic transfer of the Bond debt service and reserve fund payments.

3) This resolution shall be effective immediately upon adoption.

Adopted this 18th day of November, 2009.

(Authorized Officer)

EXHIBIT A

List each bond issue and the Bank account number from which the electronic transfer will be made.

Bond Issue	Bank Account Information – Last 4 Digits	Monthly Amount
Series 1991 A Sinking Fund	2644	
Series 1991 A Reserve Account	2644	
Series 1991 B Sinking Fund	2644	
Series 1991 B Reserve Account	2644	
Series 1991 C Sinking Fund	2644	
Series 1991 C Reserve Account	2644	
Series 1996 A Sinking Fund	2644	
Series 1996 A Reserve Account	2644	
Series 2009 A Reserve Account	2644	
Series 2009 C Sinking Fund	2644	
Series 2009 C Reserve Account	2644	

Required:

Email for main contact: unionpublic@wirefire.com

West Virginia Municipal Bond Commission

Suite 500
8 Capitol Street
Charleston, WV 25301
(304) 558-3971

Direct Debit Authorization Form

Please complete the following information

Entity Name Union Public Service District

Address 5110 West Washington Street, Cross Lanes, WV 25313

Phone Number (304) 776-3131

I hereby authorize the West Virginia State Treasurer's Office to remove funds from the bank accounts listed below in order to make payments to the West Virginia Municipal Bond Commission.
In the event of a change of bank account numbers, I will notify the West Virginia State Treasurer's Office and the Municipal Bond Commission as soon as possible. I will provide a reasonable amount of time for the change to occur. I understand that a transaction might be reversed or corrected in the event of an error.

Account Nickname	Bank Name	Bank Routing #	Bank Account#
Operations and Maintenance	City National Bank	0 5 1 9 0 4 5 2 4	3000002644

Signature of Authorized Person | Chairperson (Title) | November 20, 2009 (Date)

{C1633928.1}

CHARLESTON NEWSPAPERS
P.O. Box 2993
Charleston, West Virginia 25330
Billing 348-4898
Classified 348-4848
1-800-WVA-NEWS

LEGAL ADVERTISING INVOICE

INVOICE DATE	11/09/09
ACCOUNT NBR	005346106
SALES REP ID	0022
INVOICE NBR	622240001

BILLED TO

UNION PUBLIC SERVICE DISTRIC
5110 W. WASHINGTON STREET, PO BOX
CHARLESTON WV 25356 USA

Please return this portion with your payment. AMOUNT PAID: _____

Make checks payable to: Charleston Newspapers

CHARLESTON NEWSPAPERS
P.O. Box 2993
Charleston, West Virginia 25330
Billing 348-4898
Classified 348-4848
1-800-WVA-NEWS
FEIN 55-0676079

INVOICE DATE	11/09/09
ACCOUNT NBR	005346106
SALES REP ID	0022
INVOICE NBR	622240001

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ISSUE DATE	AD TYPE	PUB	DESCRIPTION / REFERENCE NBR PURCHASE ORDER #	AD NUMBER	AD SIZE / TOTAL RUN	RATE	GROSS AMOUNT	NET AMOUNT
11/06	LEG	GZ	Notice of Special Me 622240001	0406445	1X0725 7.25	8.82	63.95	63.95
			TOTAL INVOICE AMOUNT					63.95

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

I, Samara Legg of

THE CHARLESTON GAZETTE,

do solemnly swear that the legal notice of:
Notice of Special Meetin

was duly published in said newspaper(s) at the stated price for the respective newspaper(s) and during the dates listed below:
11/06/09-11/06/09

Subscribed and sworn to before me this 10 day of November.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LYNN R. FIELDER
253 FRAZIER WAY
SCOTT DEPOT, WV 25560
My commission expires December 11, 2016

Lynn R Fielder
Notary Public of Kanawha County, West Virginia

UNION PUBLIC SERVICE DISTRICT

NOTICE OF SPECIAL MEETING

The **Public Service Board of Union Public Service District (the "District") *will hold a regular* meeting on Wednesday, November 18, 2009, at 10:00 a.m.,** prevailing time, at the District's office at 5110 West Washington Street, Cross Lanes, West Virginia, for the following purposes:

1. To consider and adopt a proposed Bond Resolution authorizing its Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture), in the aggregate principal amount not to exceed $4,172,000 (the "Series 2009 A Bonds"), to pay the costs of extensions and improvements to the existing public sewerage facilities of the District (the "Project"), the costs of paying the District's Sewerage System Design Notes, Series 2007 A (Putnam County Bank) and the costs of issuance and related costs.
2. To consider and adopt a proposed Bond Resolution authorizing its Sewer Revenue Bonds, Series 2009 B (West Virginia CWSRF/ARRA) (the "Series 2009 B Bonds") and Sewer Revenue Bonds, Series 2009 C (West Virginia CWSRF) (the "Series 2009 C Bonds"), to pay the costs of the Project and costs of issuance and related costs.
3. To consider and adopt proposed Resolutions approving the terms and other provisions of the Series 2009 A Bonds, Series 2009 B Bonds and Series 2009 C Bonds.
4. To consider and adopt proposed Resolutions approving the invoices in connection with the Project for payment with proceeds of the Series 2009 A Bonds, Series 2009 B Bonds and Series 2009 C Bonds.
5. To consider and approve all other documents and matters in connection with the financing and construction of the Project.

This meeting is open to the press and the public and any person interested may attend such meeting.

/s/Joe Williams
Secretary

(406445)

NUMBER

AR-1

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
UNION PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

No. AR-1 $4,172,000

FOR VALUE RECEIVED, on this 20th day of November, 2009, UNION PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Kanawha County of said State (the "Issuer"), promises to pay to the order of the UNITED STATES OF AMERICA (the "Government"), at its National Finance Office, 1520 Market Street, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, and in the manner provided below, the principal sum of FOUR MILLION ONE HUNDRED SEVENTY-TWO THOUSAND DOLLARS ($4,172,000), or such lesser amount as is set forth on the Record of Advances attached hereto and incorporated herein by reference, plus interest on the unpaid principal balance at the rate of 4.25% per annum.

The principal of and interest on this Bond shall be paid in the following installments on the following dates: Monthly installments of interest only on the amounts advanced hereunder, commencing 30 days following the date of delivery of this Bond and continuing on the corresponding day of each month thereafter for the first 24 months after the date hereof, and thereafter, on the corresponding day of each month in installments of principal and interest in the aggregate amount of $18,482, except that the final installment shall be paid at the end of 40 years from the date of this Bond in the sum of the unpaid principal and interest due on the date thereof and except that prepayments may be made as provided below. This consideration shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to the Issuer as requested by the Issuer and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Issuer. Extra payments, as defined in the regulations of the Government, shall, after payment of interest, be applied to the installment last to come due under this Bond and shall not affect the obligation of the Issuer to pay the remaining installments as scheduled herein.

Any amount advanced or expended by the Government for the collection hereof, or to preserve or to protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government, shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by the Issuer to the Government without demand. The Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Government. The Issuer has granted to the Government a lien on the proceeds of this Bond until such proceeds are expended for authorized purposes.

This Bond is issued (i) to pay in full the entire outstanding principal of and all accrued interest on the Issuer's Sewerage System Design Bonds, Series 2007 A (Putnam County Bank); (ii) to pay 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"); and (iii) to pay certain costs of issuance of this Bond and related costs. The existing public sewer facilities of the Issuer, the Project and any further improvements and 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 of the Code of West Virginia, 1931, as amended (the "Act"), a Bond Resolution duly adopted by the Issuer on November 18, 2009, and a Supplemental Resolution duly adopted by the Issuer November 18, 2009 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution 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 Resolution.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S (1) SEWER REVENUE BONDS, SERIES 1991 A, DATED AUGUST 28, 1991, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,139,656; (2) SEWER REVENUE BONDS, SERIES 1991 B, DATED AUGUST 28, 1991, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $4,229,604; (3) SEWER REVENUE BONDS, SERIES 1996 A, DATED APRIL 4, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $344,416 (THE "FIRST LIEN

BONDS"); (4) SEWER REVENUE BONDS, SERIES 2009 B (WV CWSRF PROGRAM/ARRA), DATED NOVEMBER 20, 2009, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,363,613 (THE "SERIES 2009 B BONDS"); AND (5) SEWER REVENUE BONDS, SERIES 2009 C, DATED NOVEMBER 20, 2009, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,074,294 (THE "SERIES 2009 C BONDS").

THIS BOND IS ISSUED SENIOR AND PRIOR TO LIENS, PLEDGE AND SOURCE OF SECURITY FOR PAYMENT WITH THE ISSUER'S SEWER REVENUE BONDS, SERIES 1991 C, DATED AUGUST 28, 1991, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $237,602 (THE "SECOND LIEN BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Resolution) to be derived from the System, on a parity with the pledge of Net Revenues in favor of the registered owners of the First Lien Bonds, the Series 2009 B Bonds and the Series 2009 C Bonds, and from moneys in the reserve account created under the Resolution for this Bond (the "Series 2009 A Bonds Reserve Account") and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and 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 or the interest hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 2009 A Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on this Bond and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the First Lien Bonds, the Series 2009 B Bonds and the Series 2009 C Bonds; provided however, that so long as there exists in the Series 2009 A Bonds Reserve Account, an amount equal to the maximum amount of principal and interest which will become due on this Bond in any year, and in the respective reserve accounts for any other obligations outstanding on a parity with this Bond, including the First Lien Bonds, the Series 2009 B Bonds and the Series 2009 C Bonds, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owner of this Bond for the terms of which reference is made to the Resolution. Remedies provided the Registered Owner of this Bond are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

SPECIMEN

Subject to the registration requirements in the Resolution, this Bond is transferable, as provided in the Resolution, only upon the books of the Secretary of the Issuer, as registrar (the "Registrar"), which shall be kept for that purpose at the office of the Registrar, by the Registered Owner or by its attorney or legal representative duly authorized in writing, upon surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its attorney or legal representative duly authorized in writing.

Subject to the registration requirements in the Resolution, 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 Resolution, shall be applied solely to payment of the costs of acquisition and construction of the Project and the costs of issuance hereof as described in the Resolution, 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.

The Issuer hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for such purposes and periods of time.

If at any time it so appears to the Government that the Issuer may be able to obtain a loan from a responsible cooperative or private creditor at reasonable rates and terms for loans for such purposes and period of time, the Issuer will at the Government's request apply for and accept such loan in sufficient amount to repay the Government.

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 of this Bond 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.

This Bond is given as evidence of a loan to the Issuer made or insured by the Government pursuant to the Rural Development Act of 1972. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

SPECIMEN

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

NUMBER

AR-1

IN WITNESS WHEREOF, UNION 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 as of the date first written above.

SPECIMEN

Chairperson

[SEAL]

ATTEST:

SPECIMEN

Secretary

NUMBER

AR-1

(Form of)

SPECIMEN

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1) $	741,713	11/20/09	(19) $		
(2) $			(20) $		
(3) $			(21) $		
(4) $			(22) $		
(5) $			(23) $		
(6) $			(24) $		
(7) $			(25) $		
(8) $			(26) $		
(9) $			(27) $		
(10) $			(28) $		
(11) $			(29) $		
(12) $			(30) $		
(13) $			(31) $		
(14) $			(32) $		
(15) $			(33) $		
(16) $			(34) $		
(17) $			(35) $		
(18) $			(36) $		
				$	

TOTAL

NUMBER

AR-1

(Form of)

SPECIMEN

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:

_____

BOND REGISTER

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
UNION PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

Bond Number	Principal Amount	Date of Bond
No. AR-1	$4,172,000	November 20, 2009

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

United States of America
National Finance Office
1520 Market Street
St. Louis, Missouri 63103

Signature of Registrar:

Union Public Service District

Joe Williams
Secretary

_____

_____

_____

$2,139,656 UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES A; $4,229,604 UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES B AND $237,602 UNION PUBLIC SERVICE DISTRICT SUBORDINATE SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES C

BOND RESOLUTION

$2,139,656 UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES A; $4,229,604 UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES B AND $237,602 UNION PUBLIC SERVICE DISTRICT SUBORDINATE SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES C

BOND RESOLUTION

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UNION PUBLIC SERVICE DISTRICT

BOND RESOLUTION

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF UNION PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, AND THE COST OF REFINANCING OF CERTAIN INDEBTEDNESS OF THE DISTRICT THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $2,139,656 IN AGGREGATE PRINCIPAL AMOUNT OF UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES A, AND NOT MORE THAN $4,229,604 IN AGGREGATE PRINCIPAL AMOUNT OF UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES B, AND NOT MORE THAN $237,602 IN AGGREGATE PRINCIPAL AMOUNT OF UNION PUBLIC SERVICE DISTRICT SUBORDINATE SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES C; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SAID BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY RELATING TO SAID BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SAID BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF UNION PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

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

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

"Authorized Officer" means the Chairman of the Governing Body of the Issuer or any other person duly appointed as such by the Governing Body.

"Board" means the public service board of the Issuer and shall include the membership of the Board as may hereafter be duly constituted as the legal successors to the present membership or any other authority vested with and authorized to exercise the powers of the Issuer.

"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 Register" means the books of the Issuer as hereinafter defined, maintained by the Bond Registrar as hereinafter defined for the registration and transfer of the Bonds.

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

"Bonds" means the 1991 Bonds originally authorized hereby, and any pari passu additional bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution.

"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.

"Certificate of Authentication and Registration" means the certificate of authentication and registration on the Bonds in substantially the form set forth in the Bond Forms contained herein.

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

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

"Code" means the Internal Revenue Code of 1986, as amended, including the rules and regulations promulgated pursuant thereto or any predecessors or successors thereto.

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

"Construction Trust Fund" means the Construction Trust Fund established by Section 5.02.

"Construction Trust Fund Depository Bank" means One Valley Bank, National Association, Charleston, West Virginia, a bank eligible under the laws of the State of West Virginia to receive deposits of state and municipal funds and insured by the FDIC, as hereinafter defined.

"Consulting Engineers" means Kelley, Gidley, Blair & Wolfe, Charleston, West Virginia, or any engineer or firm of engineers of reputation for skill and experience with respect to the design and construction of sewerage systems or facilities that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

"Costs" or "Costs of the Project" or any similar phrase means those costs described in Section 1.03G hereof to be a part of the cost of the Refinancing and the cost of construction and acquisition of the Project.

"Debt Service" means the scheduled amount of interest and amortization of principal payable on the 1991 Series A Bonds, as hereinafter defined, and the 1991 Series B Bonds, as hereinafter defined, during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

"Depository Bank" means The Bank of Cross Lanes, a bank eligible under the laws of the State of West Virginia to receive deposits of state and municipal funds and insured by the FDIC, as hereinafter defined which Depository Bank shall be named in the Supplemental Resolution, and any successor thereto.

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

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

"EPA Grant" means the grant from the EPA pursuant to the agreement dated September 28, 1987, as supplemented or amended.

"Escrow Agreement" means the Agreement between the Issuer, the Commission and an escrow trustee substantially in the form of the agreement attached hereto as Exhibit B.

"Escrow Fund" means the fund created by paragraph 2 of the Escrow Agreement.

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

(A) The excess of

(i) The aggregate amount earned from the Closing Date on all Nonpurpose Investments in which Gross Proceeds of the 1991 Series A Bonds or the 1991 Series B Bonds are invested [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings], over

(ii) The amount that would have been earned if the Yield on such Nonpurpose Investments [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings] had been equal to the Yield on the 1991 Series A Bonds or the 1991 Series B Bonds, plus

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

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

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

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

"Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the united States of America, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are

unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

"Grant Agreement" means a written commitment for the payment of the EPA Grant or any of the Other Grants, as hereinafter defined, specifying the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which such Grant is to be paid to the Issuer; provided that, "EPA Grant Agreement" means only the Grant Agreement relating to the EPA Grant and "Other Grant Agreements" means only those Grant Agreements relating to any Other Grants.

"Grant Receipts" means all moneys received by the Issuer on account of any Grant to pay Costs of the Project; provided that "EPA Grant Receipts" means only the Grant Receipts on account of the EPA Grant, and "Other Grant Receipts" means only the Grant Receipts on account of any or all of the Other Grants.

"Grants" means, collectively, the EPA Grant and any Other Grants.

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

(i) Original proceeds, namely, net amounts received by or for the Issuer as a result of the sale of the 1991 Series A Bonds and the 1991 Series B Bonds, excluding original proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the 1991 Series A Bonds or the 1991 Series B Bonds;

(ii) Investment proceeds, namely, amounts received at any time by or for the Issuer, such as interest and dividends, resulting from the investment of any original proceeds (as referenced in clause (i) above) or investment proceeds (as referenced in this clause (ii)) in Nonpurpose Investments, increased by any profits and decreased (if necessary, below zero) by any losses on such investments,

excluding investment proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the 1991 Series A Bonds or the 1991 Series B Bonds;

(iii) Transferred proceeds, namely, original proceeds of any prior obligations, and interest earnings and profits less losses resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any prior obligations and which are deemed to become proceeds of the 1991 Series A Bonds or the 1991 Series B Bonds ratably as original proceeds of the 1991 Series A Bonds or the 1991 Series B Bonds, and interest earnings and profits resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any such prior obligations, all on the date of such ratable discharge;

(iv) Sinking fund proceeds, namely, amounts, other than original proceeds, investment proceeds or transferred proceeds [as referenced in clauses (i) through (iii) above] of the 1991 Series A Bonds or the 1991 Series B Bonds, which are held in any fund to the extent that the Issuer reasonably expects to use such other fund to pay Debt Service;

(v) Amounts in the 1991 Series A Bonds or the 1991 Series B Bonds Reserve Accounts and in any other fund established as a reasonably required reserve or replacement fund;

(vi) Investment Property pledged as security for payment of Debt Service on the 1991 Series A Bonds or the 1991 Series B Bonds by the Issuer;

(vii) Amounts, other than as specified in this definition, used to pay Debt Service on the 1991 Series A Bonds or the 1991 Series B Bonds; and

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

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

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

"Issuer" means the Union Public Service District, a public corporation and political subdivision of the State.

"Loan Agreement" means, collectively, the Loan Agreement and the Supplemental Loan Agreement to be entered into between the Authority and the Issuer, pursuant to which the Authority shall agree, subject to the Issuer's satisfying certain engineering, legal and other requirements, to purchase the 1991 Series A Bonds, the 1991 Series B Bonds and the 1991 Series C Bonds originally authorized hereby.

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

"1991 Bonds" means, collectively, the 1991 Series A Bonds, the 1991 Series B Bonds and the 1991 Series C Bonds.

"1991 Series A Bonds" means the not more than $2,139,656 in aggregate principal amount of Union Public Service District Sewerage System Revenue Bonds, 1991 Series A, of the Issuer originally authorized hereby.

"1991 Series A Bonds Reserve Account" means the 1991 Series A Bonds Reserve Account established in the 1991 Series A Bonds Sinking Fund pursuant to Section 5.03

"1991 Series A Bonds Reserve Requirement" means as of any date of calculation the maximum amount of principal and interest with will become due on the 1991 Series A Bonds in the then current or any succeeding year.

"1991 Series A Bonds Sinking Fund" means 1991 Series A Bonds Sinking Fund established by Section 5.03.

"1991 Series B Bonds" means the not more than $4,229,604 in aggregate principal amount of Union Public Service District Sewerage System Revenue Bonds, 1991 Series B of the Issuer originally authorized hereby.

"1991 Series B Bonds Reserve Account" means the 1991 Series B Bonds Reserve Account established in the 1991 Series B Bonds Sinking Fund pursuant to Section 5.03.

"1991 Series B Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the 1991 Series B Bonds in the then current or any succeeding year.

"1991 Series B Bonds Sinking Fund" means the 1991 Series B Bonds Sinking Fund established by Section 5.03.

"1991 Series C Bonds" means the not more than $237,602 in aggregate principal amount of Union Public Service District Sewerage System Revenue Bonds, 1991 Series C, of the Issuer, originally authorized hereby.

"1991 Series C Bonds Reserve Account" means the 1991 Series C Bonds Reserve Account established in the 1991 Series C Bonds Sinking Fund pursuant to Section 5.03.

"1991 Series C Bonds Reserve Requirement" means, as of the date of calculation, the maximum amount of principal which will become due on the 1991 Series C Bonds in the then current or any succeeding year.

"1991 Series C Bonds Sinking Fund" means the 1991 Series C Bonds Sinking Fund established by Section 5.03.

"Nonpurpose Investment" means any Investment Property which is acquired with the Gross Proceeds of the 1991 Series A

or the 1991 Series B Bonds and is not acquired in order to carry out the governmental purpose of the 1991 Series A Bonds and the 1991 Series B Bonds.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System, as hereinafter defined 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 of Project, fees and expenses of the Authority, fiscal agents, the Depository Bank, Registrar and Paying Agent, other than those capitalized as part of the Costs of Project, 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.

"Other Grants" means, collectively, all grants other than the EPA Grant hereafter received by the Issuer to aid in financing any Costs of Project.

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

"Prior Bonds" means the District's Sewer Refunding and Revenue Bonds Series B, issued in the original principal amount of $1,573,000 and Series C, issued in the original principal amount of $400,000, and dated July 1, 1967 and currently outstanding in the principal amounts of $1,149,000 and $383,000 respectively.

"Prior Resolution" means the resolution passed by the Board of the Issuer on July 30, 1967 as thereafter amended or supplemented with respect to the Prior Bonds.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state or local governmental unit and use as a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to "incidental use," if any, of the proceeds of the issue and/or proceeds used for "qualified improvements," if any.

"Program" means the Authority's loan program, under which the Authority purchases the revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of sewer development revenue bonds issued by the Authority or any successor to said program as currently constituted.

"Project" means the acquisition and construction of the certain improvements and extensions to the existing sewer facilities of the Issuer substantially as described in Exhibit A attached hereto and incorporated herein by reference.

"Purchase Price," for the purpose of computation of the Yield of the 1991 Series A Bonds and the 1991 Series B Bonds, has the same meaning as the term "Issue Price" in Sections 1273(b) and 1274 of the Code and, in general, means the initial offering price of the 1991 Series A Bonds and the 1991 Series B Bonds to the public (not including bond houses and brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which price a substantial amount of the 1991 Series A Bonds and the Series 1991 B Bonds of each maturity is sold or, if the 1991 Series A Bonds and the 1991 Series B Bonds are privately placed, the price paid by the first buyer of the 1991 Series A Bonds and the 1991 Series B Bonds or the acquisition costs of the first buyer. Purchase Price for purposes of computing Yield of Nonpurpose Investments means the fair market value of the Nonpurpose Investments on the date of use of Gross Proceeds of the 1991 Series A Bonds and the 1991 Series B Bonds for acquisition thereof or, if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the 1991 Series A Bonds and the 1991 Series B Bonds.

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

"PSC Order" means the recommended decision of the PSC in Case No. 90-660-PSD-CN which was entered by the Administrative Law Judge on July 19, 1991, and which with certain amendments was issued as the final Commission order on August 27, 1991.

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

(a) Government Obligations;

(b) 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; the Governmental National Mortgage Association; the Tennessee Valley Authority or the Washington Metropolitan Area Transit Authority;

(c) 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;

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

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

(f) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (d) 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 paid repurchase agreements, and provided further that the owner of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

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

(h) Advance-Refunded Municipal Bonds.

"Rebate Fund" means the fund created pursuant to Section 8.02 hereof.

"Refinancing" means the refinancing of Prior Bonds.

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

"Resolution" means this resolution, as from time to time amended or supplemented.

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

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

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution 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 Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect the Bonds and not so included may be included in another Supplemental Resolution.

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

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

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

"Yield" means that yield which, when used in computing the present worth of all payments of principal and interest (or other payments in the case of Nonpurpose Investments which require payments in a form not characterized as principal and interest) on a Nonpurpose Investment or on the 1991 Series A Bonds or the 1991 Series B Bonds, produces an amount equal to the Purchase Price of such Nonpurpose Investment or the Bonds, all computed as prescribed in applicable Regulations.

Additional terms and phrases are defined in this Resolution as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with generally accepted accounting principles.

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.

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Resolution; and the term "hereafter" means after the date of adoption of this Resolution.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Resolution so numbered.

Section 1.02. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of the Act and other applicable provisions of law.

Section 1.03. Findings. It is hereby found, determined and declared as follows:

A. The Issuer is a public corporation and political subdivision of the State in Kanawha County, West Virginia.

B. The Issuer presently owns and operates public works for the collection, treatment and disposal of sewage.

C. It is deemed necessary and desirable to refinance the Prior Bonds with a portion of the proceeds of the 1991 Bonds, the estimated cost of which, including interest, fees, and redemption premium, if any, is $1,558,150.

D. It is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be constructed certain improvements and extensions to the existing System of the District, consisting of the Project, at an estimated cost of $10,830,972, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

E. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of the System, the principal of and interest on the 1991 Bonds and all sinking fund, reserve account and other payments provided for herein, in the Supplemental Resolution and in the PSC Order.

F. The estimated maximum cost of the construction and acquisition of the Project is $10,830,972, of which approximately $6,606,862 will be permanently obtained from the 1991 Bonds herein authorized and approximately $4,375,300 will be obtained from the EPA Grant. The District may obtain such Other Grants and contributions or from other sources as may be necessary to pay Cost of Project.

G. It is deemed necessary for the Issuer to issue its revenue bonds in the total aggregate principal amount of not more than $6,606,862 in three series, being the Union Public Service District Sewerage System Refunding Bonds 1991 Series A in the aggregate principal amount of not more than $2,139,656, the Union Public Service District Sewerage System Revenue Bonds, 1991 Series B, in the aggregate principal amount of not more than $4,229,604, and the Union Public Service District Subordinate Sewerage System Revenue Bonds 1991 Series C, in the aggregate principal amount of not more than $237,602,

to permanently finance the Refinancing and a portion of the cost of acquisition and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; amounts which may be deposited in the Escrow Fund or the Reserve Accounts; engineering and legal expenses; expenses for estimates of costs and revenues and for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense, commitment fees, fees of the Authority, discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the Refinancing and the construction or acquisition of the Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bonds or the repayment of indebtedness, in addition to the Prior Bonds, incurred by the Issuer for such purposes shall be deemed Costs of the Project.

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

I. It is in the best interests of the Issuer that the 1991 Bonds be sold to the Authority pursuant to the terms and provisions of the Loan Agreement.

J. Pursuant to Section 4.01 hereof, the Prior Bonds are ordered to be refunded pursuant to the terms of the Escrow Agreement and the lien of said Prior Bonds imposed by the Prior Resolution on the Revenues of the System shall be terminated, discharged and released upon payment into the Escrow Fund from the proceeds of the 1991 Series A Bonds. Therefore, as of the Closing Date, there will not be outstanding any obligations of the Issuer which will rank prior to or on a parity with the Bonds as to lien and source of and security for payment. The 1991 Series A Bonds and the 1991 Series B Bonds shall rank equally as to lien on and source of and security for payment. The 1991 Series C shall be junior and subordinate to the 1991 Series A Bonds and 1991 Series B Bonds as set forth herein.

K. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the 1991 Bonds, or will have so complied prior to issuance of any 1991 Bonds, including, among other things, the obtaining of the PSC Order, the time for rehearing and appeal of which expired or the rights of all parties to appeal have been waived.

Section 1.04. Resolution Constitutes Contract. In consideration of the acceptance of the Bonds by those who shall be the Registered Owners of the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders and the covenants and agreements herein set forth to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owners of any and all of such Bonds of like series provided that the 1991 Series A Bonds and the 1991 Series B Bonds shall be of equal rank and without preference, priority or distinction while the 1991 Series C Bonds shall be junior and subordinate to the 1991 Series A Bonds and the 1991 Series B Bonds, as provided herein.

ARTICLE II

AUTHORIZATION OF CONSTRUCTION AND ACQUISITION OF THE PROJECT

Section 2.01. Authorization of Construction and Acquisition of the Project. There is hereby authorized the construction and acquisition of the Project in accordance with the plans and specifications which have been prepared by the Consulting Engineers and heretofore filed in the office of the Governing Body.

ARTICLE III

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

Section 3.01. Authorization of 1991 Bonds. For the purposes of paying the costs, not otherwise provided of the Refinancing and the construction and acquisition of the Project, funding a reserve account for each series of 1991 Bonds, and paying certain costs of issuance and related costs, or any of such purposes as shall be specified in the Supplemental Resolution, there shall be issued negotiable bonds of the Issuer in an aggregate principal amount of not more than $6,606,862. Said 1991 Bonds shall be issued in three series, to be designated respectively "Union Public Service District Sewerage System Revenue Bonds, 1991 Series A," in the aggregate principal amount of not more than $2,139,656, "Union Public Service District Sewerage System Revenue Bonds, 1991 Series B," in the aggregate principal amount of not more than $4,229,604, and "Union Public Service District Subordinate Sewerage System Revenue Bonds, 1991 Series C," in the aggregate principal amount of not more than $237,602, and shall have such terms as are set forth hereinafter and in the Supplemental Resolution. Proceeds of the 1991 Bonds sufficient to purchase $1,555,000 par value United States Treasury Bills due September 26, 1991 shall be deposited in the Escrow Fund and the balance of the proceeds of the 1991 Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in the Construction Trust Fund established by Section 5.02 hereof.

Section 3.02. Terms of 1991 Bonds. The 1991 Bonds shall bear interest at such rate or rates, not exceeding the then legal maximum, payable semiannually on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution. The 1991 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 1991 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 1991 Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of each series, and shall mature in principal installments, all as provided in the Supplemental

Resolution. The 1991 Bonds of each series shall be exchangeable at the option and expense of the Holder for other fully registered 1991 Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of 1991 Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. The 1991 Bonds shall be dated as of the date specified in a Supplemental Resolution and shall bear interest from such date.

Section 3.03. Additional Terms of 1991 Bonds. In addition to the terms set forth in Sections 3.01 and 3.02 hereof and in anticipation of the sale of the 1991 Bonds to the Authority, the District covenants that the 1991 Bonds shall comply in all respects with the provisions of the Loan Agreement and of any resolution of the Authority authorizing the issuance of 1991 Bonds pursuant to the Program.

Section 3.04. Execution of Bonds. The Bonds shall be executed in the name of the Issuer by the Chairman, 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 Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.05. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication and Registration on such Bond, substantially in the forms set forth in Section 3.09, shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Resolution. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary

that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.06. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Holder in accepting any of said Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

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

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

Section 3.07. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or

lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing proof of its ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.08. Bonds not to be Indebtedness of the Issuer. The Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided and amounts, if any, in the respective Reserve Accounts. No Holder or Holders of any of the Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay the Bonds or the interest thereon.

Section 3.09. Bonds Secured by Pledge of Net Revenues; 1991 Series C Bonds to be Junior and Subordinate to 1991 Series A Bonds and 1991 Series B Bonds. The payment of the debt service of all the 1991 Series A Bonds and 1991 Series B Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System. The payment of the debt service of all the 1991 Series C Bonds shall also be secured forthwith equally and ratably with each other by a lien on the Net Revenues derived from the System, but junior and subordinate to the lien on such Net Revenues in favor of the Holders of the 1991 Series A Bonds and 1991 Series B Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and to make the payments into the Sinking Funds, the Reserve Accounts therein and the Renewal and Replacement Fund hereinafter established, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due.

Section 3.10. Forms of 1991 Bonds. The text of the 1991 Bonds shall be in substantially the following forms, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

[Form of 1991 Series A Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
UNION PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM REVENUE BOND, 1991 SERIES A

No. AR-_____ $_____

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

The interest rate on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning April 1, 1992. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the Registered Owner hereof at the address as it appears on the books of _____, _____, as registrar (the "Registrar") on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority dated _____, 199__.

This Bond is one of a series of Bonds (the "Bonds") issued in the original principal amount of $_____ (i) to pay a portion of the cost of refinancing certain outstanding bonds of the Issuer, (ii) to pay a portion of the costs of acquisition and construction of certain improvements and extensions to the System of the Issuer (the "Project"); (iii) [to pay interest on the Bonds] during the construction of the Project and for approximately ____ months thereafter; (iv) to fund a reserve account for the Bonds; and (v)] to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"), and a Resolution and a Supplemental Resolution duly adopted by the Issuer on _____, 1991 (collectively called the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Resolution.

THIS BOND IS ON A PARITY AS TO LIEN ON AND SOURCE OF PAYMENT AND SECURITY FROM THE NET REVENUES (AS DEFINED IN THE RESOLUTION) WITH THE UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES B, ISSUED TO THE AUTHORITY (THE "1991 SERIES B BONDS"), ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF $_____.

THIS BOND IS ISSUED CONCURRENTLY WITH THE UNION PUBLIC SERVICE DISTRICT SUBORDINATE SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES C, OF THE ISSUER (THE "1991 SERIES C BONDS"), ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF $_____, WHICH 1991 SERIES C BONDS ARE JUNIOR AND SUBORDINATE WITH RESPECT TO LIEN AND SOURCE OF AND SECURITY FOR PAYMENT TO THIS BOND AND THE 1991 SERIES B BONDS.

The Bonds, the 1991 Series B Bonds and the 1991 Series C Bonds are collectively referred to herein as the 1991 Bonds.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Resolution) to be derived from the operation of the System, moneys in the Reserve Account created under the Resolution for the Bonds (the "1991 Series A Bonds Reserve Account") and unexpended proceeds of the Bonds (the "Bond Proceeds"). Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside in a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to

pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the 1991 Series A Bonds Reserve Account and unexpended Bond Proceeds. Pursuant to the Resolution, 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, including certain reserves required by the Public Service Commission of West Virginia, and to leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on each series of the 1991 Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with any of the 1991 Bonds, provided however, that so long as the 1991 Series A Bonds Reserve Account and the 1991 Series B Bonds Reserve Account are funded at an amount at least equal to the maximum amount of principal and interest which will come due on said Bonds in the then current or any succeeding year, the 1991 Series C Bonds Reserve Account is funded at an amount at least equal to the maximum amount of principal which will become due on the 1991 Series C Bonds in the then current or any succeeding year and the reserve account for any other obligations outstanding prior to or on a parity with the any of the 1991 Bonds is funded at 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 Resolution. Remedies provided the Registered Owners of the Bonds are exclusively as provided in the Resolution, 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 Resolution, only upon the books of the Registrar by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or its attorney duly authorized in writing.

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

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

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

All provisions of the Resolution, 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, UNION PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated _____, 1991.

[SEAL]

_____
Chairman

ATTEST:

_____
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the 1991 Series A Bonds described in the within-mentioned Resolution and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: _____

_____
as Registrar

By _____
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

(Form of)

ASSIGNMENT

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

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

Dated: _____, _____.

_____

In the presence of:

_____

[Form of 1991 Series B Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
UNION PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM REVENUE BOND, 1991 SERIES B

No. BR-_____ $_____

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

The interest rate on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning April 1, 1992. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of _____, _____, as registrar (the "Registrar") on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority dated _____, 199__.

This Bond is one of a series of Bonds (the "Bonds") issued in the original principal amount of $_____ (i) to pay a portion of the cost of refinancing certain outstanding bonds of the Issuer, (ii) to pay a portion of the costs of acquisition and construction of certain improvements and extensions to the System of the Issuer (the "Project"); (iii) [to pay interest on the Bonds] during the construction of the Project and for approximately ____ months thereafter; (iv) to fund a reserve account for the Bonds; and (v)] to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"), and a Resolution and a Supplemental Resolution duly adopted by the Issuer on _____, 1991 (collectively called the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Resolution.

THIS BOND IS ON A PARITY AS TO LIEN ON AND SOURCE OF PAYMENT AND SECURITY FROM THE NET REVENUES (AS DEFINED IN THE RESOLUTION) WITH THE UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES A, ISSUED TO THE AUTHORITY (THE "1991 SERIES A BONDS"), ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF $_____.

THIS BOND IS ISSUED CONCURRENTLY WITH THE UNION PUBLIC SERVICE DISTRICT SUBORDINATE SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES C OF THE ISSUER (THE "1991 SERIES C BONDS"), ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF $_____, WHICH 1991 SERIES C BONDS ARE JUNIOR AND SUBORDINATE WITH RESPECT TO LIEN AND SOURCE OF AND SECURITY FOR PAYMENT TO THIS BOND AND THE 1991 SERIES A BONDS.

The Bonds, the 1991 Series A Bonds and the 1991 Series C Bonds are collectively referred to herein as the 1991 Bonds.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Resolution) to be derived from the operation of the System, moneys in the Reserve Account created under the Resolution for the Bonds (the "1991 Series B Bonds Reserve Account") and unexpended proceeds of the Bonds (the "Bond Proceeds"). Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside in a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to

pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the 1991 Series B Bonds Reserve Account and unexpended Bond Proceeds. Pursuant to the Resolution, 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, including certain reserves required by the Public Service Commission of West Virginia, and to leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on each series of the 1991 Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with any of the 1991 Bonds, provided however, that so long as the 1991 Series A Bonds Reserve Account and the 1991 Series B Bonds Reserve Account are funded at an amount at least equal to the maximum amount of principal and interest which will come due on said Bonds in the then current or any succeeding year, the 1991 Series C Bonds Reserve Account is funded at an amount at least equal to the maximum amount of principal which will become due on the 1991 Series C Bonds in the then current or any succeeding year and the reserve account for any other obligations outstanding prior to or on a parity with any of the 1991 Bonds, is funded at 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 Resolution. Remedies provided the Registered Owners of the Bonds are exclusively as provided in the Resolution, 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 Resolution, only upon the books of the Registrar by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or its attorney duly authorized in writing.

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

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

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

All provisions of the Resolution, 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, UNION PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated _____, 1991.

[SEAL]

_____
Chairman

ATTEST:

_____
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the 1991 Series B Bonds described in the within-mentioned Resolution and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: _____

_____
as Registrar

By _____
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

(Form of)

ASSIGNMENT

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

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

Dated: _____, _____.

_____

In the presence of:

_____

[Form of 1991 Series C Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
UNION PUBLIC SERVICE DISTRICT
SUBORDINATE SEWERAGE SYSTEM BOND, 1991 SERIES C

No. CR-____ $_____

KNOW ALL MEN BY THESE PRESENTS: That UNION PUBLIC SERVICE DISTRICT, a public corporation and political subdivision of the State of West Virginia in Kanawha County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ ($_____), in annual installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference, without interest.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and upon the terms and conditions prescribed by, and otherwise in compliance with, the Supplemental Loan Agreement between the Issuer and the Authority dated _____, 19__.

This Bond is one of a Series of Bonds (the "Bonds") issued in the original principal amount of $_____ (i) to pay a portion of the cost of refinancing certain outstanding bonds of the Issuer; (ii) to pay a portion of the costs of acquisition and construction of certain improvements and extensions to the System of the Issuer (the "Project"); (iii) [to pay interest on the Bonds during the construction of the Project and for approximately _____ months thereafter; (iv) [to fund a reserve account for the Bonds; and (v)] to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"), and a Resolution

and a Supplemental Resolution duly adopted by the Issuer on _____, 1991 (collectively called the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Resolution.

THIS BOND IS JUNIOR AND SUBORDINATE WITH RESPECT TO LIEN, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT TO THE OUTSTANDING UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES A, OF THE ISSUER (THE "1991 SERIES A BONDS"), ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL PRINCIPAL AMOUNT OF $_____ AND TO THE UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES B, ISSUED TO THE AUTHORITY IN THE ORIGINAL PRINCIPAL AMOUNT OF $_____ (THE "1991 SERIES B BONDS").

The Bonds, the 1991 Series A Bonds and the 1991 Series B Bonds are collectively referred to as the 1991 Bonds.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Resolution) to be derived from the operation of the System after there has first been paid from said Net Revenues all payments then due and owing on account of the 1991 Series A Bonds and the 1991 Series B Bonds herein described and from all moneys in the reserve account created under the Resolution (the "1991 Series C Bonds Reserve Account") for the Bonds and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the moneys in the 1991 Series C Bonds Reserve Account and unexpended Bond proceeds. Pursuant to the Resolution, 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, including certain reserves required by the Public Service Commission of West Virginia, and to leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on each Series of the 1991 Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with any of the 1991

Bonds, provided however, that so long as the 1991 Series C Bonds Reserve Account is funded at an amount at least equal to the maximum amount of principal which will become due on the Bonds in the then current or any succeeding year, the 1991 Series A Bonds Reserve Account is funded at an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, the 1991 Series B Bonds Reserve Account, is funded at least at the requirement therefor, and the reserve account for any other obligations outstanding prior to or on a parity with any of the 1991 Bonds is funded at 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 Owners of the Bonds for the terms of which reference is made to the Resolution. Remedies provided the Registered Owners of the Bonds are exclusively as provided in the Resolution, 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 Resolution, only upon the books of _____ _____, West Virginia, as registrar (the "Registrar") by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or its attorney duly authorized in writing.

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Refinancing or the Costs of the Project described in the Resolution, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the Registered Owners of the Bonds, which lien is subordinate to thelien in favor of the Registered Owners of the 1991 Series A Bonds and the 1991 Series B Bonds.

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

aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Resolution, 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, UNION PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated _____, 1991.

[SEAL]

_____
Chairman

ATTEST:

_____
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the 1991 Series C Bonds described in the within-mentioned Resolution and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: _____

_____
as Registrar

By _____
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

(Form of)

ASSIGNMENT

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

the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer 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; Ratification and Execution of Loan Agreement with Authority. The 1991 Bonds shall be sold to the Authority pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Chairman is specifically authorized and directed to execute the Loan Agreement and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, ratified and approved.

Section 3.12. "Amended Schedule A" Filing; Tender of the 1991 Series C Bonds. Upon completion of acquisition and construction of the Project, the Issuer will file with the Authority a schedule in substantially the form of the "Amended Schedule A" to the Loan Agreement, setting forth the actual Costs of the Project and sources of funds therefor. In the event such schedule reflects an excess of funding for the Project, or if the Authority is otherwise advised of an excess, the Authority may tender the 1991 Series C Bonds to the Issuer for payment in an amount equal to such excess.

ARTICLE IV

AUTHORIZATION FOR REFINANCING PRIOR BONDS

Section 4.01. Authorization for Refinancing Prior Bonds. The Prior Bonds outstanding as of the date of issuance of the 1991 Bonds are hereby ordered to be refinanced and refunded pursuant to the terms of the Escrow Agreement, and the lien of said Prior Bonds imposed by the Prior Resolution on the revenues of the System is hereby ordered terminated, discharged and released upon the payment into the Escrow Fund from the proceeds of said 1991 Bonds, together with other moneys available therefor, of an amount which will be simultaneously invested in the manner provided in the Escrow Agreement for the payment and redemption of the Prior Bonds. Contemporaneously with the deposit of the 1991 Bond proceeds into the Escrow Fund, and as prescribed by the Escrow Agreement, the amounts on deposit in the sinking fund, including the reserve account therein, created and maintained on behalf of the Prior Bonds shall be deposited into the Escrow Fund and simultaneously invested as provided in the Escrow Agreement. Upon such refunding, the amounts on deposit in the renewal and replacement fund created and maintained under the Prior Resolution shall be transferred to the Renewal and Replacement Fund created under this Resolution. After payment of all the Prior Bonds, and the interest thereon, the amounts remaining in the Escrow Fund shall be transferred to the Construction Trust Fund established under this Resolution for use in accordance with the terms hereof.

ARTICLE V

SYSTEM REVENUES AND APPLICATION THEREOF

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

(1) Revenue Fund; and

(2) Renewal and Replacement Fund.

Section 5.02. Establishment of Construction Trust Fund with Construction Trust Fund Depository Bank.

The Construction Trust Fund shall be created with and shall be held by the Construction Trust Fund Depository Bank, separate and apart from all other funds or accounts of the Construction Trust Fund Depository Bank.

Section 5.03. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby established with the Commission:

(1) 1991 Series A Bonds Sinking Fund;

(a) Within the 1991 Series A Bonds Sinking Fund, the 1991 Series A Bonds Reserve Account.

(2) 1991 Series B Bonds Sinking Fund;

(a) Within the 1991 Series B Bonds Sinking Fund, the 1991 Series B Bonds Reserve Account.

(3) 1991 Series C Bonds Sinking Fund;

(a) Within the 1991 Series C Bonds Sinking Fund, the 1991 Series C Bonds Reserve Account.

Section 5.04. 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 Resolution and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided.

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

(2) Thereafter, from the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month and without distinction or priority between the two payments, (i) commencing 7 months prior to the first date of payment of interest on the 1991 Series A Bonds for which interest has not been capitalized, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the 1991 Series A Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said 1991 Series A Bonds on the next ensuing semiannual interest payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the 1991 Series A Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date; and (ii) commencing 7 months prior to the first date of payment of interest on the 1991 Series B Bonds for which interest has not been capitalized, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the 1991 Series B Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said 1991 Series B Bonds on the next ensuing semiannual interest payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the 1991 Series B Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date.

(3) The Issuer shall next, on the first day of each month and without

distinction or priority between the payments, (i) commencing 13 months prior to the first date of payment of principal on the 1991 Series A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the 1991 Series A Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said 1991 Series A Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the 1991 Series A Bonds Sinking Fund and the next annual principal payment date is less than 13 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date; and (ii) commencing 13 months prior to the first date of payment of principal on the 1991 Series B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the 1991 Series B Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said 1991 Series B Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the 1991 Series B Bonds Sinking Fund and the next annual principal payment date is less than 13 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(4) The Issuer shall next, on the first day of each month and without distinction or priority between the two payments, (i) commencing 13 months prior to the first date of payment of principal of the 1991 Series A Bonds, if not fully funded upon issuance of the 1991 Series A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the 1991 Series A Bonds Reserve Account, an amount equal to 1/120 of the 1991 Series A Bonds Reserve Requirement; provided, that no further payments shall be made into the 1991 Series A Bonds Reserve Account when

there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the 1991 Series A Bonds Reserve Requirement; and (ii) commencing 13 months prior to the first date of payment of principal of the 1991 Series B Bonds, if not fully funded upon issuance of the 1991 Series B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the 1991 Series B Bonds Reserve Account, an amount equal to 1/120 of the 1991 Series B Bonds Reserve Requirement; provided, that no further payments shall be made into the 1991 Series B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the 1991 Series B Bonds Reserve Requirement.

(5) From the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing with the month succeeding the first full calendar month after commencement of operation of the Project, transfer to the Renewal and Replacement Fund a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of the 1991 Series A Bonds Reserve Account and the 1991 Series B Bonds Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the 1991 Series A Bonds Reserve Account or the 1991 Series B Bonds Reserve Account, except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required by Subsection 5.03(A)(4), shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

(6) The Issuer shall next, on the first day of each month, commencing 13

months prior to the first date of payment of principal of the 1991 Series C Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the 1991 Series C Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said 1991 Series C Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the 1991 Series C Bonds Sinking Fund and the next annual principal payment date is less than 13 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(7) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the 1991 Series C Bonds, if not fully funded upon issuance of the 1991 Series C Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the 1991 Series C Bonds Reserve Account, an amount equal to 1/120 of the 1991 Series C Bonds Reserve Requirement; provided, that no further payments shall be made into the 1991 Series C 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 1991 Series C Bonds Reserve Requirement.

Moneys in the 1991 Series A Bonds Sinking Fund, 1991 Series B Bonds Sinking Fund and 1991 Series C Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the respective series of Bonds as the same shall become due. Moneys in the 1991 Series A Bonds Reserve Account, the 1991 Series B Bonds Reserve Account and the 1991 Series C Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the respective series of Bonds, as the same shall come due, when other moneys in the attendant Sinking Funds are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the 1991 Series A Bonds Sinking Fund and Reserve Account and the 1991 Series B Bonds Sinking Fund and Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall be deposited for use in the Earnings Fund as required by Section 8.03. All investment earnings on moneys in the 1991 Series C Bonds Sinking Fund and the 1991 Series C Bonds Reserve Account will be annually withdrawn therefrom and deposited into the Construction Fund until completion of the Project, and thereafter will be deposited, not less than once each year, in the Revenue Fund.

Any withdrawals from the 1991 Series A Bonds Reserve Account or the 1991 Series B Bonds Reserve Account which result in a reduction in the balance of the 1991 Series A Bonds Reserve Account or the 1991 Series B Bonds Reserve Account to below the Reserve Requirements therefor shall be subsequently restored from the first Net Revenues available after all required payments to the 1991 Series A Bonds Sinking Fund or the 1991 Series B Bonds Sinking Fund, the 1991 Series A Bonds Reserve Account or the 1991 Series B Bond Reserve Account, including deficiencies for prior payments, have been made in full.

Any withdrawals from the 1991 Series C Bonds Reserve Account which result in a reduction in the balance of the 1991 Series C Bonds Reserve Account to below the 1991 Series C Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the 1991 Series A Bonds Sinking Fund, 1991 Series B Bonds Sinking Fund, the 1991 Series A Bonds Reserve Account, the 1991 Series B Bonds Reserve Account, the Renewal and Replacement Fund and the 1991 Series C Bonds Sinking Fund, including deficiencies for prior payments, have been made in full.

As and when additional Bonds ranking on a parity with the 1991 Bonds are issued, provision shall be made for additional payments into the respective Sinking Fund sufficient to pay any interest on such Parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the appropriate Reserve Account in an amount equal to the maximum provided and required to be paid into the concomitant Sinking Fund in any year for account of the 1991 Bonds of such series, including such additional Bonds which by their terms are payable from such Sinking Fund.

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

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

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

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

B. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there

remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Sinking Funds, including the Reserve Accounts therein, and the Renewal and Replacement Fund during the following month or such other period as required by law, such excess shall be considered Excess Revenues. Excess Revenues may be used for any lawful purpose of the System.

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

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

E. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, that all deposits, including on account of deficiencies, shall be made in the order of priority set forth in Paragraph (A), above, and no payment of lower priority shall be made if there exists a deficiency in a fund or account of higher priority. No such deficiency shall exist solely because the required payments into the Reserve Accounts have not, as of such date, funded such account to the requirement therefor.

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

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

ARTICLE VI

APPLICATION OF 1991 BOND PROCEEDS

Section 6.01. Application of 1991 Bond Proceeds; Pledge of Unexpended 1991 Bond Proceeds. From the moneys received from the sale of the 1991 Bonds, the following amounts shall be deposited as set forth below:

A. The amount of the 1991 Bonds proceeds necessary to refund the Prior Bonds, which amount shall be set forth in the Supplemental Resolution, shall be applied by the District pursuant to the provisions of the Escrow Agreement.

B. Next, from the proceeds of the 1991 Series A Bonds, there shall be deposited with the Commission in the 1991 Series A Bonds Reserve Account and, from the proceeds of the 1991 Series B Bonds there shall be deposited with the Commission in the 1991 Series B Bonds Reserve Account, and, from the proceeds of the 1991 Series C Bonds, there shall be deposited with the Commission in the 1991 Series C Bonds Reserve Account the respective sums, if any, set forth in the Supplemental Resolution for funding of the Reserve Accounts.

C. The remaining moneys derived from the sale of the 1991 Bonds shall be deposited with the Construction Trust Fund Depository Bank in the Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02.

D. The Construction Trust Fund Depository Bank shall act as a trustee and fiduciary for the Bondholders with respect to the Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Construction Trust Fund set forth in this Resolution. Moneys in the Construction Trust Fund shall be used solely to pay Costs of the Project and, until so expended, are hereby pledged as additional security for the respective series of Bonds. For purposes of this provision only, the moneys on hand in the Construction Trust Fund shall be treated as being disbursed on a proportionate basis.

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

Except as provided in Section 6.01 hereof, disbursements from the Construction Trust Fund (except for the costs of issuance of the Bonds originally authorized hereby, which shall be made upon request of the Issuer), shall be made only after submission to the Construction Trust Fund Depository Bank of a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:

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

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

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

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

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

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

After completion of the Project, as certified by the Consulting Engineers, the Construction Trust Fund Depository Bank shall transfer any moneys remaining in the Construction Trust Fund to the 1991 Series A Bonds Reserve Account or the 1991 Series B Bonds Reserve Account, and when each is fully funded, to the 1991 Series C Bonds Reserve Account, and when all Reserve Accounts are fully funded, shall return such remaining moneys to the Issuer for deposit in the Revenue Fund. The Issuer shall thereafter apply such moneys in full, first to the next ensuing interest payments, if any, due on the respective series of Bonds and thereafter to the next ensuing principal payments due thereon. Notwithstanding the foregoing, if the Authority tenders any of its 1991 Series C Bonds to the Issuer pursuant to the provisions of the Loan Agreement, such moneys shall be applied to the purchase of such 1991 Series C Bonds.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

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

Section 7.02. Bonds, not to be Indebtedness of the Issuer. The Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Resolution. No Holder or Holders of any Bonds, shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay said Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the 1991 Series A Bonds and the 1991 Series B Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System and payment of the debt service of the 1991 Series C Bonds issued hereunder shall be secured forthwith equally and ratably by a lien on said Net Revenues, but such lien shall be junior and subordinate to the lien on said Net Revenues in favor of the Holders of the 1991 Series A Bonds and the 1991 Series B Bonds. The revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds herein authorized and to make the payments into the respective Sinking Funds, including the Reserve Accounts therein, and all other payments provided for in this Resolution are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds as the same become due, and for the other purposes provided in the Resolution.

Section 7.04. Initial Schedule of Rates and Charges. The schedule of rates and charges for the services and facilities of the System shall be as set forth, described in and ordered by the PSC Order, which schedule is attached as Exhibit C hereto and incorporated herein by reference.

The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay the Operating Expenses of the System and to make the prescribed payments into the funds and accounts 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.

Section 7.05. Sale of the System. Except as otherwise required by law, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully or redeem at or prior to maturity all the Bonds Outstanding, or to effectively defease this Resolution in accordance with Sections 10.01 hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall be immediately remitted to the Commission for deposit in the Sinking Funds, and the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Bonds about to mature and to the redemption prior to maturity at the earliest date permitted hereby and at the redemption price, of all other Outstanding Bonds. Any balance remaining after the redemption or payment of all the Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $10,000, the Issuer shall, by resolution, 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 Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of

such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of $10,000 and not in excess of $50,000, shall, upon receipt of approval of the Registered Owners, if needed, be remitted by the Issuer to the Commission for deposit in the appropriate Sinking Fund and shall be applied only to the purchase or redemption of Bonds of the last maturities then Outstanding at prices not greater than the applicable redemption price, or, if not redeemable, par, or otherwise in the Renewal and Replacement Fund. The payment of such proceeds into the Sinking Funds or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Resolution. 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 or redeem prior to maturity all Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of sixty-six and two-thirds (66 2/3%) in amount of the Bonds then Outstanding and the Consulting Engineers. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. So long as any of the Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that Parity Bonds may be issued as provided for in Section 7.07 hereof. All obligations hereafter issued by the Issuer payable from the revenues of the System, except such Parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the Reserve Accounts and the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current.

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

interest thereon in this Resolution, or upon the System or any part thereof.

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

No Parity Bonds shall be issued which shall be payable out of the revenues of the System on a parity with the 1991 Series A Bonds and 1991 Series B Bonds, unless the 1991 Series C Bonds are no longer outstanding or the Issuer receives the prior written consent of the Owner or Owners of the 1991 Series C Bonds.

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

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

(1) The 1991 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 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 delivery of such Parity Bonds, and shall

not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the 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 Consulting Engineers and the said Independent Certified Public Accountants, as stated in a certificate jointly made and signed by the Consulting Engineers and said Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to issuance of such Parity Bonds.

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

All covenants and other provisions of this Resolution (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the 1991 Series A Bonds and 1991 Series B Bonds and the Holders of any Parity Bonds and the Holders of the 1991 Series C Bonds and the Parity Series C 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 respective liens on the revenues of the System and their respective source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of another series on a parity therewith. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Resolution required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Outstanding 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 Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for in this Resolution with respect to the Bonds then Outstanding, and any other payments provided for in this Resolution, 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 Resolution.

B. Notwithstanding the foregoing, or any provision of Section 7.06 to the contrary, additional Bonds may be issued pursuant to a Supplemental Resolution solely for the purpose of completing the Project as described in the application to the Authority and in accordance with the plans and specifications of the Consulting Engineer, in the event that the Bonds should be insufficient, together with other funds lawfully available therefore, to pay all costs of construction and acquisition of the project without regard to the restrictions set forth in this Section 7.07, if there is first obtained by the Issuer the written consent of the Authority to the issuance of bonds on a parity with the Bonds and provided further that prior to the issuance of such Parity Bonds and under the provisions of this paragraph, the Consulting Engineers shall file with the Secretary a certificate to the effect that additional funds are necessary for such purpose. All such Parity Bonds and Parity Series C Bonds authorized and issued under the provisions of this paragraph shall be limited to the aggregate principal amount required to make up any deficiency in funds for payment of the construction costs to complete the Project, and the maturities of any such Parity Bonds and Parity Series C Bonds shall be in years and amounts suggested by the Authority.

As long as any 1991 Series C Bonds are Outstanding, the Issuer may issue Bonds on a parity therewith upon satisfaction of the tests set forth above taking into consideration the debt service requirements on all Bonds superior to or on a parity with the 1991 Series C Bonds and including the proposed Bonds.

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

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed by the Uniform System of accounts promulgated by the PSC. Separate control accounting records

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

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

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues, Excess 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 Resolution with respect to said Bonds and the status of all said funds and accounts.

(C) The amount of any Bonds, Notes or other obligations outstanding and secured by a lien on the Net Revenues of the System.

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

Section 7.09. Rates. Equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the 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 said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes.

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

Section 7.10. Operating Budget and Audit. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority within thirty days of the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and to any Holder of any Bonds who shall file his address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

Section 7.11. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.12. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the PSC and other laws of the State.

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

Section 7.13. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be

paid as they accrue and the issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.14. Insurance. The Issuer will carry such insurance and in such amounts as is customarily carried with respect to works and properties similar to the System, with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The Issuer will require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority, so long as the Authority is the Owner of the Bonds. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their interests may appear, in accordance with the Loan Agreement, during construction of the Project in the full insurable value thereof. In time of war, the Issuer shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be disposed of as provided in this Resolution and otherwise shall be placed in the Renewal and Replacement Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer will also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the System. The Issuer shall carry such other insurance as is required by the Authority, including but not limited to flood insurance and business interruption insurance, to the extent available at reasonable cost to the Issuer.

Section 7.15. Connections. 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.

Section 7.16. Completion, Operation and Maintenance. The Issuer will expeditiously complete the Project in accordance with the plans and specifications prepared by the Consulting Engineers and will maintain the System in good condition and will operate the same as a revenue-producing

enterprise in an efficient and economical manner, making such expenditures for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof from the revenues of the System in the manner provided in this Resolution.

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

A. PUBLIC PURPOSE BONDS. The Issuer shall use the Bond proceeds solely for the Project and as otherwise set forth herein, and the Project will be solely operated as a public purpose and as local governmental activity of the Issuer.

B. PRIVATE ACTIVITY BOND COVENANT. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code by reason of the classification of the Bonds as 'private activity bonds' within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code in order to assure the tax-exempt status of the Bonds.

C. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of 5% of the Net Proceeds of the 1991 Series A Bonds or the 1991 Series B Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

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

E. TWO YEAR CONSTRUCTION ELECTION. The Issuer will expend the gross proceeds of the Bonds for the Project no later than the day which is two years after the date of issuance of the Bonds. The Issuer will expend the net proceeds (including, without limitation, investment proceeds earned before the close of the period involved on the investment of the proceeds of the Bonds) of the Bonds for the Project within the following periods beginning on the date of issuance of the Bonds.

Not less than 10 percent within 6 months,

Not less than 45 percent within 1 year,

Not less than 75 percent within 18 months, and

Not less than 100 percent within 2 years

(except for a reasonable retainage not exceeding 5% of the net proceeds of the Bonds which will be spent within 3 years). The Issuer hereby elects the application of Section 148(f)(4)(B)(iv)(V) of the Code to the Bonds and has agreed to pay a penalty with respect to the close of each 6-month period after the date the Bonds are issued equal to 1-1/2 percent of the amount of the net proceeds of the Bonds which, as of the close of such period, are not spent as set forth in this paragraph. At least 75% of the net proceeds of the Bonds are to be used for construction expenditures with respect to property owned by the Issuer, and the Project will be owned by the Issuer.

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

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

Section 7.18. Statutory Mortgage Lien. For the further protection of the Holders of the 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 Bonds and shall be for the benefit of all Holders of each respective series of Bonds, provided however, that the statutory mortgage lien in favor of the Holders of the 1991 Series A Bonds and the 1991 Series B Bonds shall be senior to the statutory mortgage lien in favor of the Holders of the 1991 Series C Bonds.

Section 7.19. PSC Order. The Issuer shall comply with the conditions of the PSC Order and any supplement or amendment thereto.

ARTICLE VIII

INVESTMENT OF FUNDS; NON-ARBITRAGE

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

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

Section 8.02. Arbitrage. The Issuer covenants that (i) it will restrict the use of the proceeds of the 1991 Series A Bonds and the 1991 Series B Bonds in such manner and to such extent as may be necessary, in view of the Issuer's reasonable expectations at the time of issuance of the 1991 Series A Bonds and the 1991 Series B Bonds, so that the 1991 Series A Bonds and the 1991 Series B Bonds will not constitute "arbitrage bonds" under Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Bonds so that the interest on the 1991 Series A Bonds and the 1991 Series B Bonds will be and remain excluded from gross income for federal income tax purposes, and

will not take any actions which would adversely affect such exclusion.

Section 8.03. Rebate of Excess Investment Earnings to the United States. A. CREATION OF FUNDS. There are hereby created, to be held by the Depository Bank as separate funds distinct from all other funds and accounts held by the Depository Bank under this Resolution, the Earnings Fund and the Rebate Fund. All interest earnings and profits on amounts in all funds and accounts established under this Resolution on account of the 1991 Series A Bonds, and the 1991 Series B Bonds other than (i) interest earnings and profits on any funds referenced in Subsection C(5) of this Section if such earnings in any Bond Year are less than $100,000, (ii) interest earnings and profits on amounts in funds and accounts which do not constitute Gross Proceeds, and (iii) interest earnings and profits on the Rebate Fund shall, upon receipt by the Depository Bank, be deposited in the Earnings Fund. In addition, all interest earnings and profits on Gross Proceeds in funds held by the Issuer shall, upon receipt, be paid to the Depository Bank for deposit in the Earnings Fund. Annually, on or before the 30th day following the end of each Bond Year or on the preceding business day in the event that such last day is not a business day, or such earlier date as may be required under the Code or the Loan Agreement, the Depository Bank shall transfer from the Earnings Fund to the Rebate Fund for purposes of ultimate payment to the United States an amount equal to Excess Investment Earnings, all as more particularly described in this Section. Following the transfer referenced in the preceding sentence, the Depository Bank shall transfer all amounts remaining in the Earnings Fund to the Construction Trust Fund until completion of the Project, and thereafter to the Revenue Fund.

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

C. CALCULATION OF EXCESS INVESTMENT EARNINGS. Within 15 days following the last day of the first Bond Year, the Issuer shall calculate, and shall provide written notice to the Authority and Depository Bank of, the Excess Investment Earnings referenced in clause (A) of the definition of Excess Investment Earnings. Thereafter, within 15 days following the last day of each Bond Year and within 15 days following the date of the retirement of the 1991 Series A Bonds and the 1991 Series B Bonds, the Issuer shall calculate, and shall provide written notice to the Authority and Depository Bank of, the amount of Excess Investment Earnings. Said calculations shall

be made or caused to be made by the Issuer in accordance with the following:

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

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

(3) In determining the amount described in clause (A)(ii) of the definition of Excess Investment Earnings, the Yield on the 1991 Series A Bonds and the 1991 Series B Bonds shall be determined based on the actual Yield of the 1991 Series A Bonds and the 1991 Series B Bonds during the period between the Closing Date for the 1991 Series A Bonds and the 1991 Series B Bonds and the date the computation is made (with adjustments for original issue discount or premium).

(4) In determining the amount described in clause (B) of the definition of Excess Investment Earnings, all income attributable to the excess described in clause (A) of said definition must be taken into account, whether or not that income exceeds the Yield of the 1991 Series A Bonds and the 1991 Series B Bonds, and no amount may be treated as "negative arbitrage."

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

D. PAYMENT TO THE UNITED STATES. The Issuer shall direct the Depository Bank to pay from the Rebate Fund an amount equal to Excess Investment Earnings to the United States in installments with the first payment to be made not later than 30 days after the end of the 5th Bond Year and with subsequent payments to be made not later than 5 years after the preceding payment was due. The Issuer shall assure that each such installment is in an amount equal to at least 90% of the Excess Investment Earnings with respect to the Gross Proceeds as of the close of the computation period. Not later than 60 days after the retirement of the 1991 Series A Bonds and the 1991 Series B Bonds, the Issuer shall direct the Depository Bank to pay from the Rebate Fund to the United States 100% of the theretofore unpaid Excess Investment Earnings in the Rebate Fund. In the event that there are any amounts remaining in the Rebate Fund following the payment required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States at the address prescribed by the Regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required by this Subsection D, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor.

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

Government Obligations with maturities consonant with the required use thereof and investment profits and earnings shall be credited to the account of such fund on which earned.

F. MAINTENANCE OF RECORDS. The Issuer shall keep, and retain for a period of 6 years following the retirement of the 1991 Series A Bonds and the 1991 Series B Bonds, records of the determinations made pursuant to this Section 8.03.

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

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

I. REPORTING TO AUTHORITY. The Issuer shall furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information relating thereto as may be requested by the Authority and shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the Bonds (as that term is defined in the Code) from time to time as the Authority may request.

J. AMENDMENTS TO THIS SECTION. Notwithstanding any of the provisions herein to the contrary, the Issuer agrees to amend the provisions of this Section from time to time at the direction of the Authority in order to insure continuing compliance with Section 8.02 hereof.

ARTICLE IX

DEFAULT AND REMEDIES

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

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

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Bonds set forth in this Resolution, any Supplemental Resolution or in the Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Construction Trust Fund Depository Bank, the Bond Registrar, any 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 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 this Resolution 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 Resolution with respect to the Bonds, or the rights of such Registered Owners, provided however, that all rights and remedies of the Holders of the 1991 Series C Bonds shall be subordinate to those of the Holders of the 1991 Series A Bonds and the 1991 Series B Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under this

Resolution and the Act, including, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to the Bonds any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project, or both, 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 Resolution and the Act.

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

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Resolution 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 Resolution 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, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered

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

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance of a Series of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of a Series of Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, then with respect to such Series only, the pledge of Net Revenues and other moneys and securities pledged under this Resolution and all covenants, agreements and other obligations of the Issuer to the Registered Owners of such Series of Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

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

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Resolution. 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 Bonds shall be made without the consent in writing of the Registered Owners of two-thirds (2/3%) percent or more in principal amount of the Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein respectively pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Resolution may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the excludability of interest on the Bonds and the Notes from the gross income of the Holders thereof.

Section 11.02. Resolution Constitutes Contract. The provisions of the Resolution shall constitute a contract between the Issuer and the Registered Owners of the Bonds and no change, variation or alteration of any kind of the provisions of the Resolution shall be made in any manner, except as in this Resolution 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 and the 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. All orders or resolutions and 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 Chairman, Secretary and members of the 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 27th day of August, 1991.

UNION PUBLIC SERVICE DISTRICT

Chairman, Public Service Board

Member, Public Service Board

Member, Public Service Board

CERTIFICATION

Certified as a true copy of a Resolution adopted by the Public Service Board of Union Public Service District on the 27th day of August, 1991.

Dated: August 28, 1991.

[SEAL]

Joe W. Williams
Secretary, Public Service Board

EXHIBIT A

The project is a wastewater tyreatment system renovation project of the existing Union PSD existing sewer system. The project is broken into five (5) separate construction contracts. Contract 1 is the renovation of the existing interceptor sewer in the 40th Street drainage system. Contracts 2 and 3 are the renovation of the interceptor sewer in the Rocky Fork drainage area. Contract 4 is the construction of a new 24 inch diameter outfall sewer that will take the effluents from the Rocky Fork treatment plant and the 40th Street Treatment Plants and pipe it to Kanawha River some 14,000 feet away. Contract 5 is the upgrading of the existing Rocky Fork and 40th Street Treatment plants.

EXHIBIT B

ESCROW AGREEMENT

This AGREEMENT, made and entered into as of the 28th day of August, 1991, by and among the UNION PUBLIC SERVICE DISTRICT (hereinafter referred to as the "District") and the WEST VIRGINIA MUNICIPAL BOND COMMISSION (hereinafter referred to as the "Escrow Agent").

W I T N E S S E T H T H A T:

WHEREAS, the District, pursuant to a Bond Resolution passed on July 30, 1967 (the "Prior Resolution"), issued its Sewer Refunding and Revenue Bonds Series A, in the original principal amount of $222,000 dated July 1, 1967, none of which are outstanding as of the date hereof; Series B, in the original principal amount of $1,573,000 dated July 1, 1967, of which $1,149,000 in principal amount are outstanding as of the date hereof; and Series C, in the original principal amount of $400,000 dated July 1, 1967, of which $383,000 in principal amount are outstanding as of the date hereof (collectively the "Prior Bonds");

WHEREAS, the Prior Bonds mature on the dates and bear interest at the rates set forth in Schedule A hereto;

WHEREAS, the District has determined to issue its Sewerage System Revenue Bonds, 1991 Series A Sewerage System Revenue Bonds, 1991 Series B, and Sewerage System Revenue Bonds, 1991 Series C (collectively the "1991 Bonds"), pursuant to a Bond Resolution and a Supplemental Resolution adopted by the District on August 26, 1991, (the "Resolution"), a portion of the proceeds of which will be used to refinance the Prior Bonds;

WHEREAS, the District has made arrangements for the Escrow Agent to purchase from part of the proceeds of the 1991 Bonds and other available moneys, United States Treasury Obligations (the "Government Securities") described in Schedule B hereto, the principal of and interest on which, when due, without consideration of any reinvestment of such maturing principal and interest, together with any other funds deposited with the Escrow Agent, will provide sufficient moneys to enable the Escrow Agent:

(i) to refinance and redeem, at a redemption price of 100% of the principal amount thereof, the $1,532,000 in aggregate principal amount of Prior Bonds outstanding on October 1, 1991.

(ii) to pay, as the same shall become due and payable, the interest to accrue on all Prior Bonds to the October 1, 1991 payment date, as set forth in the preceding clause (i) of this recital.

WHEREAS, the District has found it desirable to appoint the Escrow Agent for the purposes of holding title to the Government Securities, receiving payments of the principal thereof and interest thereon when due, disbursing to the paying agents such amounts as may be necessary to provide for payment of the Prior Bonds and the interest thereon when due, and holding and investing and reinvesting any cash balances which may at any time not be needed for immediate disbursement; and

NOW, THEREFORE, in consideration of the mutual agreements contained herein, and in order further to secure payment of the Prior Bonds, as heretofore provided, the parties hereto mutually undertake, promise and agree for themselves, their respective representatives, successors and assigns, as follows:

1. Receipt of true and correct copies of the Resolution and the Prior Resolution is hereby acknowledged by the Escrow Agent. Reference herein to or citation herein of any provisions of either the Prior Resolution or the Resolution shall be deemed to incorporate the same as a part hereof in the same manner and with the same effect as if the same were fully set forth herein.

2. There is hereby created and established with the Escrow Agent a special and irrevocable fund designated the Union Public Service District 1967 Sewer Refunding and Revenue Bonds Escrow Fund (hereinafter referred to as the "Escrow Fund"), to be held in the custody of the Escrow Agent, separate and apart from other funds of the District or the Escrow Agent. The deposit of investments or moneys in the Escrow Fund shall constitute an irrevocable deposit of said investments or moneys in trust for, and such moneys and the investments thereof, together with any income or interest earned thereon, shall be applied, except as otherwise provided herein, to, the payment of the principal and interest on the Prior Bonds as the same become due and payable.

3. Concurrently with the delivery of the 1991 Bonds, the District shall apply $_____ from the proceeds of sale of the 1991 Bonds, and $114,610 from the Sinking Funds for the Prior Bonds, created and maintained on account of the Prior Bonds, to the purchase of the Government Securities described in Schedule B hereto. Selby & Associates, independent certified public accountants, have certificated, in their letter dated August 28, 1991, attached hereto as Schedule C, that the Government Securities, together with the income to be derived from the investment of the Government Securities, will be sufficient to pay the principal of and interest on the Prior Bonds as the same become due and payable as described in the fourth recital hereto.

4. The Government Securities shall be credited to the Escrow Fund. The Escrow Agent shall deposit any proceeds (whether principal, interest or otherwise) derived from the Government Securities in the Escrow Fund and shall after the initial maturity thereof, reinvest such proceeds in overnight United States Treasury Obligations. Except as provided above, the Escrow Agent shall have no power or duty to invest any moneys held hereunder or to make substitutions of the Goverment Securities hereunder, or to sell, transfer or otherwise dispose of Government Securities acquired hereunder.

5. The Escrow Agent shall deposit directly with the paying agent or agents therefor, in immediately available funds, from the amounts held in the Escrow Fund on October 1, 1991 the amounts required to comply with the payments of principal and interest on the Prior Bonds in accordance with the terms of the fourth recital hereto.

6. The holders of the Prior Bonds shall have an express lien on all moneys and assets in the Escrow Fund until paid out, used and applied in accordance with this Agreement.

7. After the provision for payment of all the Prior Bonds, and the interest thereon, the amounts remaining in the Escrow Fund shall be immediately transferred to the District for deposit in the Construction Trust Fund established under the Resolution for use in accordance with the terms thereof.

8. In no event shall the Escrow Agent or the paying agents have any lien whatsoever upon any of the moneys or Government Securities in the Escrow Fund, for the payment of any fees or expenses.

9. The District and the Escrow Agent independently hereby covenant that no part of the moneys or funds at any time in the Escrow Fund, shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause any of the 1991 Bonds to be "arbitrage bonds" as defined in Section 148 of the Internal Revenue Code of 1986, as amended.

10. The Escrow Agent shall not have any responsibility with respect to the validity or sufficiency of this Agreement. The liability of the Escrow Agent for the payment of the principal of and the interest on the Prior Bonds shall be limited to the application of the moneys and Government Securities available for such purposes in the Escrow Fund. The Escrow Agent shall not be liable or responsible because of the failure of the District to perform any act required of it by this Agreement or because of the loss of any moneys arising through the insolvency or the act or default or

omission of any depository in which such moneys shall have been deposited.

11. If any outstanding Prior Bonds or coupons are not presented for payment when due, and moneys are held by the Escrow Agent for payment thereof but not including any funds held by the paying agent for the Prior Bonds, such moneys shall be held for such purposes for a period of six (6) years from the date such payment was due, at which time such moneys shall be paid to the District.

12. Concurrently with the execution of this Agreement and the defeasance of the lien of the Prior Bonds, the Escrow Agent, at the express direction of the District, shall apply the funds held by it in the sinking funds, including the reserve accounts therein, created and maintained under the Prior Resolution the sum of the $114,610 into the Escrow Fund, for the simultaneous purchase of the Government Securities described in Schedule B hereto.

13. If any one or more of the covenants or agreements provided in this Agreement to be performed on the part of any of the parties hereto should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

14. Whenever it shall be required hereunder to redeem Prior Bonds, as set out in the fourth recital to this Agreement, the Escrow Agent shall be responsible for the preparation, publication and mailing of the notice of redemption in accordance with the provisions of the Prior Resolution. The costs of any required publication and mailing of any notice of redemption shall be paid by the District and under no circumstance shall the Escrow Agent have any claim on moneys on deposit in the Escrow Fund for payment of such costs, but shall look solely to the District for such payment. The Escrow Agent shall act on behalf of the District in the conduct of the proceedings for the redemption of the outstanding bonds to be redeemed in accordance with the Prior Resolution.

15. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

16. This Agreement is made in the State of West Virginia under the Constitution and laws of such State and is to be so construed.

17. This Agreement shall terminate on the earlier of the date on which all the outstanding Prior Bonds have been paid and discharged in accordance with the respective provisions of the Prior Resolution or, as described in Paragraph 11 above, six (6) years after the last date on which payment on the Prior Bonds is due. Government Securities in the Escrow Fund shall be transferred to the District for deposit in the Sinking Fund created under the Resolution.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

UNION PUBLIC SERVICE DISTRICT

By_____
Its Chairman

WEST VIRGINIA MUNICIPAL BOND COMMISSION

By_____
Its _____

5030h

SCHEDULE A

	Principal Balance Outstanding	Interest Rate	Interest Due On October 1, 1991
Union Public Service District Sewer Refunding and Revenue Bonds, Series B dated July 1, 1967	$1,149,000	5%	$14,362.50
Union Public Service District Sewer Refunding and Revenue Bonds, Series C, dated July 1, 1967	383,000	5%	4,787.50
	$1,532,000		$19,150.00
Total Outstanding Principal and Interest due on October 1, 1991			$1,551,150

SCHEDULE B

Description of Government Securities

Security	Principal Amount at Maturity	Date of Maturity
United States Treasury Bills	$1,555,000	September 26, 1991

EXHIBIT C

Union Public Service District
Case No. 90-660-PSD-CN

APPROVED RATES

Rules and Regulations for the Government of Sewer Utilities, adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto and modifications thereof hereafter made by said Commission. Regulations enacted by the Department of Health of West Virginia and the Department of Natural Resources of West Virginia or any other governmental units having jurisdiction over sewer systems and their design and operation.

RATES

APPLICABILITY

Applicable within the entire Union Public Service Sewer District created by the County Commission of Kanawha County by Order dated October 4, 1955.

AVAILABILITY OF SERVICE

Available for general, domestic, commercial and industrial sanitary sewer service.

RATE (Based upon the metered amount of water furnished)

First	2,000 gallons used per month	$6.28 per 1,000 gallons
Next	3,000 gallons used per month	$3.05 per 1,000 gallons
Next	15,000 gallons used per month	$2.57 per 1,000 gallons
Over	20,000 gallons used per month	$2.09 per 1,000 gallons

MINIMUM CHARGE

The above schedule is subject to a minimum monthly charge of Twelve Dollars and Fifty-Six Cents. ($12.56).

(C) NON-METERED

Where the customer has no water meter or where a substantial portion of the water consumed is not metered, the monthly minimum charge shall be for 3,000 gallons or $18.84.

(C) DELAYED PAYMENT PENALTY

The above tariff is net. On all current usage billings not paid within twenty (20) days, 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.

(C) Indicates change

Union Public Service District
Case No. 90-660-PSD-CN

APPROVED RATES

(Continued)

SEWER CONNECTION CHARGE

The District will run its line from its main to the boundary line of the property owner's lot and will provide him with a tap. For this service, the property owner shall pay a sewer connection charge of Two Hundred Fifty Dollars ($250.00). This is the same, exact and identical sewer connection fee previously authorized by the Commission in the District's original tariff. This fee is intended to defray the District's actual costs of construction incurred in order to provide a service connection to the customers. These monies, as before, shall be paid into the District's sewer line and the lot of another intervenes between the District's lines and the property owner's lot, the property owner shall pay the costs or awards of obtaining permission to cross the intervening lot whether by negotiation or by condemnation.

RULES PERTAINING TO SUBDIVISIONS

A. Each such subdivision must obtain the required approval of the Planning and Zoning Commission of Kanawha County.

B. The plans and sketches for the proposed sewer system shall meet all requirements of the Department of Health of West Virginia and shall be approved by the Division of Sanitary Engineering of said Department.

C. The subdivider's sewer system shall itself be inspected by Union Public Service District; and, if approved by the Health Department of West Virginia and the aforesaid Planning and zoning Commission and Union Public Service District, the said District will accept a conveyance of the system and will be solely responsible for its future repair and maintenance.

WATER DISCONNECT - RECONNECT FEES

Whenever water service has been disconnected for non-payment of sewer bills, a disconnection fee of $20.00 shall be charged.

Whenever water service which has been previously disconnected or otherwise withheld for non-payment of sewer bills is reconnected, a fee of $20.00 shall be charged.

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO DATES, MATURITIES, INTEREST RATES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES, AND OTHER TERMS OF THE UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES A, THE UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES B, AND THE UNION PUBLIC SERVICE DISTRICT SUBORDINATE SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES C; DESIGNATING A REGISTRAR, PAYING AGENT, DEPOSITORY BANK, AND CONSTRUCTION TRUST FUND DEPOSITORY BANK; APPROVING LOAN AGREEMENTS WITH RESPECT TO THE BONDS; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board of the Union Public Service District (the "District") has duly and officially adopted a Bond Resolution on August 27, 1991 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF UNION PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, AND THE COST OF REFINANCING OF CERTAIN INDEBTEDNESS OF THE DISTRICT THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $2,139,656 IN AGGREGATE PRINCIPAL AMOUNT OF UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES A, AND NOT MORE THAN $4,229,604 IN AGGREGATE PRINCIPAL AMOUNT OF UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES B, AND NOT MORE THAN $237,602 IN AGGREGATE PRINCIPAL AMOUNT OF UNION PUBLIC SERVICE DISTRICT SUBORDINATE SEWERAGE SYSTEM REVENUE BONDS, 1991 SERIES C; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SAID BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY RELATING TO SAID BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SAID BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Resolution provides for the issuance of the Union Public Service District Sewerage System Revenue Bonds, 1991 Series A (the "1991 Series A Bonds"), the Union Public Service District Sewerage System Revenue Bonds, 1991 Series B (the "1991 Series B Bonds"), and the Union Public Service District Subordinate Sewerage System Revenue Bonds, 1991 Series C (the "1991 Series C Bonds") (collectively herein the "1991 Bonds") in aggregate principal amounts not to exceed $2,139,656, $4,229,604 and $237,602, respectively, all in accordance with Chapter 16, Article 13A, of the Code of West Virginia, 1931, as amended, (the "Act"), and the terms of the Loan Agreement and Supplemental Loan Agreement (the "Loan Agreements") to be entered into between the District and the West Virginia Water Development Authority (the "Authority"), but requires that the dates, interest rates, maturities, sale prices and other terms of the Bonds should be established by a supplemental resolution;

WHEREAS, the 1991 Bonds are proposed to be purchased by the Authority pursuant to the Loan Agreements; and

WHEREAS, the Public Service Board (the "Board") of the District deems it essential and desirable that this resolution (the "Supplemental Resolution"), be adopted and that the prices, the maturity dates, the redemption provisions, the interest rates, and the interest and principal dates of the 1991 Bonds be fixed hereby in the manner stated herein; that the Loan Agreement be approved; and that other matters relating to the Bonds be herein provided for.

WHEREAS, capitalized terms not otherwise defined shall have the meanings given such terms in the Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE UNION PUBLIC SERVICE DISTRICT:

Section 1. Pursuant to the Resolution, the Act, and this Supplemental Resolution, the 1991 Series A Bonds shall be in the aggregate principal amount of $2,139,656, the 1991 Series B Bonds shall be in the aggregate principal amount of $4,229,604, and the 1991 Series C Bonds shall be in the aggregate principal amount of $237,602, with the following provision:

(A) The 1991 Series A Bonds shall be originally issued in the form of a single bond, numbered AR-1, in the principal amount of $2,139,656. The 1991 Series A Bonds shall be dated the date of delivery thereof, shall bear interest at the rate of 8.10% per annum, payable semiannually on April 1 and October 1 of each year, beginning October 1, 1991, shall be subject to redemption upon the written consent of the

Authority, upon payment of the interest and redemption premium, if any, and subject to the other requirements provided in the Loan Agreement, as long as the Authority shall be the registered owner of the 1991 Series A Bonds, and shall be payable in installments of principal on October 1 of each of the years from 1992 through 2029, inclusive, in the amounts as set forth in "Schedule X," attached hereto and incorporated herein by reference.

(B) The 1991 Series B Bonds of the District shall be originally issued in the form of a single bond, numbered BR-1, in the principal amount of $4,229,604. The 1991 Series B Bonds shall be dated the date of delivery thereof, shall bear interest at the rate of 7.75% per annum, payable semiannually on April 1, and October 1 of each year, beginning October 1, 1991, shall be subject to redemption upon the written consent of the Authority, upon payment of the interest and redemption premium, if any, and subject to the other requirements provided in the Loan Agreement, as long as the Authority shall be the registered owner of the 1991 Series B Bonds, and shall be payable in installments of principal on October 1, of each of the years from 1993 to 2031, inclusive, in the amounts as set forth in "Schedule X," attached hereto and incorporated herein by reference.

(C) The 1991 Series C Bonds of the District shall be originally issued in the form of a single bond, numbered CR-1, in the principal amount of $237,602. The 1991 Series C Bonds shall be dated the date of delivery thereof, shall not bear interest, shall be subject to redemption upon the written consent of the Authority as long as the Authority shall be the registered owner of the 1991 Series C Bonds, and shall be payable in installments of principal on October 1 of each of the years from 1992 through 2031, inclusive, in the amounts as set forth in "Schedule X," attached and incorporated herein by reference.

(D) The 1991 Bonds of each series shall be sold to the Authority in accordance with the terms of the Loan Agreement at a price equal to 100% of the principal amount thereof.

Section 2. All other provisions relating to the Bonds shall be as provided in the Resolution, and the 1991 Bonds shall be in substantially the form provided in the Resolution with such changes, insertions and omissions as may be approved by the Chairman of the District. The execution of the 1991 Series A Bonds, the 1991 Series B Bonds and the 1991 Series C Bonds by the Chairman shall be conclusive evidence of such approval.

Section 3. The District does hereby ratify, approve and accept the Loan Agreement and the Supplemental Loan Agreement, including the "Schedule X" attached to each, copies of which are incorporated herein by reference, and the execution and delivery by the Chairman of the Loan Agreement and the Supplemental Loan Agreement, and the performance of the obligations contained therein, on behalf of the District have been and are hereby authorized, approved and directed.

Section 4. The District hereby appoints and designates The Bank of Cross Lanes, Cross Lanes, West Virginia, as the Depository Bank, as provided in the Resolution.

Section 5. The District hereby appoints and designates One Valley Bank, National Association, Charleston, West Virginia, as the Construction Trust Fund Depository Bank, as provided in the Resolution.

Section 6. The District hereby appoints and designates One Valley Bank, National Association, Charleston, West Virginia, as Registrar for the Bonds.

Section 7. The District hereby appoints and designates the West Virginia Municipal Bond Commission (the "Commission"), Charleston, West Virginia as Paying Agent for the Bonds.

Section 8. The District does hereby ratify, approve and accept the Escrow Agreement, a copy of which is incorporated herein by reference, and the execution and delivery by the Chairman of the Escrow Agreement, and the performance of the obligations contained therein on the part of the District have been and are hereby authorized, approved and directed. Proceeds of the 1991 Bonds shall be deposited in the Escrow Fund for use in accordance with the terms of the Escrow Agreement. The West Virginia Municipal Bond Commission is authorized to purchase for the District $1,555,000 par value U.S. Treasury Bills due September 26, 1991.

Section 9. The Chairman and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates, including the Registrar's Agreement, required or desirable in connection with the Bonds hereby and by the Resolution approved and provided for, to the end that the Bonds may be delivered to the Authority pursuant to the Loan Agreement and the Supplemental Loan Agreement.

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

Section 11. This Supplemental Resolution shall be effective immediately upon adoption.

Dated: August 27, 1991

UNION PUBLIC SERVICE DISTRICT

Chairman

[SEAL]

Secretary

1161H

$344,416 UNION PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM REVENUE BOND, SERIES 1996A

BOND RESOLUTION
(SRF)

$344,416 UNION PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM REVENUE BOND, SERIES 1996A

BOND RESOLUTION

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UNION PUBLIC SERVICE DISTRICT

BOND RESOLUTION

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN WASTEWATER COLLECTION AND TREATMENT FACILITIES OF UNION PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE OF NOT MORE THAN $344,416 IN AGGREGATE PRINCIPAL AMOUNT OF UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BOND, SERIES 1996A OF THE PUBLIC SERVICE DISTRICT TO BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE PUBLIC SERVICE DISTRICT WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION, AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SAID BOND; RATIFYING A LOAN AGREEMENT WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY AND THE WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION RELATING TO SAID BOND; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SAID BOND; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF UNION PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

Section 1.01. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of the Act and other applicable provisions of law.

Section 1.02. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

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

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

"Authorized Officer" means the Chairman of the Governing Body of the Issuer or any other person duly appointed as such by the Governing Body.

"Bank" means the bank to be set forth in a resolution supplemental hereto.

"Board" means the public service board of the Issuer and shall include the membership of the Board as may hereafter be duly constituted as the legal successors to the present membership or any other authority vested with and authorized to exercise the powers of the Issuer.

"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 Register" means the books of the Issuer as hereinafter defined, maintained by the Bond Registrar as hereinafter defined for the registration and transfer of the Bonds.

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

"Bond" or "Bonds" means the Union Public Service District Sewerage System Revenue Bond, Series 1996A, originally authorized hereby, and any pari passu additional bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution.

"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.

"Certificate of Authentication and Registration" means the certificate of authentication and registration on the Bond in substantially the form set forth in the bond form contained herein.

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

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

"Code" means the Internal Revenue Code of 1986, as amended, including the rules and regulations promulgated pursuant thereto or any predecessors or successors thereto.

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

"Construction Trust Fund" means the Series 1996A Bond Construction Trust Fund established by Section 5.01(3).

"Construction Trust Fund Depository Bank" means One Valley Bank, National Association, Charleston, West Virginia, a bank eligible under the laws of the State of West Virginia to receive deposits of state and municipal funds and insured by the FDIC, as hereinafter defined.

"Consulting Engineers" means Kelley, Gidley, Blair & Wolfe, Charleston, West Virginia, or any engineer or firm of engineers of reputation for skill and experience with respect to the design and construction of sewerage systems or facilities that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

"Costs" or "Costs of the Project" or any similar phrase means those costs described in Section 1.04I hereof to be a part of the cost of construction and acquisition of the Project.

"Debt Service" means the scheduled amount of interest and amortization of principal payable on the Series 1996A Bond, as hereinafter defined, during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

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

"Depository Bank" means City National Bank, a bank eligible under the laws of the State of West Virginia to receive deposits of state and municipal funds and insured by the FDIC, as hereinafter defined, which Depository Bank shall be named in the Supplemental Resolution, and any successor thereto.

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

(A) The excess of

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

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

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

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

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

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

"Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof

in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

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

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

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

(iii) Transferred proceeds, namely, original proceeds of any prior obligations, and interest earnings and profits less losses resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any prior obligations and which are deemed to become proceeds of the Bond ratably as original proceeds of the Bond, and interest earnings and profits resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any such prior obligations, all on the date of such ratable discharge;

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

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

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

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

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

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

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

"Issuer" or "District" means the Union Public Service District, a public corporation and political subdivision of the State.

"Loan Agreement" means the Water Pollution Control Revolving Fund Loan Agreement dated February 21, 1996, by and among the Authority, the DEP and the Issuer providing for the purchase of the Bond from the Issuer by the Authority which is attached as Exhibit B hereto and incorporated herein by reference.

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

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

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

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System, as hereinafter defined 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 of Project, fees and expenses of the Authority, fiscal agents, the Depository Bank, Registrar and Paying Agent, other than those capitalized as part of the Costs of Project, 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 Bond, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

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

"Original Bond" or "Bond" means the not to exceed $344,416 Union Public Service District Sewerage System Revenue Bond, Series 1996A, of the District.

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 7.08 hereof.

"Paying Agent" means the Commission.

"Prior Bonds" means, collectively, the Series 1991 A Bonds, the Serics 1991 B Bonds, and the Series 1991 C Bonds, all as hereinafter defined.

"Prior Resolution" means, the Bond Resolution adopted by the Board with respect to the Prior Bonds.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state or local governmental unit and use as a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to "incidental use," if any, of the proceeds of the issue and/or proceeds used for "qualified improvements," if any.

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

"Project" means the acquisition and construction of a wastewater collection facility by the Issuer substantially as described in Exhibit A attached hereto and incorporated herein by reference.

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

"PSC Order" means the recommended decision of the PSC in Case No. 92-0904-PSD-CN which grants the Issuer a Certificate of Convenience and Necessity, and approves the financing.

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

(a) Government Obligations;

(b) 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; the Governmental National Mortgage Association; the Tennessee Valley Authority or the Washington Metropolitan Area Transit Authority;

(c) 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;

(d) 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 account;

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

(f) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (d) 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 paid repurchase agreements, and provided further that the owner of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

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

(h) Advance-Refunded Municipal Bonds.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established or continued by Section 5.01(3).

"Reserve Account" means the account in the Sinking Fund, as hereafter defined, created by Section 5.02(1)(a) hereof.

"Reserve Requirement" means as of any date of calculation the maximum amount of principal and interest with will become due on the Bond in the then current or any succeeding year.

"Resolution" shall mean this Resolution, as from time to time amended or supplemented.

"Revenue Fund" means the Revenue Fund established or continued by Section 5.01.

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

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

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

"Series 1991 A Bonds" means the Sewer Revenue Bonds of Issuer described in Section 1.04(N) issued August 28, 1991, in the aggregate principal amount of $2,139,656.

"Series 1991 B Bonds" means the Sewer Revenue Bonds of Issuer described in Section 1.04(N) issued August 28, 1991, in the aggregate principal amount of $4,229,604.

"Series 1991 C Bonds" means the Sewer Revenue Bonds of Issuer described in Section 1.04(N) issued August 28, 1991, in the aggregate principal amount of $237,602.

"Series 1996A Bond" means the not more than $344,416 in aggregate principal amount to evidence the loan among the Authority, the DEP and the Issuer.

"Sinking Fund" means the Sinking Fund established by Section 5.02(1) hereof.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution 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 Bond; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect the Bond and not so included may be included in another Supplemental Resolution.

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

"System" means the public service properties for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, owned by the Issuer, and any improvements or extensions thereto, both within and without the boundaries of the District.

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

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

Additional terms and phrases are defined in this Resolution as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with generally accepted accounting principles.

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.

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Resolution; and the term "hereafter" means after the date of adoption of this Resolution.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Resolution so numbered.

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

Section 1.04. Findings. It is hereby found, determined and declared as follows:

A. The Issuer is a public corporation and political subdivision of the State in Kanawha County, West Virginia.

B. The Issuer presently owns and operates a public sewerage system.

C. It is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain improvmeents and extensions to the existing System, consisting of the Project which includes the construction and acquisition as described in Exhibit A attached hereto at an estimated cost of $344,416, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

D. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of the System, the principal of and interest on the Bond and the Prior Bonds, and all sinking funds, reserve accounts and other payments provided for herein and in the PSC Order.

E. The estimated maximum cost of the construction and acquisition of the Project is $344,416 which will be permanently obtained from the Bond herein authorized. The Issuer may obtain such other grants and contributions or from other sources as may be necessary to pay Costs of the Project.

F. The period of usefulness of the System after completion of the Project will not be less than twenty (20) years.

G. It is deemed necessary for the Issuer to issue its sewerage revenue bond in the aggregate principal amount of not more than $344,416, initially to be represented by a single bond, being the Union Public Service District Sewerage System Revenue Bond, Series 1996A, to permanently finance the costs of acquisition and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest on the Bond prior to and during construction or acquisition and for six months after completion of construction of the Project; amounts which may be deposited in the Reserve Account; engineering, fiscal agents and legal expenses; expenses for estimates of cost and revenue; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense, any fees or expenses of the Authority or DEP and any defaulted interest thereon, commitment fees, discount, initial fees for the service of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Bond, and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bond or the repayment of the indebtedness incurred by the Issuer for such purposes shall be deemed part of the Cost of the Project.

H. It is in the best interests of the Issuer that the Bond be sold to the Authority pursuant to the terms and provisions of the Loan Agreement.

I. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the construction, acquisition and operation of the Project and the System and the issuance of the Bond, or will have so complied prior to issuance of any Bonds, including, among other things and without limitation, the obtaining of the PSC Order, the time for rehearing and appeal of which have expired prior to the date hereof. The Issuer has received the approval of the West Virginia Infrastructure and Jobs Development Council.

J. The Issuer will not permit, at any time, any of the proceeds of the Bond or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bond from the treatment afforded by Section 103(a) of the Code.

K. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Bond.

L. The Bond will not be federally guaranteed within the meaning of the Code.

M. It is reasonably anticipated that all proceeds of the Bond will be spent within two years from the date of issuance.

N. There are outstanding obligations of the Issuer which will rank either on a parity with or junior or subordinate to the Bond as to liens, pledge and source of and security for payment, which obligations are designated and have the lien positions with respect to the Bond as follows:

Designation	Lien Position
Water Development Authority - Sewer Revenue Bonds, 1991 Series A, dated August 28, 1991, issued in the original aggregate principal amount of $2,139,656 (the "Series 1991 A Bonds");	First Lien
Water Development Authority - Sewer Revenue Bonds, 1991 Series B, dated August 28, 1991, issued in the original aggregate principal amount of $4,229,604 (the "Series 1991 B Bonds").	First Lien
Water Development Authority - Sewer Revenue Bonds, 1991 Series B, dated August 28, 1991, issued in the original aggregate principal amount of $237,602 (the "Series 1991 C Bonds").	Second Lien

The Series 1991 A Bonds, the Series 1991 B Bonds, and the Series 1991 C Bonds are hereinafter collectively called the "Prior Bonds."

The Bond shall be issued on a parity with the Series 1991 A Bonds and the Series 1991 B Bonds with respect to the liens, pledge and source of and security for payment but senior to the Series 1991 C Bonds and in all other respects the Issuer has complied with the requirements for issuance of parity bonds in the Prior Resolution. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by the revenues or assets of the System.

O. The Issuer has, by certification from an independent certified public accountant, met the parity test of Section 7.07 of the Prior Resolution.

ARTICLE II

AUTHORIZATION OF CONSTRUCTION AND ACQUISITION OF THE PROJECT

Section 2.01. Authorization of Construction and Acquisition of the Project. There is hereby authorized the acquisition and construction of the Project in accordance with plans and specifications therefor prepared by the Consulting Engineers.

The Issuer has received acceptable bids or has entered into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the Program.

Section 2.02. Authorization of Extensions, Additions, Betterments and Improvements. There is hereby authorized the acquisition and construction of the Projects in accordance with plans and specifications therefor prepared by Consulting Engineers, to be approved by DEP and the District and to be filed in the office of the Board.

Prior to issuing the Bonds for the acquisition and construction of the Projects, the District must receive acceptable bids or enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the Program.

ARTICLE III

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

Section 3.01. Authorization of Bond. For the purposes of paying the costs, not otherwise provided, of the construction and acquisition of the Project, funding a reserve account for the Bond, and paying certain costs of issuance and related costs, or any of such purposes as shall be specified in the Supplemental Resolution, there shall be issued negotiable bonds of the Issuer in an aggregate principal amount of not more than $344,416. Said Bond shall be issued as one bond to be designated "Union Public Service District Sewerage System Revenue Bond, Series 1996A". The Bond shall be dated as of the date of delivery thereof, shall bear such interest, shall mature at such times, not exceeding twenty-one (21) years after the date of issuance, and in such amount as shall be set out in Schedule X to the Loan Agreement and the Supplemental Resolution. The Bond 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 Bond shall be as set forth on Schedule Y to the Loan Agreement. The Bond shall contain such other terms, provisions, conditions and limitations, all as provided by this Resolution and the Loan Agreement and as the Governing Board of the Issuer shall prescribe by resolution (or by supplemental or amendatory Resolution of said Governing Board as said Governing Board shall determine) adopted in connection with the sale of such Bond.

The Bond shall be payable as to principal at the principal office of the Paying Agent in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bond shall be paid by check or draft mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, provided, that so long as the Authority is the owner thereof, interest on the Bond may be paid by wire transfer or other methods satisfactory to the Issuer, the Paying Agent and the Authority.

Unless otherwise provided by the Supplemental Resolution, the Bond shall be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a payment record attached, representing the aggregate principal amount, and shall mature in principal installments, all as provided in the Loan Agreement and said Supplemental Resolution. Bonds shall be exchangeable at the option and expense of the Bondholder for other fully registered Bond in aggregate principal amount equal to the amount of said Bond then Outstanding, with principal installments or maturities, as

applicable, corresponding to the dates of payment of principal installments of said Bond; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of bonds may be issued in fully registered form, in the denomination of $5,000 or any integral multiple thereof, all as determined by a Supplemental Resolution. Said Bond shall be dated as of the date specified in said Supplemental Resolution and shall bear interest from such date.

Section 3.02. [Reserved]

Section 3.03. Additional Terms of Bond. In addition to the terms set forth in Section 3.01 hereof and in anticipation of the sale of the Bond to the Authority, the District covenants that the Bond shall comply in all respects with the provisions of the Loan Agreement and of any resolution of the Authority and/or DEP.

Section 3.04. Execution of Bond. The Bond 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 Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bond may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Series 1996A Bond has not ceased to hold such office. Any Bond may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bond shall hold the proper office in the Issuer, although at the date of such Bond such person may not have held such office or may not have been so authorized.

Section 3.05. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution 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 Resolution. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.06. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Bond shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the

State, and each successive Holder in accepting any of said Bonds shall be conclusively deemed to have agreed that such Bond shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Holder shall further be conclusively deemed to have agreed that said Bond shall be incontestable in the hands of a bona fide holder for value.

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

The Bond 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 Bond or transferring the Bond is exercised, the Bond shall be delivered in accordance with the provisions of this Resolution. All Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of Bond, 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 obligated to make any such exchange or transfer of the Bond during the period commencing on the fifteenth day of the month preceding an interest payment date on the Bond or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of the Bond to be redeemed, and ending on such interest payment date or redemption date.

Section 3.07. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing proof of its ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute

Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Any such duplicate Bonds issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the Issuer, whether or not the lost, stolen or destroyed Bonds be at any time found by anyone, and such duplicate bonds shall be entitled to equal and proportionate benefits and rights as to lien and source of security for payment from the revenues pledged herein with all other bonds issued hereunder.

Section 3.08. Bond not to be Indebtedness of the Issuer. The Bond shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided and amounts, if any, in the Reserve Account. No Holder or Owners of any of the Bond shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay the Bond or the interest thereon.

Section 3.09. Bonds Secured by Pledge of Net Revenues. The payment of the debt service on all the Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System on a parity with the lien on such Net Revenues in favor of the Holders of the Series 1991 A Bonds and Series 1991 B Bonds but senior to the lien of the Series 1991 C Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Prior Bonds and the Series 1996A Bond and to make the payments into the Sinking Funds, the Reserve Accounts therein and in the Renewal and Replacement Fund hereinafter established or continued and to make the payments requested by this Resolution and the Prior Resolution, and are hereby irrevocably pledged to the payment of the principal of and any interest on the Bonds as the same become due.

Section 3.10. Form of Series 1996A Bond. The text of the Series 1996A Bond 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 1996A Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
UNION PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM REVENUE BOND, SERIES 1996A

No. AR-1 $344,416

KNOW ALL MEN BY THESE PRESENTS: That UNION PUBLIC SERVICE DISTRICT, a public corporation and political subdivision of the State of West Virginia in Kanawha 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 Three Hundred Forty-Four Thousand Four Hundred Sixteen Dollars ($344,416), 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 installments on the 1st day of September, the 1st day of December, the 1st day of March and the 1st day of June in each year beginning March 1, 1997, as set forth on the "Schedule of Annual Debt Service" attached as Exhibit B hereto and incorporated herein by reference, with interest on each installment at the rate of two percent (2%) per annum as set forth on said Exhibit B.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the 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 Division of Environmental Protection, a division of the West Virginia Bureau of Environment (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement dated February 21, 1996, among the Authority, the DEP and the Issuer.

This is issued in the aggregate principal amount of $344,416 (i) to pay the costs of acquisition and construction of certain improvements and extensions to the existing sewerage system of the Issuer (the "Project"), (ii) to fund the debt service reserve fund and (iii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the

authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"), a Resolution duly enacted by the Issuer on the 3rd day of April, 1996, and a Supplemental Resolution adopted by the Issuer on the 3rd day of April, 1996 (collectively called the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Resolution.

THIS BOND RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE SERIES 1991 A BONDS AND THE SERIES 1991 B BONDS AND SENIOR TO THE SERIES 1991 C BONDS AS ALL ARE DEFINED IN THE RESOLUTION.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Resolution) to be derived from the operation of the System on a parity with the pledge of Net Revenues in favor of the holders of the Series 1991 A Bonds and Series 1991 B Bonds, but senior to the Series 1991 C Bonds, and moneys in the Reserve Account created under the Resolution and unexpended proceeds of the Bond (the "Bond Proceeds"). Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond Proceeds. Pursuant to the Resolution, 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 to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest, if any, on all obligations on a parity with or prior to the Bonds including the Series 1991 A Bonds and Series 1991 B Bonds, but senior to the Series 1991 C Bonds, payable from such revenues, provided however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal and interest which will become due on said Bond in the then current year or any succeeding year and the reserve account for any other obligations outstanding on a parity with the Bond including the Series 1991 A Bonds and Series 1991 B Bonds, but senior to the Series 1991 C Bonds, is funded at 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 Resolution.

Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, 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 Resolution, only upon the books of One Valley Bank, National Association, as registrar (the "Registrar") by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or its attorney duly authorized in writing.

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

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

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

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

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, UNION PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated April 4, 1996.

[SEAL]

_____
Chairman

ATTEST:

_____
Secretary

30478

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1996A Bonds described in the within-mentioned Resolution and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: April 4, 1996

ONE VALLEY BANK, NATIONAL ASSOCIATION,
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

SCHEDULE OF ANNUAL DEBT SERVICE

Form of Assignment

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

_____

_____
the within Bond and does hereby irrevocably constitute and appoint _____ _____, Attorney to transfer 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 Original Bond; Ratification and Execution of Loan Agreement with Authority and DEP. The Bond shall be sold to the Authority pursuant to the terms and conditions of the 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 of the Loan Agreement is hereby authorized, ratified and approved.

Section 3.12. Certificate of Consulting Engineers. Prior to the issuance of the Bond, the Issuer must obtain the certificate of the Consulting Engineers in the form attached to the Loan Agreement 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 DEP and the Authority, the Project is adequate for the purposes for which it was designed, and the funding plan as submitted to the DEP and the Authority is sufficient to pay the costs of acquisition and construction of the Project.

ARTICLE IV

[RESERVED]

ARTICLE V

SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created with and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and from each other (or continue pursuant to Prior Resolution):

(1) Revenue Fund; and

(2) Renewal and Replacement Fund.

Section 5.02. Establishment of Construction Trust Fund with Construction Trust Fund Depository Bank.

The Construction Trust Fund shall be created with and shall be held by the Construction Trust Fund Depository Bank, separate and apart from all other funds or accounts of the Construction Trust Fund Depository Bank.

Section 5.03. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby established with the Commission:

(1) Series 1996A Bond Sinking Fund;

(a) Within the Series 1996A Bond Sinking Fund, the Series 1996A Bond Reserve Account.

Section 5.04. 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 created pursuant to Section 5.01 of the Prior Resolution and which is continued hereby. The Revenue Fund shall constitute a trust fund for the purposes provided in this Resolution 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. As long as the Prior Bonds are Outstanding, the Issuer shall make the payments required by Section 5.04 of the Prior Resolution and simultaneously make the payments set forth hereinafter.

(1) The Issuer shall, each month, transfer from the Revenue Fund an amount sufficient to pay current Operating Expenses of the System.

(2) The Issuer shall first, on the first day of each month simultaneously with the payment required by Section 5.04(3) of the Prior Resolution, commencing 4 months prior to the first date of payment of principal on the Bond, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Bond Sinking Fund, a sum equal to 1/3rd of the amount of principal which will mature and become due on said Bond 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 Bond Sinking Fund and the next quarterly principal payment date is less than 4 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(3) The Issuer shall first, on the first day of each month simultaneously with the payment required by Section 5.04(2) of the Prior Resolution, commencing 4 months prior to the first date of payment of interest on the Bond, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Bond Sinking Fund, a sum equal to 1/3rd of the amount of interest which will mature and become due on said Bond on the next ensuing quarterly interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Bond Sinking Fund and the next quarterly interest payment date is less than 4 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly interest payment date, the required amount of interest coming due on such date.

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

(4) The Issuer shall next transfer from the Revenue Fund and pay to the Commission the amounts required on the first day of each month, commencing 3 months prior to the first date of payment of

principal of the Bond and simultaneously with the payment by Section 5.04(4) of the Prior Resolution, if not fully funded upon issuance of the Bond, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Reserve Account, an amount equal to 1/120 of the Reserve Requirement; provided, that no further payments shall be made into the Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Reserve Requirement.

(5) The Issuer shall next, from the moneys remaining in the Revenue Fund, on the first day of each month, transfer to the Renewal and Replacement Fund a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account (such amount to be inclusive with Section 5.04(5) of the Prior Resolution, not in addition to). All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the 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 Sinking Fund shall be used only for the purposes of paying principal of and interest on the Bond as the same shall become due. Moneys in the Reserve Account in the Sinking Fund shall be used only for the purpose of paying principal of or interest on the Bond, as the same shall come due, when other moneys in the Sinking Fund are insufficient therefor, and for no other purpose. Except for the funds required to be deposited in the Rebate Fund, all investment earnings on moneys in the Reserve Account shall be transferred, not less than once each year, to the Bond Construction Trust Fund prior to completion of the Project and thereafter, to the Sinking Fund.

Any withdrawals from the Reserve Account which result in a reduction in the balance of the Reserve Account to an amount below

the Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Sinking Fund for payment of debt service on the Bond have been made in full.

B. As and when additional Bonds ranking on a parity with the Original Bonds are issued, provision shall be made for additional payments into the Sinking Fund sufficient to pay any interest on such additional Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the Reserve Account in an amount equal to the Reserve Requirement.

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

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

Moneys in the Reserve Account shall be invested and reinvested by the Commission in accordance with Article VIII hereof.

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

C. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinabove provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Sinking Fund, including the Reserve Account therein, and the Renewal and Replacement Fund during the following month or such longer period as shall be required by the Act, such excess shall be considered as surplus revenues (the "Surplus Revenue"). Surplus Revenues may be used for any lawful purpose of the Issuer.

D. The Issuer shall remit from the Revenue Fund to the Commission or the Depository Bank, on such dates as the Commission, the Depository Bank or the Construction Trust Fund Depository Bank, as the case may be, shall require, such additional sums as shall

be necessary to pay any Depository Bank's or the Construction Trust Fund Depository Bank's charges then due. The Issuer shall also remit from the Revenue Fund to the Authority, on such dates as the Authority and the DEP shall require, the Issuer's allocable share of reasonable administrative expenses of the Authority relating to the Program, if any.

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

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

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

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

I. The Issuer shall each month, on the day set forth in Section 5.03A(2) hereof (if such day is not a business day, then the next succeeding business day), deposit with the Commission the SRF Administrative Fee as set forth in the Schedule Y attached to the Loan Agreement.

Section 5.05. Excess Bond Proceeds. If thirty days following the Completion Date of the Project the Issuer has not requested and received the full amount of the bond proceeds and the Issuer did not fund the debt service reserve requirement at the closing, then the Issuer shall requisition the remaining balance of the Bond proceeds (to the extent that it does not exceed 10% of the total proceeds of the bonds) with instructions for such requisition to be disbursed to its Reserve Account at the West Virginia Municipal Bond Commission.

ARTICLE VI

APPLICATION OF ORIGINAL BOND PROCEEDS, FUNDS AND ACCOUNTS

Section 6.01. Application of Original Bond Proceeds. The moneys derived from the sale of the Original Bonds shall be deposited by the Issuer as received from time to time in the Bond Construction Trust Fund established in Section 5.01(3) hereof.

The Construction Trust Fund Depository Bank shall act as a trustee and fiduciary for the Bondholders with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Fund set forth in this Resolution. Except with respect to any transfers to the Rebate Fund, moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so transferred or expended, are hereby pledged as additional security for the Bond.

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

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

(1) A "Payment Requisition Form," attached to the Loan Agreement as Exhibit C, and

(2) A certificate, signed by the Chairman and the Consulting Engineers, stating:

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

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

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

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

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

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

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

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

Section 7.02. Bond not to be Indebtedness of the Issuer. The Bond 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 Resolution. No Holder or Owners of any Bond shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay said Bond or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Original Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System on a parity with the lien on such Net Revenues in favor of the Series 1991 A Bonds and Series 1991 B Bonds but senior to the Series 1991 C Bonds. The Revenues derived from the System, in an amount sufficient to pay the principal of the Bond, herein authorized and to make the payments into the Sinking Fund, including the Reserve Account therein, and all other payments provided for in the Prior Resolution and this Resolution are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds as the same become due, and for the other purposes provided in this Resolution.

Section 7.04. Rates. Prior to issuance of the Original Bond, equitable rates or charges for the use of and service rendered by the System will 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 said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder . Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and

charges will be sufficient for such purposes. The Issuer shall take the necessary actions with respect to the imposition of rates at such times and with such provisions with respect to interest rate and maturity of the Bond to finance the issuance of the Bond as the purchaser thereof shall require. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient (i) to provide for all reasonable expenses of operation, repair and maintenance of the System and (ii) to leave a balance each Fiscal Year equal to at least 115% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Bond; provided that, in the event that an amount at least equal to or in excess of the Reserve Requirement is on deposit in the Reserve Account and is funded at least at the requirement provided for in the Resolution, such balance each Fiscal Year need only equal at least 110% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Original Bond.

The Issuer hereby adopts the rates and charges set forth in the PSC Order and attached hereto as Exhibit C and incorporated herein by reference.

Section 7.05. Completion, Operation and Maintenance; Schedule of Cost. The Issuer will expeditiously complete the Project and will maintain the System in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof from the revenues of said System in the manner provided in this Resolution.

Upon completion of the Project, the Issuer shall file with the Authority a schedule in substantially the form of Amended Schedule A to the Program loan application, setting forth the actual costs of the Project and sources of funds therefor.

Section 7.06. Sale of the System. Except as otherwise required by law and the terms of the Prior Resolution, 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 or redeem at or prior to maturity all the Bonds and Bonds Outstanding, or to effectively defease this Resolution in accordance with Sections 10.01 hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall be immediately remitted to the Commission for deposit in the appropriate Sinking Funds, and the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Bonds about to mature and to the redemption prior to maturity at the earliest date permitted hereby and at the redemption price, of all other Outstanding Bonds. Any balance remaining after the redemption or payment of

all the Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $10,000, the Issuer shall, by resolution, 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 Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of $10,000 and not in excess of $50,000, shall, upon receipt of approval of the Registered Owners, if needed, be remitted by the Issuer to the Commission for deposit in the appropriate Sinking Fund and shall be applied only to the purchase or redemption of Bonds of the last maturities then Outstanding at prices not greater than the applicable redemption price, or, if not redeemable, par, or otherwise in the Renewal and Replacement Fund. The payment of such proceeds into the Sinking Funds or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Resolution.

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 or redeem prior to maturity all Bonds then Outstanding without the prior approval and consent in writing of the Owners, or their duly authorized representatives, of sixty-six and two-thirds percent (66 2/3%) in amount of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Registered Owners of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.07. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. So long as any of the Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that Parity Bonds may be issued as provided for in Section 7.08 hereof. All obligations hereafter issued by the Issuer payable from the revenues of the System, except such Parity Bonds, shall contain an express statement that such obligations are junior and prior, as to lien on and source of and security for payment from such revenues and in all other respects, to the Bonds; provided, that no such prior obligations shall be issued unless all payments required to be made into the Reserve Account and the Renewal and Replacement Fund at the time of the issuance of such prior obligations have been made and are current.

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

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

Section 7.08. Parity Bonds. A. No Parity Bonds payable out of the Net Revenues of the System may be issued without the prior written consent of the Authority and DEP. No Parity Bonds payable out of the revenues of the System shall be issued after the issuance of any Bonds pursuant to this Resolution, except under the conditions and in the manner herein provided.

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

No Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Secretary a written statement by Independent Accountants, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the net revenues actually derived, subject to the adjustments hereinafter provided, from the System during any twelve (12) consecutive

months within the eighteen (18) months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual net revenues to be received in each of the three (3) succeeding years after the completion of the improvements to be financed by such additional Parity Bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on the following:

(1) The Bonds then Outstanding;

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

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

The "estimated average increased annual net revenues to be received in each of the three (3) succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased net revenues estimated to be derived from any increase in rates enacted by the Issuer, the time for appeal of which shall have expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the Secretary prior to the issuance of such additional Parity Bonds.

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

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

All the covenants and other provisions of this Resolution (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the owners of the Original Bonds and the owners of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this Section. All the Bonds, regardless of the time or times of their issuance shall rank equally

with respect to their respective liens on the revenues of the System, and their respective sources of and security for payment from said revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds created in this Resolution required for and on account of such additional Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the Outstanding 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 Bond.

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

B. Notwithstanding the foregoing, the Issuer may issue Parity Bonds without compliance with any other conditions for the purpose of refunding prior to maturity any issues or series of the Bonds, provided that the annual debt service required on account of the refunding Bonds and the Bonds which are not refunded shall not be greater in any year in which the Bonds not refunded and the refunding Bonds are to be Outstanding than the annual debt service required in such year if the Bonds to be refunded were not so refunded.

With the written consent in advance of the Authority and DEP and anything to the contrary in this Section 7.08 notwithstanding, Parity Bonds may be authorized and issued by the Issuer pursuant to Supplemental Resolution solely to complete the Project as described in the Issuer's Program application to the Authority and DEP in accordance with the plans and specifications, in the event that the Original Bonds should be insufficient, together with other funds lawfully available therefor, to pay all costs of acquisition and construction of the Project; provided, however, that, prior to the issuance of such Parity Bonds under the provisions of this paragraph, the Consulting Engineers shall file with the Secretary a certificate to the effect that additional funds are necessary for such purpose. All such Parity Bonds authorized and issued under the provisions of this paragraph shall be limited to the aggregate principal amount required to make up any deficiency in funds for payment of the construction costs to complete the Project, and the maturities of any such Parity Bonds shall be in years and amounts suggested by the Authority.

Section 7.09. Insurance and Construction Bonds. The Issuer will carry such insurance and in such amounts as is customarily carried with respect to works and properties similar to the System, with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The Issuer will require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and the DEP, so long as the Authority is the Owner of the Bond. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their interests may appear, in accordance with the Loan Agreement, during construction of the Project in the full insurable value thereof. In time of war, the Issuer shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be disposed of as provided in the Resolution and otherwise shall be placed in the Renewal and Replacement Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer will also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the System. The Issuer shall carry such other insurance as is required by the Authority and DEP and as set forth in the Loan Agreement, including but not limited to flood insurance and business interruption insurance, to the extent available at reasonable cost to the Issuer.

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.

Section 7.10. Consulting Engineers. The Issuer shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and the DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers. Such resident engineer shall certify to the Authority, the DEP and the Issuer at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the

DEP in writing of such receipt. The Issuer shall submit a Performance Certificate, the form of which is attached as Exhibit A to the Loan Agreement, and is incorporated herein by reference, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project is 90% completed. The Issuer agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Issuer agrees that qualified operating personnel properly certified by the State will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 25% completion stage.

Section 7.11. Compliance With Loan Agreement, Rules and Regulations. The Issuer hereby covenants and agrees to perform and satisfy all terms and conditions of the Loan Agreement and 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 construction of the Project and operation, maintenance and use of the System.

Section 7.12. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by its System; and, in the event the Issuer or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or himself or herself of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the Issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.13. Enforcement of Collections. The 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 laws of the State of West Virginia. All such rates and charges, if not paid when due, shall become a lien on the premises served by the System.

Whenever any rates, rentals or charges for the services or facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, shall remain unpaid for a period of thirty (30) days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. The Issuer further covenants and agrees that it will, to the full extent permitted by law, and any rules and regulations promulgated by the Public Service Commission of West Virginia applicable thereto, discontinue and shut off both the water and sewerage services and facilities of the System to all delinquent users of the services and facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, and will not restore either water or sewerage services of the System until all delinquent charges for the service and facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, plus reasonable interest penalty charges for the restoration of service, have been fully paid.

Section 7.14. No Competing Franchise. To the extent allowable by law, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation or body, or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.15. Books, Records and Facilities. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority and the DEP such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the Loan Agreement or other sources of financing for the Project.

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

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any owner of a Bond or Bonds issued pursuant to the Resolution 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 practices in accordance with the rules and regulations of the PSC and the Act. 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, in the books, and along with other bookkeeping records as prescribed by the Issuer. The Issuer shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Issuer shall be reported to such agent of the Issuer as the Council shall direct.

The Issuer shall file with the Consulting Engineers and the Authority and DEP, and shall mail in each year to any owner or owners of Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues, Excess 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 Resolution with respect to said Bonds and the status of all said funds and accounts.

(C) The amount of any Bonds, or other obligations Outstanding and secured by a lien on the Net Revenues of the System.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Accountants, shall mail upon request, and make available generally, the report of said Independent Accountants, or a summary thereof, to any owner or owners of Bonds issued pursuant to this Resolution, and shall submit said report to the Authority and the DEP. The report of said audit shall include a statement that the Issuer is in compliance with the terms and provisions of the Act and the Loan Agreement and that the Issuer's revenues are adequate to meet its operation and maintenance expenses and debt service requirements.

The Issuer shall, commencing on the date contracts are executed for the construction of the Project and for two years following the completion of the Project, each month complete a Monthly Financial Report, the form of which is attached to the Loan

Agreement as Exhibit B and is incorporated herein by reference, and forward a copy by the 10th of each month to the Authority and the DEP.

The Issuer shall, during construction of the Project, complete Payment Requisition Forms, the form of which is attached to the Loan Agreement as Exhibit C and is incorporated herein by reference, and forward a copy to the DEP in compliance with the Issuer's construction schedule.

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

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

Section 7.16. Operating Budget. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority and the DEP within thirty days of the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and to any Holder of any Bonds who shall file his address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

Section 7.17. Mandatory Connection. The mandatory use of the System is essential and necessary to protect and preserve the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the 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 Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matter from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30 day notice of the availability of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or water-borne waste matter and which is not so connected with the System is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the inhabitants of the 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 7.18. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PUBLIC PURPOSE BONDS. The Issuer shall use the Bond proceeds solely for the Project and as otherwise set forth herein, and the Project will be solely operated as a public purpose and as local governmental activity of the Issuer.

B. PRIVATE ACTIVITY BOND COVENANT. The Issuer shall not permit at any time or times any of the proceeds of the Bond or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bond from the treatment afforded by Section 103(a) of the Code by reason of the classification of the Bond as "private activity bonds" within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code in order to assure the tax-exempt status of the Bond.

C. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of 5% of the Net Proceeds of the Bond is used, directly or indirectly, to make or

finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government nits.

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

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

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

Section 7.19. Statutory Mortgage Lien. For the further protection of the Bondholders, 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 Bond and shall be for the benefit of all Owners of the Bond. This lien is on a parity with the lien of the Prior Bond.

Section 7.20. Compliance. The Issuer also agrees to comply with all applicable laws, rules and regulations issued by the Authority, the DEP or other State, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

Section 7.21. Completion of Project; Permits and Orders. The Issuer will complete the Project as promptly as possible and operate and maintain the System in good condition and in compliance with all federal and state requirements and standards.

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

ARTICLE VIII

INVESTMENT OF FUNDS; NON-ARBITRAGE

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Resolution, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank or such other bank or national banking association holding such fund or account, as the case may be, at the direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Resolution, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01 and in Sections 8.02 and 8.03.

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

Section 8.02. Arbitrage. The Issuer covenants that (i) it will restrict the use of the proceeds of the Bond in such manner and to such extent as may be necessary, in view of the Issuer's reasonable expectations at the time of issuance of the Bond, so that the Bond will not constitute "arbitrage bonds" under Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return) with respect to the Bond so that the interest on the Bond will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Rebate. The Issuer will perform or have performed in rebate calculations required by the Code and will remit any rebate as required under the Code.

Section 8.04. Restriction of Yield and Bond Proceeds. The Issuer shall comply with the yield restriction on Bond proceeds as set forth in Section 148 of the Code.

ARTICLE IX

DEFAULT AND REMEDIES

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

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

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Bond set forth in this Resolution, any Supplemental Resolution or in the Bond, 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, the Construction Trust Fund Depository Bank, the Bond Registrar, any Paying Agent or a Holder of a Bond; or

(3) If a default occurs under the Series 1996A Bond Resolution;

(4) If a default occurs under the Prior Resolution; or

(5) 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 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 this Resolution 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 Resolution with respect to the Bonds, or the rights of such Registered Owners, provided however, that all rights and remedies of the Registered Owners shall be subject to those of the Registered Owners of the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under this Resolution and the Act, including the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any default in the payment of interest on any Bonds when the same shall become due, or in the payment of the principal of any Bond or Bonds, either at the specified date of maturity thereof or at a date set for redemption thereof, or otherwise in the performance of any covenant contained in the Resolution other than as to such payment and such default shall continue for a period of thirty (30) days after written notice to the Issuer of such default, any Bondholder shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the Bond and any interest thereon, the deposits into the funds and accounts hereby established as herein provided and the payment of Operating Expenses of the System and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of the Resolution and the Act.

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

Whenever all that is due upon the Bond and interest thereon and under any covenants of this Resolution 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 Resolution 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 Bond 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, 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 Bond. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Resolution, 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. The provisions of this section shall be subject to the Prior Resolution and to the parity rights of the Prior Bonds.

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Owners of all Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, then the pledge of Net Revenues and other moneys and securities pledged under this Resolution and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

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

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Resolution. 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 Bonds shall be made without the consent in writing of the Registered Owners of sixty-six and two-thirds percent (66 2/3%) or more in principal amount of the Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the revenues of the System without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Resolution 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 excludibility of interest on the Bonds and the Notes from the gross income of the Owners thereof.

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

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. All orders or resolutions and parts thereof in conflict with the provisions of this Resolution except for the Prior Resolution, are, to the extent of such conflict, hereby repealed and to the extent that a conflict arises between this Resolution and the Prior Resolution, the more restrictive provision shall prevail.

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 Chairman, 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 3rd day of April, 1996.

UNION PUBLIC SERVICE DISTRICT

Chairperson, Public Service Board

Member, Public Service Board

Member, Public Service Board

30478

CERTIFICATION

Certified as a true copy of a Resolution adopted by the Public Service Board of Union Public Service District on the 3rd day of April, 1996.

Dated: April 4, 1996.

[SEAL]

Joe Williams

Secretary, Public Service Board

EXHIBIT A

Project Description

Construction of approximately 2,300 L.F. of 8" PVC force main, 443 L.F. of 8" PVC gravity sewer pipe, 430 L.F. of 12" PVC gravity sewer pipe, renovation of the existing Union Boiler Lift Station and construction of the new Lake Shore Drive Lift Station including a portable emergency generator.

34516

EXHIBIT B

LOAN AGREEMENT

[See Tab 6(b)]

EXHIBIT C

SCHEDULE OF RATES

P. S. C. W. Va. No. 7

Cancels P. S. C. W. Va. No. 6

UNION PUBLIC SERVICE DISTRICT, a public utility

OF

Charleston, West Virginia

Rates, Rules and Regulations for Furnishing

SEWERAGE AND SEWAGE DISPOSAL SERVICE

AT

Cross Lanes and Tyler Heights, Kanawha County, West Virginia

Filed with THE PUBLIC SERVICE COMMISSION

OF

WEST VIRGINIA

Issued August 27, 1991

Upon the awarding of the construction contracts
Effective August 28, 1991

Issued by authority of an Order
of the Public Service Commission
of West Virginia in Case No. 90-660-PSD-CN,
dated August 27, 1991.

Issued by UNION PUBLIC SERVICE DISTRICT
(Name of Utility)

By [signature]

Chairman

Rules and Regulations for the Government of Sewer Utilities, adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto and modifications thereof hereafter made by said Commission. Regulations enacted by the Department of Health of West Virginia and the Department of Natural Resources of West Virginia or any other governmental units having jurisdiction over sewer systems and their design and operation.

RATES

APPLICABILITY

Applicable within the entire Union Public Service Sewer District created by the County Commission of Kanawha County by Order dated October 4, 1955.

AVAILABILITY OF SERVICE

Available for general, domestic, commercial and industrial sanitary sewer service.

(A) RATE (Based upon the metered amount of water furnished)

First	2,000 gallons used per month	$6.28	per 1,000 gallons
Next	3,000 gallons used per month	$3.05	per 1,000 gallons
Next	15,000 gallons used per month	$2.57	per 1,000 gallons
Over	20,000 gallons used per month	$2.09	per 1,000 gallons

(A) MINIMUM CHARGE

The above schedule is subject to a minimum monthly charge of Twelve Dollars and Fifty-Six Cents. ($12.56).

(A) (C) NON-METERED

Where the customer has no water meter or where a substantial portion of the water consumed is not metered, the monthly minimum charge shall be for 3,000 gallons or $15.61.

(C) DELAYED PAYMENT PENALTY

The above tariff is net. On all current usage billings not paid within twenty (20) days, 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.

(A) Indicates advance
(C) Indicates change

(A) SEWER CONNECTION CHARGE

The District will run its line from its main to the boundary line of the property owner's lot and will provide him with a tap. For this service, the property owner shall pay a sewer connection charge of Two Hundred Fifty Dollars ($250.00). This is the same, exact and identical sewer connection fee previously authorized by the Commission in the District's original tariff. This fee is intended to defray the District's actual costs of construction incurred in order to provide a service connection to the customers. These monies, as before, shall be paid into the District's sewer line and the lot of another intervenes between the District's lines and the property owner's lot, the property owner shall pay the costs or awards of obtaining permission to cross the intervening lot whether by negotiation or by condemnation.

RULES PERTAINING TO SUBDIVISIONS

A. Each such subdivision must obtain the required approval of the Planning and Zoning Commission of Kanawha County.

B. The plans and sketches for the proposed sewer system shall meet all requirements of the Department of Health of West Virginia and shall be approved by the Division of Sanitary Engineering of said Department.

C. The subdivider's sewer system shall itself be inspected by Union Public Service District; and, if approved by the Health Department of West Virginia and the aforesaid Planning and zoning Commission and Union Public Service District, the said District will accept a conveyance of the system and will be solely responsible for its future repair and maintenance.

WATER DISCONNECT - RECONNECT FEES

Whenever water service has been disconnected for non-payment of sewer bills, a disconnection fee of $20.00 shall be charged.

Whenever water service which has been previously disconnected or otherwise withheld for non-payment of sewer bills is reconnected, a fee of $20.00 shall be charged.

(A) Indicates advance

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO DATES, MATURITIES, INTEREST RATES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES, AND OTHER TERMS OF THE UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BOND, SERIES 1996A, DESIGNATING A REGISTRAR, PAYING AGENT, AND DEPOSITORY BANK; APPROVING LOAN AGREEMENT WITH RESPECT TO THE SERIES 1996A BOND; AND MAKING OTHER PROVISIONS AS TO THE SERIES 1996A BOND.

WHEREAS, the Public Service Board of the Union Public Service District (the "District") has duly and officially adopted a Bond Resolution on April 3, 1996 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN WASTEWATER COLLECTION AND TREATMENT FACILITIES OF UNION PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE OF NOT MORE THAN $344,416 IN AGGREGATE PRINCIPAL AMOUNT OF UNION PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BOND, SERIES 1996A OF THE PUBLIC SERVICE DISTRICT TO BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE PUBLIC SERVICE DISTRICT WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION, AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THERIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SAID BOND; RATIFYING A LOAN AGREEMENT WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY AND THE WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION RELATING TO SAID BOND; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SAID BOND; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Resolution provides for the issuance of the Union Public Service District Sewerage System Revenue Bond, Series 1996A (the "Series 1996A Bond") in aggregate principal amount not to exceed $344,416, respectively, in accordance with Chapter 16, Article 13A, of the Code of West Virginia, 1931, as amended (the "Act"), and the terms of the Loan Agreement entered into between the District, the Authority and the

West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment for the Series 1996A Bond (the "Loan Agreement"), but requires that the dates, interest rates, maturities, sale prices and other terms of the Series 1996A Bond should be established by a supplemental resolution;

WHEREAS, the Series 1996A Bond is proposed to be purchased by the Authority pursuant to the Loan Agreement;

WHEREAS, the Public Service Board (the "Board") of the District deems it essential and desirable that this resolution (the "Supplemental Resolution"), be adopted and that the prices, the maturity dates, the redemption provisions, the interest rates, and the interest and principal dates of the Series 1996A Bond be fixed hereby in the manner stated herein; that the Loan Agreement be approved; and that other matters relating to the Series 1996A Bond be herein provided for; and

WHEREAS, capitalized terms not otherwise defined shall have the meanings given such terms in the Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE UNION PUBLIC SERVICE DISTRICT:

Section 1. Pursuant to the Resolution, the Act, and this Supplemental Resolution, the Series 1996A Bond shall be in the aggregate principal amount of $344,416, with the following provisions:

(A) The Series 1996A Bond shall be originally issued in the form of a single bond, numbered AR-1 in the principal amount not to exceed $344,416. The Series 1996A Bond shall be dated the date of delivery thereof, shall finally mature December 1, 2016, and shall bear interest at the rate of two percent (2%) per annum, commencing March 1, 1997. Both principal of and interest on the Series 1996A Bond are payable quarterly on September 1, December 1, March 1 and June 1 of each year. The Series 1996A Bond shall be subject to redemption upon the written consent of the Authority, upon payment of principal, interest and redemption premium, if any, and subject to the other requirements provided in the Loan Agreement, as long as the Authority or DEP shall be the registered owner of the Series 1996A Bond, and shall be payable in installments of principal and interest in the amounts set forth on Schedule Y attached to the Loan Agreement and incorporated therein by reference. The District shall pay the 1% Administration Fee as provided in the Resolution and the Loan Agreement .

(B) The Series 1996A Bond shall be executed by the Chairperson of the Board of the District by her manual signature and attested by the Secretary of the Board of the District by his manual signature and the seal of the District shall be impressed thereon. The seal impressed upon this Resolution is hereby adopted as the official seal of the District. The Series 1996A Bond shall be sold to the Authority in accordance with the terms of the Loan Agreement at a price equal to 100% of the principal amount thereof.

Section 2. All other provisions relating to the Series 1996A Bond shall be as provided in the Resolution , and the Series 1996A Bond shall be in substantially the form provided in the Resolution with such changes, insertions and omissions as may be approved by the Chairperson of the District. The execution of the Series 1996A Bond by the Chairperson shall be conclusive evidence of such approval.

Section 3. The District does hereby ratify, approve and accept the Loan Agreement including the "Schedule X" attached thereto, copies of which are incorporated herein by reference, and the execution and delivery by the Chairperson of the Loan Agreement and the performance of the obligations contained therein, on behalf of the District have been and are hereby authorized, approved and directed. The District hereby affirms all covenants and representations made in the Loan Agreement and in the Application to the DEP and the Authority. The price of the respective Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds will be advanced from time to time as requisitioned by the District.

Section 4. The District hereby appoints and designates One Valley Bank, National Association, Charleston, West Virginia, as the Construction Trust Fund Depository Bank (the "Construction Trust Fund Depository Bank), as provided in the Resolutions.

Section 5. The District hereby appoints and designates City National Bank, Cross Lanes, West Virginia, as the Depository Bank (the "Depository Bank"), as provided in the Resolution.

Section 6. The District hereby appoints and designates One Valley Bank, National Association, Charleston, West Virginia, as Registrar for the Series 1996A Bond and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the District and the Registrar, in substantially the form attached hereto, and the execution and delivery by the Chairperson of the Registrar's Agreement, and the performance of the obligations contained therein, on behalf of the District are hereby authorized, approved and directed.

Section 7. The District hereby appoints and designates the West Virginia Municipal Bond Commission (the "Commission"), Charleston, West Virginia as Paying Agent for the Series 1996A Bond.

Section 8. The Chairperson and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates, including the Registrar's Agreement, required or desirable in connection with the Series 1996A Bond hereby and by the Resolutions approved and provided for, to the end that the Series 1996A Bond may be delivered to the Authority pursuant to the Loan Agreement on or about April 4, 1996.

Section 9. The proceeds of the Bond, as advanced from time to time, shall be deposited in or credited to the Bond Construction Trust Fund, as received from time to time for payment of Costs of the Project, including costs of issuance of the Bond.

Section 10. The District hereby directs that $-0- of the proceeds of the Series 1996A Bond be placed in the Series 1996A Bond Reserve Account provided that if thirty days following the Completion Date of the Project the Issuer has not requested and received the full amount of the bond proceeds and the Issuer did not fund the debt service reserve requirement at the closing, then the Issuer shall requisition the remaining balance of the Bond proceeds (to the extent that it does not exceed 10% of the total proceeds of the bonds) with instructions for such requisition to be disbursed to its Reserve Account at the West Virginia Municipal Bond Commission.

Section 11. The financing of the Project with proceeds of the Series 1996A Bond is in the public interest, serves a public purpose of the District and will promote the health, welfare and safety of the residents of the District.

Section 12. The District hereby directs the Depository Bank to initially invest all monies in the funds and accounts established under the Bond Resolution in Qualified Investments further directed by the District.

Section 13. The District shall not permit at any time or times any of the proceeds of the Series 1996A Bond or any other funds of the District to be used directly or indirectly in a manner which would result in the exclusion of the Series 1996A Bond from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason of the classification of the Series 1996A Bond as a "private activity bond" within the meaning of the Code. The District will take all actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

Section 14. This Supplemental Resolution shall be effective immediately upon adoption.

Dated: April 3, 1996

UNION PUBLIC SERVICE DISTRICT

Chairperson

[SEAL]

Joe Williams

Secretary

CHASFS3:30479

WEST VIRGINIA
Water Development Authority
Celebrating 34 Years of Service 1974 - 2008

UNION PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)
UNION PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2009 B
(WEST VIRGINIA CWSRF/ARRA),
SEWER REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

CONSENT TO ISSUANCE OF PARITY BONDS

In reliance upon a certificate of John D. Blackwell, an independent certified public accountants and Jackson Kelly PLLC, bond counsel, stating that the coverage and parity requirements have been met, the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the Prior Bonds, hereinafter defined and described, hereby consents to the issuance of the Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture), in the original principal amount of $4,172,000, Sewer Revenue Bonds, Series 2009 B (West Virginia CWSRF Program/ARRA), in the original aggregate principal amount of $1,363,613 and the Sewer Revenue Bonds, Series 2009 C (West Virginia CWSRF Program), in the original aggregate principal amount of $3,074,294 (collectively the "Series 2009 Bonds") by Union Public Service District (the "Issuer"), under the terms of the ordinance and resolution authorizing the Series 2009 Bonds, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Sewer Revenue Bonds, Series 1991 A, Sewer Revenue Bonds, Series 1998 A and Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 A and senior to with respect to liens, pledge and source of an security for payment for the Issuer's Sewer Revenue Bonds, Series 1991 C.

WITNESS my signature on this 20th day of November, 2009.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Carol A. Cummings

Authorized Representative

{C1604215.1}

180 Association Drive, Charleston, WV 25311-1217
phone (304) 558-3612 / fax (304) 558-0299
www.wwda.org

UNION PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

GENERAL CERTIFICATE ON:

1. TERMS AND AWARD OF BONDS
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. SPECIMEN BOND
13. BOND PROCEEDS
14. USERS
15. CONFLICT OF INTEREST
16. PROCUREMENT OF ENGINEERING SERVICES
17. WETLANDS COVENANT
18. COUNTERPARTS

On this 20th day of November, 2009, we, the undersigned CHAIRPERSON and the undersigned SECRETARY of the Public Service Board of Union Public Service District (the "Issuer"), and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the Issuer's Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture) (the "Bonds"), dated the date hereof, as follows:

1. TERMS AND AWARD OF BONDS: The entire issue of the Bonds has been duly awarded to the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), pursuant to a letter of conditions dated August 1, 2009 (the "Letter of Conditions"), a Bond Resolution duly adopted by the Issuer on November 18, 2009, and a Supplemental Resolution duly adopted by the Issuer on November 18, 2009 (collectively, the "Resolution"). All capitalized words and terms used in this Certificate and not otherwise defined herein shall have the same meaning as set forth in the Resolution.

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, licenses, orders, permits, exemptions, consents, authorizations, registrations 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 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. The Issuer has received the Drug Free Workplace affidavits from the successful bidders required by Chapter 21, Article 1D of the West Virginia Code of 1931, as amended.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the acceptance and approval of the Letter of Conditions by the Issuer. The Issuer has met all conditions set forth in the Letter of Conditions and will provide the financial, institutional, legal and managerial capabilities necessary to complete and operate the Project.

The Bonds shall be issued on a parity with the Series 2009 B Bonds, the Series 2009 C Bonds and with the First Lien Bonds and senior and prior to the Second Lien Bonds with respect to liens, pledge and source of and security for payment and in all other respects. The Issuer has met the parity and coverage requirements of the First Lien Bonds and the Prior Resolutions and has substantially complied with all other parity requirements, except to the extent that noncompliance with any such other parity requirements is not of a material nature. The Issuer has obtained (1) the certificate of an Independent Certified Public Accountant stating that the parity and coverage tests of the First Lien Bonds have been met; (2) the written consent of the Registered Owners of the First Lien Bonds to the issuance of the Bonds on a parity with the Prior Bonds; and (3) the written consent of the Registered Owners of the Second Lien Bonds to the issuance of the Bonds senior and prior to the

Second Lien Bonds. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

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; and the Chairperson did deliver the Bonds to a representative of the Government as the original purchaser of the Bonds.

6. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received a Recommended Decision of an Administrative Law Judge entered on March 6, 2009, as made final by the PSC on March 26, 2009, in Case No. 08-1369-PSD-CN, and an order of the PSC dated November 16, 2009, 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 March 26, 2009 Order has expired prior to the date hereof. The time for appeal of the November 16, 2009 Order which supplements the March 26, 2009 Order has not expired but the Issuer does not plan to appeal such Order. Such Orders remains in full force and effect.

7. RATES: The rates of the System, as approved by the PSC Order entered on March 26, 2009, in Case No. 08-1369-PSD-CN, will become effective when the Project is substantially complete.

8. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "Union Public Service District." The Issuer is a public service district and a public corporation duly created by The County Commission of Mason County and presently existing under the laws of, and a political subdivision of, the State of West Virginia in Mason County of said State. The Issuer operates the System in Mason, Putnam, Jackson and Cabell Counties of said State. The governing body of the Issuer is its Public Service Board, consisting of three duly appointed, qualified and acting members, whose names and dates of termination of their current terms are as follows:

Name	Date Of Termination Of Office

Wilma Davis	October 1, 2011
Joe Williams	October 1, 2013
Dr. Charles Warner	October 1, 2009

The duly elected or appointed officers of the Board for 2009 are as follows:

Wilma Davis	-	Chairperson
Dr. Charles Warner	-	Secretary
Joe Williams	-	Treasurer

The duly appointed and acting attorney for the Issuer is H. Wyatt Hanna, III, Esquire, South Charleston, West Virginia.

9. LAND AND RIGHTS-OF-WAY: All land, 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, the acquisition, construction, and financing of the Project or the operation of 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 and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Resolution and the Letter of Conditions. All insurance for the System required by the Resolution and the Letter of Conditions are in full force and effect.

12. SPECIMEN BOND: Attached hereto as Exhibit A is a specimen of the Bond which, except as to execution, is identical in all respects with the Bond this day delivered to the Government and being substantially in the form prescribed in the Resolution.

13. BOND PROCEEDS: On the date hereof, the Issuer received from the Government (i) the sum of $741,713, being a portion of the principal amount of the Series 2009 A Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer from time to time as acquisition and construction of the Project progresses.

14. USERS: The Issuer will serve at least 5,239 bona fide users upon the completion of the Project, in full compliance with the Letter of Conditions.

15. CONFLICT 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. 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.

17. WETLANDS COVENANT: The Issuer hereby certifies that it will not use any proceeds of the Bonds for a purpose that will contribute to excessive erosion of highly erodible lands or to the conversion of wetlands to produce an agricultural commodity.

18. 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 Union Public Service District as of the date first written above.

[CORPORATE SEAL]

Signature	Official Title
	Chairperson
	Secretary
	Attorney

EXHIBIT A

Specimen Bond (see Tab No. 14)

UNION PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)
SEWER REVENUE BONDS, SERIES 2009 B
(WEST VIRGINIA CWSRF/ARRA),
SEWER REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

CERTIFICATE OF SECRETARY
AS TO TRUTH AND ACCURACY OF DOCUMENTS DELIVERED

On this 20th day of November, 2009, the undersigned duly appointed Secretary of Union Public Service District (the "Issuer") hereby certifies that the copies of the following documents being delivered in connection with the closing of the above-referenced bonds (the "Bonds"), 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 Creating and Enlarging the Issuer.
2. Orders 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. USDA Letter of Conditions, Closing Letter and Loan Resolution.
8. Infrastructure Council Approval Letter.
9. ARRA Assistance Agreement.
10. Minutes of Board Meeting regarding Adoption of USDA Loan Resolution.
11. USDA and CWSRF Bond Resolutions and related Supplemental Resolutions.
12. Minutes of Meeting regarding Adoption of Resolutions.

13. Affidavits of Publication regarding Notice of Borrowing and Notice of Meeting to Adopt Bond Resolutions and Supplemental Resolutions.

14. Environmental Health Services Permit.

15. Evidence of Insurance.

WITNESS my signature and the official seal of the Issuer as of the date first written above.

UNION PUBLIC SERVICE DISTRICT

Joe Williams

[SEAL] Secretary

UNION PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)
SEWER REVENUE BONDS, SERIES 2009 B
(WEST VIRGINIA CWSRF/ARRA),
SEWER REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

CERTIFICATE OF CONSULTING ENGINEER

I, Jonathan Carpenter, Registered Professional Engineer, West Virginia License No. 15425, of Thrasher Engineering, Charleston, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain additions, betterments and improvements (the "Project") to the existing public sewer facilities (the "System") of UNION Public Service District (the "Issuer"), to be constructed primarily in Kanawha County, West Virginia, which acquisition and construction are being permanently financed by the above-captioned bonds (the "Bonds") of the Issuer. All capitalized words used herein and not defined herein shall have the same meaning set forth in the Bond Resolution passed by the Issuer on November 18, 2009, as supplemented by a Supplemental Resolution adopted by the Issuer on November 18, 2009, and the ARRA Assistance Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection ("DEP"), dated November 20, 2009 (the "ARRA Assistance Agreement").

2. The Bonds are being issued for the purposes of (i) paying the Series 2007 A Bonds; (ii) paying the costs of acquisition and construction of the Project; and (iii) paying certain costs of issuance 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 DEP and any change orders approved by the Issuer, the DEP and all necessary

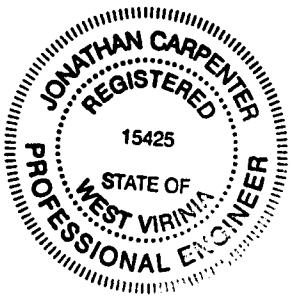
governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 40 years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction 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 H. Wyatt Hannah, 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, to the extent the plans were prepared by my firm, and operation of the System; (ix) in reliance upon the certificate of the Issuer's certified public accountant, Michael D. Griffith, CPA, of even date herewith, as of the effective date thereof, the rates and charges for the System as enacted by the Issuer will be sufficient to comply with the provisions of the ARRA Assistance Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the DEP; (xi) attached hereto as Exhibit A are the final amended "Schedule B - Total Cost of Project, Sources of Funds and Cost of Financing" for the Bonds associated with the Project; and (xii) all contractors to be awarded contracts for the construction of the Project have submitted affidavits indicating such contractor has a drug free workplace plan pursuant to Chapter 21, Article 1D of the West Virginia Code of 1931, as amended.

4. I have received the Buy American Certification from the contractor responsible for performing the construction work for the Project.

5. The Project will serve 264 new customers.

WITNESS my signature and seal on this 20th day of November, 2009.

[SEAL]



THRASHER ENGINEERING

Jonathan Carpenter, P.E.
West Virginia License No. 15425

EXHIBIT A

[Schedule B]

10/27/2009

Union PSD Post bid costs

SCHEDULE B (Indicate other sources)

	TOTAL	ARRA LOAN	SRF, 0%, 1% adm, 20 yr	RUS Loan & Grant	TOTAL
A. COST OF PROJECT:					
1 CONSTRUCTION					
Contract #1 Brackenridge	3,388,000	0	1,551,250	1,836,750	3,388,000
Contract #2 Rover	1,340,863	1,340,863			1,340,863
Contract #3 Rover	1,343,044		1,343,044		1,343,044
Scada change order	180,000		180,000		180,000
subtotal	6,251,907	1,340,863	3,074,294	1,836,750	6,251,907
2 TECHNICAL SERVICES					
Basic	635,000			635,000	635,000
Special/Other Svcs	154,000			154,000	154,000
Resident Inspection	300,000			300,000	300,000
Amendment	50,000			50,000	50,000
3 LEGAL & FISCAL					
Legal	70,000			70,000	70,000
Accountant	25,000			25,000	25,000
4 ADMINISTRATIVE					
Electric Svc	20,000			20,000	20,000
Permits & Fees	10,000			10,000	10,000
WV DOH Insp & Bond	30,000			30,000	30,000
Interim Interest	40,000			40,000	40,000
Interest during Construction	355,000			356,000	355,000
5 Sites & Other Lands					
Activity	0				0
Acquisition	50,000			50,000	50,000
6 CONTINGENCY - Construction	437,000			437,000	437,000
Project contingency	125,000			125,000	125,000
7 TOTAL	8,552,907	1,340,863	3,074,294	4,137,750	8,552,907
B COST OF FINANCING					
8 Funded Reserve	0				0
9 Registrar fees	500	500			500
10 Bond Counsel	56,500	22,250		34,250	56,500
11 Cost of Financing	57,000	22,750	0	34,250	57,000
12 TOTAL Cost of Project	8,609,907	1,363,613	3,074,294	4,172,000	8,609,907
C SOURCES OF FUNDS					
13 State Grants					0
14 Other sources				4,172,000	0
15 net proceeds from Bond Issuance		1,363,613	3,074,294	4,172,000	

11-20-09 11/20/09

Authorized Representative Date Consulting Engineer Date

Griffith & Associates, PLLC Accountants & Consultants

November 20, 2009

UNION PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)
SEWER REVENUE BONDS, SERIES 2009 B
(WEST VIRGINIA CWSRF/ARRA),
SEWER REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

Union Public Service District
Cross Lanes, WV 25314

West Virginia Water Development Authority
Charleston, WV 25311

West Virginia Department of Environmental Protection
Charleston, WV 25311

Jackson Kelly PLLC
Charleston, WV 25301

United States Department of Agriculture
Rural Utility Service
Parkersburg, WV 26102

Ladies and Gentlemen:

We have reviewed the sewer rates of Union Public Service District (the "Issuer"), and the projected operating expenses and anticipated customer usage provided by Thrasher Engineering, the consulting engineer of the Issuer. It is our opinion that such rates are sufficient (i) to provide for all operating expenses of the public sewer facilities of the Issuer (the "System"), and (ii) to leave a balance each fiscal year equal to at least 115% of the maximum amount required in any succeeding fiscal year for the payment of principal of and interest on the Issuer's Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture), Sewer Revenue Bonds, Series 2009 B (West Virginia CWSRF Program/ARRA) and Sewer Revenue Bonds, Series 2009 C (West Virginia CWSRF Program) (collectively, the "Bonds") and all other obligations secured by or payable from revenues of the System on a parity with the Bonds, including the Issuer's Sewer Revenue Bonds, Series 1991 A, Sewer Revenue Bonds, Series 1991 B, and Sewer Revenue Bonds, Series 1996 A (collectively, the "Prior Bonds").

Is further our opinion that (i) the Net Revenues for the fiscal year following the year in which the Bonds are to be issued will be at least 120% of the average annual debt service on the Prior Bonds and the Bonds; and (ii) the Net Revenues actually derived from the System

Michael D. Griffith, CPA, AFI *950 Little Coal River Road Alum Creek, WV 25003*
michaelgriffithcpa@verizon.net *Phone: (304) 756.3600 Facsimile: (304) 756.2911*

during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of the 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 the Bonds, will not be less than 115% of the maximum debt service in any succeeding year on the Prior Bonds and the Bonds.

The Issuer is current on all payment to the funds and accounts established under the Bond Resolutions, including RUS reserve accounts.

Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Ordinance authorizing the Bonds.

Very truly yours,

Michael D. Griffith, CPA, AFI
Griffith & Associates, PLLC

MDG/dk

UNION PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

CERTIFICATE OF NO LITIGATION

On this 20th day of November, 2009, the undersigned hereby certifies that as of the date hereof, no controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the authorization, issuance, sale or delivery of the above-captioned Bonds ("the Bonds"), the acquisition and construction of the Project, the operation of the System, the receipt of the Gross Revenues, or in any way contesting or affecting the validity of the Bonds or any proceedings of Mason County Public Service District (the "Issuer") taken with respect to the authorization, issuance, sale or delivery of the Bonds, the pledge or application of the Net Revenues or any other moneys or security provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection of the Gross Revenues or the pledge of the Net Revenues for payment of the Bonds.

All capitalized terms used herein shall have the same meaning set forth in the Bond Resolution, authorizing the Bonds, duly adopted by the Issuer on November 18, 2009.

WITNESS my signature as of the date first written above.

H. Wyatt Hanna III
Attorney for Union Public Service District

UNION PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

RECEIPT FOR BONDS

On this 20th day of November, 2009, the undersigned authorized representative of the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), for and on behalf of the Government, hereby certifies as follows:

1. On the date hereof, the undersigned received for and on behalf of the Government, the Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture) (the Bonds"), of Union Public Service District (the "Issuer"), dated November 20, 2009, issued in the form of one bond in the principal amount of $4,172,000, and numbered AR-1. The Bonds bear interest at the rate of 4.25% per annum, payable in monthly installments on the amounts advanced thereunder, commencing 30 days following the date of delivery of such Bonds and continuing on the corresponding day of each month for the first 24 months after the date of such Bonds, and thereafter, on the corresponding day of each month in installments of principal and interest on such Bonds in the aggregate amount of $19,150, except that the final installment on such Bonds shall be paid at the end of 40 years from the date of such Bonds in the sum of the unpaid principal and interest due on the date thereof.

2. 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 as of the date first written above.

UNITED STATES OF AMERICA,
UNITED STATES DEPARTMENT OF
AGRICULTURE, RURAL UTILITIES SERVICE

Authorized Representative

UNION PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

RECEIPT FOR BOND PROCEEDS

On this 20th day of November, 2009, the undersigned Chairperson of Union Public Service District (the "Issuer"), for and on behalf of the Issuer, hereby certifies that the Issuer has received on the date hereof from the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), the sum of $741,713, being the first advance on the principal of the $4,172,000 Union Public Service District Water Revenue Bonds, Series 2009 A (United States Department of Agriculture), dated November 20, 2009 (the "Bonds"). The Issuer understands that the remaining proceeds of the Bonds will be advanced to the Issuer by the Government from time to time as construction progresses.

WITNESS my signature as of the date first written above.

UNION PUBLIC SERVICE DISTRICT

Chairperson

UNION PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

On this 20th day of November, 2009, CITY NATIONAL BANK, Cross Lanes, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Resolution and a Supplemental Resolution adopted by Union Public Service District (the "Issuer") on November 18, 2009 (collectively, the "Resolution"), authorizing the issuance of the Issuer's Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture), in the aggregate principal amount of $4,172,000, dated November 20, 2009, and agrees to serve as Depository Bank, all as set forth in the Resolution.

WITNESS my signature as of the date first written above.

CITY NATIONAL BANK

Charla E. Nuckolls Jr.
Authorized Officer

{C1411057.1}

WV MUNICIPAL BOND COMMISSION
1207 Quarrier Street, Suite 401
Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM
Date of Report: November 20, 2008

ISSUE: Union Public Service District Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture)
ADDRESS: 5110 West Washington Street, Cross Lanes, West Virginia 25313 COUNTY: Kanawha
PURPOSE OF ISSUE: New Money X
Refunding _____ Refunds issue(s) dated: _____
ISSUE DATE: November 20, 2009 CLOSING DATE: November 20, 2009
ISSUE AMOUNT: $4,172,000 RATE: 4.25%
1st DEBT SERVICE DUE: N/A 1st PRINCIPAL DUE: N/A
1st DEBT SERVICE AMOUNT: N/A PAYING AGENT: None (District pays USDA directly)

BOND COUNSEL: Jackson Kelly PLLC UNDERWRITERS COUNSEL: _____
Contact Person: Samme L. Gee, Esquire Contact Person: _____
Phone: (304) 340-1318 Phone: _____

CLOSING BANK: City National Bank ESCROW TRUSTEE: _____
Contact Person: Charles Nuckles Contact Person: _____
Phone: (304) 776-7904 Phone: _____

KNOWLEDGEABLE ISSUER CONTACT: OTHER: USDA, Rural Utilities Service
Contact Person: William Carter Contact Person: Tracey Rowan
Position: General Manager Function: Rural Development Specialist
Phone: (304) 776-3131 Phone: (304) 776-5298
E-Mail: unionpublic@wirefire.com

DEPOSITS TO MBC AT CLOSE: _____ Accrued Interest: $_____
_____ Capitalized Interest: $_____
By _____ Wire _____ Reserve Account: $_____
_____ Check _____ Other: _____ $_____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire _____ To Escrow Trustee: $_____
_____ Check _____ To Issuer: $_____
_____ IGT _____ To Cons. Invest. Fund $_____
_____ To Other: _____ $_____

NOTES: The Bond Commission will only hold the Series 2009 A Bonds Reserve Account to be funded over 10 years. Debt service payments will be made by the District directly to the National Finance Office.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____
_____

State of West Virginia

OFFICE OF ENVIRONMENTAL HEALTH SERVICES

CAPITOL & WASHINGTON STREETS 1 DAVIS SQUARE, SUITE 200 CHARLESTON, WV 25301
Telephone (304) 558-2981

RECEIVED
2008 OCT 28 PM 3 24
W VA PUBLIC SERVICE COMMISSION
SECRETARY'S OFFICE

PERMIT

PROJECT: (Sewer) 40th Street WWTP Upgrade
Big & Little Tyler Mountain Roads Sewer Extensions

PERMIT NO.: 18,142

LOCATION: Cross Lanes **COUNTY:** Kanawha **DATE:** 10-27-2008

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

Union Public Service District
P. O. Box 7350
Cross Lanes, West Virginia 25313

is hereby granted approval to: install approximately 30,990 LF of 8" and 10,186 LF of 6" sewer line; necessary manholes and cleanouts; one (1) grinder pump station; and approximately 52 LF of 1.5" force main. Also, to upgrade and expand the existing 40th Street 0.60 MGD wastewater treatment plant to a 0.90 MGD plant with major improvements to consist replacement of the existing influent pump station pumps with two (2) 700 to 1,250 G.P.M. pumps; replacing the existing headworks with new screening and grit removal/handling equipment; upgrading the aeration system piping for the existing two (2) contact/stabilization basins; adding two (2) 13.33 ft. X 24 ft. X 14.83 ft. contact basins and two (2) 22 ft. X 24 ft. X 14,83 ft. stabilization basins to the existing two (2) contact/stabilization basins; replacing the existing aeration blowers with two (2) new blowers; eliminating existing clarifier Nos. 3 & 4 and replacing with four (4) 12 ft. X 25 ft. X 11.06 ft. clarifiers (Nos. 3, 4, 5 and 6) with mechanical solids removal equipment (keeping the existing clarifiers Nos. 1 & 2); replacing the existing sludge return pump station with a new 400 to 938 G.P.M. duplex station; upgrading the existing non-potable water system by replacing the existing pump with a new 300 G.P.M. pump; adding a new office/garage building and demolishing the old office building; and all necessary piping, valves, controls and appurtenances.

The new sewage collection facilities are to serve 283 customers along Big Tyler Mountain Road and Little Tyler Mountain Road in the Union Public Service District. The wastewater treatment facilities are to serve approximately 4990 customers in the Union Public Service District.

NOTE: **This permit is contingent upon maintaining a minimum ten (10) feet horizontal separation between sewer and water lines and a minimum 18" vertical separation between crossing sewer and water lines, with the water line to be over the sewer line.**

The Environmental Engineering Division of the **St. Albans District Office (304) 722-0611** is to be notified when construction begins.

Validity of this permit is contingent upon conformity with plans, specifications, application forms, and other information submitted to the West Virginia Bureau for Public Health.

FOR THE DIRECTOR

William S. Herold, Jr., P.E., Assistant Manager
Infrastructure and Capacity Development
Environmental Engineering Division

WSH:cls

pc: Thrasher Environmental, Inc.
Katheryn Emery, P.E., DEP
James W. Ellars, P.E.
Amy Swann, PSC
Kanawha-Charleston Health Department
OEHS-EED St. Albans DO

RECEIVED
2008 OCT 29 PM 3 24
W VA PUBLIC SERVICE
COMMISSION
SECRETARY'S OFFICE

ACORD CERTIFICATE OF LIABILITY INSURANCE

INSURED COPY

DATE (MM/DD/YY) 11/17/09

PRODUCER
WV BOARD OF RISK & INSURANCE MGT.
90 MACCORKLE AVE. SW, SUITE 203
SOUTH CHARLESTON, WV 25303

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.

INSURERS AFFORDING COVERAGE

INSURED
Union Public Service District
P O Box 7350
Cross Lanes, WV 25356

INSURER A:	NATIONAL UNION FIRE CO OF PITTSBURGH, PA
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS MADE X OCCUR X WRONGFUL ACT X PROFESSIONAL GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC	L2685	07/01/2009	07/01/2010	EACH OCCURRENCE FIRE DAMAGE (Any one fire) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 100,000 $ 0 $ INCLUDED $ N/A $ N/A
A	AUTOMOBILE LIABILITY ANY AUTO X ALL OWNED AUTOS X SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS		07/01/2009	07/01/2010	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
	GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EA ACC AGG	$ $ $
	EXCESS LIABILITY OCCUR CLAIMS MADE DEDUCTIBLE RETENTION $				EACH OCCURRENCE AGGREGATE	$ $ $ $ $
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY STOPGAP		07/01/2009	07/01/2010	WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $
B	OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

SUBJECT TO THE PROVISIONS, CONDITIONS AND EXCLUSIONS OF THE POLICIES LISTED ABOVE, IT IS AGREED THAT THE CERTIFICATE HOLDER IS AN "ADDITIONAL INSURED" WITH RESPECTS TO:

Combined waterworks & sewer system revenue bonds, Series 2009A

CERTIFICATE HOLDER | ADDITIONAL INSURED; INSURER LETTER: ____

WV Water Development Authority
180 Association Drive
Charleston WV 25311

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE: Jerry D. Stadwell

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18UNIONPUB

ACORD™ EVIDENCE OF COMMERCIAL PROPERTY INSURANCE

DATE (MM/DD/YYYY): 11/17/2009

THIS EVIDENCE OF COMMERCIAL PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE OF COMMERCIAL PROPERTY INSURANCE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

PRODUCER NAME, CONTACT PERSON AND ADDRESS
BB&T-Carson Insurance Services
601 Tennessee Avenue
Charleston, WV 25302

PHONE (A/C, No, Ext): 304 346-0806
FAX (A/C, No): 888 751 3002
E-MAIL ADDRESS: SStogden@bbandt.com

CODE:
SUB CODE:
AGENCY CUSTOMER ID #: 534764

COMPANY NAME AND ADDRESS
Cincinnati Insurance Company
P.O. Box 145496

Cincinnati, OH 45250-5496

NAIC NO: 10677

IF MULTIPLE COMPANIES, COMPLETE SEPARATE FORM FOR EACH

POLICY TYPE

NAMED INSURED AND ADDRESS
Union Public Service District Board of Commissioners
P O Box 7350
Cross Lanes, WV 25356

LOAN NUMBER
POLICY NUMBER: CPP0835713
EFFECTIVE DATE: 01/01/2009
EXPIRATION DATE: 01/01/2012
☐ CONTINUED UNTIL TERMINATED IF CHECKED

ADDITIONAL NAMED INSURED(S)

THIS REPLACES PRIOR EVIDENCE DATED:

PROPERTY INFORMATION (Use REMARKS on Page 2, if more space is required) ☒ BUILDING OR ☐ BUSINESS PERSONAL PROPERTY

LOCATION/DESCRIPTION
See Remarks

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 EVIDENCE OF PROPERTY INSURANCE 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.

COVERAGE INFORMATION PERILS INSURED: ☐ BASIC ☐ BROAD ☒ SPECIAL ☐

COMMERCIAL PROPERTY COVERAGE AMOUNT OF INSURANCE: $ 122,000 Building DED: $1,000

	YES	NO	N/A	
☐ BUSINESS INCOME ☐ RENTAL VALUE				If YES, LIMIT: ☐ Actual Loss Sustained; # of months
BLANKET COVERAGE Building	X			If YES, indicate value(s) reported on property identified above: $ 726,000
TERRORISM COVERAGE				Attach Disclosure Notice / DEC
IS THERE A TERRORISM-SPECIFIC EXCLUSION?				
IS DOMESTIC TERRORISM EXCLUDED?				
LIMITED FUNGUS COVERAGE				If YES, LIMIT: DED:
FUNGUS EXCLUSION (IF "YES", specify organization's form used)				
REPLACEMENT COST	X			
AGREED VALUE	X			Building
COINSURANCE	X			If Yes, 90 % Building
EQUIPMENT BREAKDOWN (If Applicable)				If YES, LIMIT: DED:
ORDINANCE OR LAW - Coverage for loss to undamaged portion of bldg				
- Demolition Costs				If YES, LIMIT: DED:
- Incr. Cost of Construction				If YES, LIMIT: DED:
EARTH MOVEMENT (If Applicable)				If YES, LIMIT: DED:
FLOOD (If Applicable)				If YES, LIMIT: DED:
WIND/HAIL (If Subject to Different Provisions)				If YES, LIMIT: DED:
PERMISSION TO WAIVE SUBROGATION IN FAVOR OF MORTGAGE HOLDER PRIOR TO LOSS				

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE ADDITIONAL INTEREST NAMED BELOW, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

ADDITIONAL INTEREST

☐ MORTGAGEE ☐ CONTRACT OF SALE
☐ LENDERS LOSS PAYABLE ☒ Additional Insured

NAME AND ADDRESS
WV Water Development Authority
180 Association Drive
Charleston, WV 25311

LENDER SERVICING AGENT NAME AND ADDRESS

AUTHORIZED REPRESENTATIVE
Stephen B. Stogden

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PDCA

EVIDENCE OF COMMERCIAL PROPERTY INSURANCE REMARKS - Including Special Conditions (Use only if more space is required)

****Blanket Coverage Information****

Blanket #1 Building Amt: 726,000 Ded: $1,000

*** Commercial Property Policy Level Coverages ***

Location #: 1 5110 Washington Street Charleston, WV 25301 Office

Location #: 2 Rocky Fork Road Cross Lanes, WV Lab, Pump House, Storage House, Compressor House, Belt Press Building, Equipment & Piping, Telemetry Tower and Fence

Location #: 3 40th Street Cross Lanes, WV Compressor House, Equipment & Piping, Chlorine Building, Storage & Generator Bldg, Telemetry Tower and Fence

Location #: 4 Bailey Road Cross Lanes, WV Lift Station and Telemetry Tower

Location #: 5 Koontz Drive Cross Lanes, WV 25326 Pump House, Telemetry Tower (Lower) and Telemetry Tower (Upper)

Location #: 6 Beechvale Cross Lanes, WV 25326 Pump House

Location #: 7 Goff Mountain Road Cross Lanes, WV 25326 Pump House and Telemetry Tower

Location #: 8 Lower Beach Cross Lanes, WV 25326 Pump House

Location #: 9 Upper Koontz; Koontz Drive Cross Lanes, WV 25326 Pump House

Location #: 10 Upper Beach Cross Lanes, WV 25326 Pump House

Location #: 11 Koontz Christian School; Koontz Drive Cross Lanes, WV 25326 Pump House

Location #: 12 Goff Mountain Road Cross Lanes, WV 25326 Pump House and Telemetry Tower

Location #: 13 Koontz Drive Cross Lanes, WV 25326 Pump House

Location #: 14 Beach Cross Lanes, WV 25326 Pump House

Location #: 15 Lakeshore Drive Cross Lanes, WV 25313 Telemetry Tower Station 1, 2 and 3

Location #: 16 Linda Vista Drive Cross Lanes, WV 25313 Telemetry Tower

Radio/TV Antenna - Limit: 44,000 / Deductible: $1,000

*** Commercial Property Location Specific Coverages ***

Business Interruption/Extra Expense Limit #1: 10,000

****** Description of Operations ******
WV Water Development Authority is included as additional insured with respects to the Combined Waterworks & Sewer System Revenue Bonds, Series 2009A. Includes all structures listed on Locations #1 through 16.

CERTIFICATE OF LIABILITY INSURANCE

ADDITIONAL INSURED: UNION PUBLIC SERVICE DISTRICT
PO BOX 7350
CROSS LANES, WV 25356

CERTIFICATE NO: L 2685 - Jan 1, 1987

This certifies that the insured named above is an Additional Insured for the Coverage indicated below under General Liability Policy GL 0936375 and Automobile Policy CA 0936177 issued to the State of West Virginia by NATIONAL UNION FIRE INSURANCE CO. OF PITTSBURGH, PA.

COVERAGE PERIOD: Jul 1, 2009 to Jul 1, 2010 12:01 a.m. Eastern Time

COVERAGE AFFORDED: Comprehensive General Liability Insurance
Personal Injury Liability Insurance
Professional Liability Insurance
Stop Gap Liability Insurance
Wrongful Act Liability Coverage
Comprehensive Auto Liability Coverage
Auto Physical Damage Insurance
Garagekeepers Insurance

LIMIT OF LIABILITY: $1,000,000 each occurence* and is SUBJECT TO $2,500 DEDUCTIBLE. *For all coverages combined.
This limit is not increased if a claim is insured under more than one coverage or if claim is made against more than one insured.

SPECIAL LIMITS: The auto physical damage limit is the actual cash value of each vehicle subject to a deductible of $1,000.

CLAIM REPORTING: Claims should be reported to:
Claim Manager
West Virginia Board of Risk & Insurance Management
90 MacCorkle Avenue S.W.Suite 203
South Charleston, West Virginia 25303

Claims Made Prior Acts Date:

THE INSURANCE EVIDENCED BY THIS CERTIFICATE IS SUBJECT TO ALL OF THE TERMS, CONDITIONS, EXCLUSIONS AND DEFINITIONS IN THE POLICIES. IT IS A CONDITION PRECEDENT OF COVERAGE UNDER THE POLICIES THAT THE ADDITIONAL INSURED DOES NOT WAIVE ANY STATUTORY OR COMMON LAW IMMUNITY CONFERRED UPON IT.

BY: Jerry W. Gladwell
AUTHORIZED REPRESENTATIVE

DATED: June 10, 2009

AGENT OF RECORD: BB&T/CARSON INSURANCE SERVICES
CHARLESTON OFFICE
PO BOX 6278
CHARLESTON, WV 25662

UNION PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

3.12

RECEIPT OF PAYMENT OF NOTES

On this 20th day of November, 2009, the undersigned duly authorized representative of Putnam County Bank, the registered owner of the Sewerage System Design Notes, Series 2007 A (Putnam County Bank) (the "Notes"), of Union Public Service District (the "Issuer"), dated August 7, 2007, in the original aggregate principal amount of $550,000, hereby certifies that it has received the sum of $485,693.91 from the Issuer and that such sum is sufficient to pay the entire outstanding principal amount of the Notes and all interest accrued thereon to the date hereof and discharge the liens, pledges and encumbrances securing the Notes.

WITNESS my signature on this 20th day of November, 2009.

PUTNAM COUNTY BANK

J. R. Wilson

Authorized Representative

JACKSONKELLY
ATTORNEYS AT LAW PLLC
500 LEE STREET EAST • SUITE 1600 • P.O. BOX 553 • CHARLESTON, WEST VIRGINIA 25322 • TELEPHONE: 304-340-1000 • TELECOPIER: 304-340-1130
www.jacksonkelly.com

CLOSING MEMORANDUM

3.13

To: **Jacob Pack**
Tracey Rowan
Samme Gee

From: **Ryan White**

Date: **November 20, 2009**

Re: **Union Public Service District Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture)**

---

1. DISBURSEMENTS TO DISTRICT

Payor:	United States Department of Agriculture
Source:	Series 2009 A Bonds Proceeds
Amount:	$741,713
Date:	November 20, 2009
Form:	Electronic Funds Transfer
Payee:	Mason County Public Service District
Bank:	City National Bank
Routing No.:	051904524
Account No.:	8005310803
Account:	Series 2009 A Bonds Construction Trust Fund

2. DISBURSEMENTS TO PUTNAM COUNTY BANK

Payor:	Union Public Service District
Source:	Series 2009 A Bonds Proceeds
Amount:	$485,693.91
Date:	November 20, 2009
Form:	Check
Payee:	Putnam County Bank
Account:	Notes Payment Fund, which shall be sufficient to pay in full the Union Public Service District Sewerage System Design Notes, Series 2007 A (Putnam County Bank)

{C1411067.1}

JACKSONKELLY
ATTORNEYS AT LAW, PLLC
500 LEE STREET EAST • SUITE 1600 • P.O. BOX 553 • CHARLESTON, WEST VIRGINIA 25322 • TELEPHONE: 304-340-1000 • TELECOPIER: 304-340-1130
www.jacksonkelly.com

4.1

November 20, 2009

Union Public Service District
Cross Lanes, West Virginia

United States Department of Agriculture,
Rural Utilities Service
Parkersburg, West Virginia

Re: Union Public Service District Sewer Revenue Bonds,
Series 2009 A (United States Department of Agriculture)

Ladies and Gentlemen:

We have served as bond counsel to Union Public Service District (the "Issuer") in connection with the issuance of its Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture), dated the date hereof (the "Bonds").

We have examined certified copies of proceedings and other papers relating to the issuance of the Bonds. The Bonds are issued in the principal amount of $4,172,000, in the form of one bond and bear interest from the date hereof, on the amount advanced thereunder, at the rate of 4.25% per annum.

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 of the Code of West Virginia, 1931, as amended (the "Act"), and have been authorized by a Bond Resolution duly adopted by the Issuer on November 18, 2009, as supplemented by a Supplemental Resolution duly adopted by the Issuer on November 18, 2009 (collectively, the "Resolution"). The Bonds are issued for the purposes of (i) paying in full the entire principal and accrued interest on Issuer's Sewerage System Design Notes, Series 2007 A (Putnam County Bank) (the "Notes"); (ii) 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"); and (iii) paying certain costs of issuance and related costs. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution when used herein.

Clarksburg, WV • Martinsburg, WV • Morgantown, WV • Wheeling, WV
Denver, CO • Lexington, KY • Pittsburgh, PA • Washington, DC

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 the Resolution and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. 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.

3. The Bonds have been duly authorized, issued, executed and delivered by the Issuer and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and 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 Prior Bonds, the Series 2009 B Bonds and the Series 2009 C Bonds, all in accordance with the terms of the Bonds and the Resolution.

4. Under the Act, the Bonds and the interest thereon are exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

5. 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 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 Bond numbered AR-1 and in our opinion, the form of said Bond and its execution are regular and proper.

Very truly yours,

Jack Kelly PLLC

H. Wyatt Hanna, III
ATTORNEY AT LAW
P.O. BOX 8070 • SOUTH CHARLESTON, WEST VIRGINIA 25303
(304) 744-3150 • FAX (304) 744-3157

November 20, 2009

Union Public Service District
5110 West Washington Street
Cross Lanes, WV 26314

United States Department of Agriculture
Rural Utilities Service
Parkersburg, WV

Jackson Kelly PLLC
Charleston, WV

RE: Union Public Service District
Sewer Revenue Bonds, Series 2009A
(United States Department of Agriculture)

Ladies and Gentlemen:

I am counsel to Union Public Service District, Kanawha County, West Virginia (the "Issuer"). As such counsel, I have examined copies of the approving opinion of Jackson Kelly PLLC, as Bond Counsel, relating to the above captioned bonds of the Issuer (the "Bonds"), the letter of conditions dated August 1, 2009, from the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), a Bond Resolution duly adopted by the Public Service Board of the Issuer (the "Board") on November 18, 2009, as supplemented by a Supplemental Resolution duly adopted on November 18, 2009, (collectively, the "Resolution"), orders of The County Commission of Kanawha 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 Resolution when used herein.

I am of the opinion that:

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 and to adopt the Resolution, all under the Act and other applicable provisions of law.

2. The members and officers of the Board 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 Resolution has been duly adopted by the Board and is in full force and effect.

4. The execution and delivery of the Bonds and the consummation of the transactions contemplated by the Resolution and the Bonds and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach or default under any 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.

5. The Issuer has received all permits, licenses, approvals, consents, certificates, orders, exemptions, 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 use of the System, including, without limitation, all requisite permits, approvals, orders and certificates from The County Commission of Kanawha County, the West Virginia Bureau for Public Health and the West Virginia Infrastructure and Jobs Development Council and the Public Service Commission of West Virginia. The Issuer has received a Recommended Decision of an Administrative Law Judge dated March 6, 2009, as made final by the PSC in Case No. 08-1369-PSD-CN on March 26, 2009, and an Order of the PSC dated November 16, 2009, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the March 26, 2009, Order has expired prior to the date hereof. The time for appeal of the November 16, 2009, Order which supplements the March 26, 2009, Order has not expired but the Issuer does not plan to appeal such Order. The Issuer has taken all actions required for the imposition of such rates and charges, including, without limitation, the adoption of a resolution prescribing such rates and charges.

6. To the best of my knowledge, there is no litigation, action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the 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.

7. I will determine that 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 with requirements of the Act and the Resolution; 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. The contracts contain language requiring the contractors to provide affidavits from all contractors and subcontractors indicating that each contractor and subcontractor have a drug free workplace policy pursuant to Chapter 21, Article 1D of the West Virginia Code of 1931, a amended. The contractor has submitted a plan to implement the drug free workplace policy prior to the awarding of the contract pursuant to Chapter 21, Article 1D of the West Virginia Code of 1931, as amended.

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

Sincerely,

H. Wyatt Hanna, III

HWHIII/rb
cc: Union PSD

H. Wyatt Hanna, III
ATTORNEY AT LAW
P.O. BOX 8070 • SOUTH CHARLESTON, WEST VIRGINIA 25303
(304) 744-3150 • FAX (304) 744-3157

November 20, 2009

USDA-Rural Development
418 Goff Mountain Road
Room 113
Cross Lanes, WV 25313
Attn: Tracey Rowan

RE: Union Public Service District
Kanawha County, West Virginia
Sewer System Improvements and Extension
RUS Loan - $4,172,000

Dear Ms. Rowan:

Please accept this letter as the narrative opinion required by Item No. 8-C of your Letter of Conditions dated August 1, 2006, for the above referenced project.

I hereby certify that all necessary permits, certifications and other items legally necessary have been obtained for the above referenced project.

I hereby certify that the rights-of-way and easement agreements needed to be obtained prior to construction have been secured. I hereby certify that the balance of the right-of-ways and easement agreements will be secured prior to closing.

I hereby certify that the following condemnation proceedings have been initiated and Orders of Entry have been obtained for immediate entry upon said properties:

1. Richard Bass, Ronald Bass, Thomas H. Bass, and Mitchell H. Bromwell, the known heirs at law of Sadie Shawver Cadle, deceased, and the Unknown Heirs at Law of William K. Bass, deceased, Tax Map 29, Parcel 86, Deed Book 1587, Page 328, Union District, Plan Sheet No. 14, Case No. 09-MISC-416 in the Circuit Court of Kanawha County, West Virginia (Judge King).

2. Kenneth R. Edwards and Jeanette W. Edwards, Tax Map 28, Parcel 135, Deed Book 1714, Page 668, Union District, Plan Sheet No. 9, and, Tax Map 28, Parcel 145.2, Deed Book 2065, Page 332, Union District, Plan Sheet No. 9, Case No. 09-MISC-414 in the Circuit Court of Kanawha County, West Virginia (Judge Bailey).

3. Ray H. Mariani, Tax Map 29, Parcel 10, Deed Book 734, Page 176, Union District, Plan Sheet No. 11, Case No. 09-MISC-417 in the Circuit Court of Kanawha County, West Virginia (Judge Stucky).

4. Paul David Stover, Margaret Ann Stover, Brenda Sue Butcher, and Charlotte Marie Williams, Tax Map 23, Parcel 31.3, Deed Book 2427, Page 474, Union District, Plan Sheet No. 4, Case No. 09-MISC-415 in the Circuit Court of Kanawha County, West Virginia (Judge Zakaib).

5. Frances N. Gambrel, Tax Map 29, Parcel 85.3, Deed Book 2366, Page 828, Union District, Plan Sheet No. 13. A condemnation action has not been initiated at this time due to the fact that Ms. Gambrel has granted the Union Public Service District a written right of entry for the subject property.

6. Mary A. Roberts, Tax Map 29, Parcel 85.4, Deed Book 2366, Page 831, Union District, Plan Sheet No. 13. A condemnation action has not been initiated at this time due to the fact that Ms. Roberts has granted the Union Public Service District a written right of entry for the subject property.

I hereby certify that all of the preliminary title opinions have been submitted for this project and no problems exist in reference to these titles.

I also hereby certify that all requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and WV State Code Chapter 54 have been met with all acquisitions.

Sincerely,

H. Wyatt Hanna, III

HWHIII/rb
cc: Union PSD

Position 5

Form RD 442-22
(Rev. 10-96)

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT

FORM APPROVED
OMB NO. 0575-0015

OPINION OF COUNSEL RELATIVE TO RIGHTS-OF-WAY

Date November 20, 2009

Dear Sir:

I have reviewed the action taken by Union Public Service District, Kanawha County, West Virginia (hereinafter called the "Corporation") in obtaining a right-of-way for the construction, operation, and maintenance of the facilities to be installed, repaired, or enlarged with the proceeds of a loan made or insured by, and/or a grant from Rural Development to the Corporation. I have examined the right-of-way instruments, permits, or licenses obtained from landowners, public bodies, and public utilities and made such searches of the public records necessary to determine the legal sufficiency of the instruments covered by the "Right-of-way Certificate," executed by the Corporation on November 20, ~~19~~ 2009. I also have examined the "Right-of-way Map" to determine whether continuous and adequate land and rights-of-way are owned or have been acquired by the instruments covered in the "Right-of-way Certificate."

Based on the foregoing examination, and to the best of my knowledge, information, and belief, I am of the opinion that:

A. The legal instruments by which the Corporation has acquired said rights-of-way (a) are in appropriate and due legal form and adequately confer upon the Corporation the necessary rights-of-way for the construction, operation, and maintenance of its facilities in their present or proposed location, and such omissions or defects as may exist will in no substantial way or manner endanger the value or operation of the facilities, and (b) have each been properly recorded in the appropriate public land records of each County in which any of the land affected thereby is situated. Such consents, releases, or subordinations from lienholders recommended by me or required by Rural Development have been obtained.

B. The legal instruments referred to above give unto the Corporation a continuous and adequate right-of-way to permit the construction, operation, and maintenance of the Corporation's facilities except as below noted.

C. Exceptions:

None.

Very truly yours,

H. Wyatt Hanna, III

H. Wyatt Hanna, III, Esquire
WV State Bar No. 1579
Attorney for Union Public Service District

P.O. Box 8070, South Charleston, WV 25303

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to U.S. Department of Agriculture, Clearance Officer, STOP 7602, 1400 Independence Avenue, S.W., Washington, D.C. 20250-7602. ***Please DO NOT RETURN this form to this address.*** *Forward to the local USDA office only. You are not required to respond to this collection of information unless it displays a currently valid OMB control number.*

Position 5

Form RD 1927-10
(Rev. 7-98)

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT
FARM SERVICE AGENCY

FORM APPROVED
OMB NO. 0575-0147

FINAL TITLE OPINION

LOAN APPLICANT	ADDRESS OR PROPERTY COVERED BY THIS OPINION	
Union Public Service District	5110 W. Washington Street Cross Lanes, WV 25356	
APPLICANT FOR TITLE EXAMINATION	COUNTY	STATE
Same as Loan Applicant	Kanawha	West Virginia

I. I have examined title to the property described in the security instrument described in paragraph II. B. below. My examination covered the period from the time of termination of title search covered by my Preliminary Title Opinion on Form RD 1927-9; or the time of recordation of the initial loan security instrument if this opinion covers land already owned by the loan applicant in a subsequent loan case, to November 20, 2009 (Date), _____, at 10:00 a.m. p.m. (including the time of filing the current security instrument).

II. Based on said title examination, my preliminary title examination if any, and any additional information concerning the title which has come to my attention, it is my opinion that:

A. Good and marketable title, in accordance with title examination standards prevailing in the area, to said property (real estate and any water rights offered as security) is now vested in Union Public Service District, Kanawha County, West Virginia

as owner
(Joint tenants, tenants by the entirety, etc.)

B. The United States of America holds a valid _____ *(Priority)* _____ *(Mortgage, etc.)* lien on said property as required by Rural Development or the Farm Service Agency, or their successor (Agency), which lien was filed for record on _____ *(Date)*, _____, at _____ a.m. p.m. and is recorded in _____ *(Book, page, and office)*.

C. Said property and lien are subject only to encumbrances, reservations, exceptions, and defects which were approved by written administrative waivers of the Agency attached hereto or to my Preliminary Title Opinion.

III. If a water right is involved and is not covered by the current security instrument, it is subject only to the encumbrances, reservations, exceptions, and defects set forth in said administrative waivers and was made available as security in the following manner (Water stock would normally be reissued in the names of said land owners and the United States of America and delivered to the Agency Official at the time of loan closing):

Not Applicable.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0147. The time required to complete this information collection is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

IV. The term "encumbrances, reservations, exceptions, and defects" means all matters which would prevent the United States from obtaining the required lien on the property identified in paragraph I, including but not limited to (a) mortgages, deeds of trust, and vendors', mechanics', materialmen's, and all other liens, including any provisions thereof for future advances which could take priority over the said lien to the United States, (b) Federal, State, and local taxes, including county, school, improvement, water, drainage, sewer, inheritance, personal property, and income, (c) State and Federal bankruptcy, insolvency, receivership, and probate proceedings, (d) judgments and pending suits, in State and Federal courts, (e) recorded covenants; conditions; restrictions; reservations; liens; encumbrances; easements; rights-of-way; leases; mineral, oil, gas, and geothermal rights (regardless of the right of surface entry); timber rights; water rights; pending court proceedings and other matters of record which affect the title of the property or the ability of the buyer or seller to convey or accept title.

V. This opinion is issued expressly for the benefit of the above-named applicant for title examination and the United States of America acting through the United States Department of Agriculture Agency which provided the assistance, and I assume liability to each hereunder.

November 20, 2009
(Date)

H. Wyatt Hanna, III, Esquire *(Attorney's signature)*
WV State Bar No. 1579

P.O. Box 8070, South Charleston, WV 25303
(Address, include ZIP Code)

Attachments