

CLOSING MEMORANDUM
CLAYWOOD PARK PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM
REVENUE BONDS, SERIES A AND SERIES B

Closing date: October 10, 1989, 1:00 p.m.

Place: West Virginia Water Development Authority
 1201 Dunbar Avenue
 Dunbar, West Virginia

Parties:

Issuer

 Claywood Park Public Service District, Wood County, West
 Virginia

Purchaser:

 West Virginia Water Development Authority

Paying Agent:

 West Virginia Municipal Bond Commission

Registrar:

 Commercial Banking & Trust Company

Purchaser's Counsel:

 Jackson & Kelly

Bond Counsel:

 Davis, Bailey, Pfalzgraf & Hall

Counsel for the Issuer:

 Davis, Bailey, Pfalzgraf & Hall

Accountant:

 Harman, Thompson, Mallory & Ice

Engineer:

 Cerrone & Associates, Inc.

Summary and Action Taken Prior to the Closing

 By Resolution adopted October 10, 1989, as supplemented
by Supplemental Resolution adopted October 10, 1989, the Issuer
authorized the issuance and sale of the above referenced Bonds
(the "Series A Bond and the Series B Bond"). The proceeds of the
Series A Bond and the Series B Bond are to be applied to the

acquisition and construction of a wastewater treatment facility in the District, the funding of Bond Reserve Accounts, a Bonds Capitalized Interest Account, the repayment of interim loans advanced the Issuer and the payment of certain costs in connection therewith.

Closing Documents

Seven copies of each of the following documents, originally executed except as indicated below, will be made available by the several respective parties at the Closing, and transcripts thereof will be prepared, and one transcript will be given to each of the following: the District, the Purchaser, Counsel for the Purchaser, Bond Counsel, the Registrar, the Paying Agent and the Accountant. Certain documents may be executed prior to the Closing, with the understanding that no document will be deemed delivered until the parties agree that all documents are delivered.

- DBPH 1. Certified copy of Chapter 16, Article 13A of the Code of West Virginia of 1931, as amended
- DBPH 2. Certified copy of the Order of the County Commission of Wood County, West Virginia, creating Claywood Park Public Service District
- DBPH 3. Certified copies of the Orders of the County Commission of Wood County, West Virginia, adjusting and establishing the boundaries of Claywood Park Public Service District
- DBPH 4. Certified copy of Claywood Park Public Service District By-Laws
- DBPH 5. Certified copies of the Orders appointing the members of the Public Service Board of the Claywood Park Public Service District and their Oaths of Office
- DBPH 6. Certified copy of the Minutes of Claywood Park Public Service Board's Annual Organizational Meeting on January 3, 1989
- DBPH 7. Certified copy of the Resolution adopted by the Public Service Board of the Claywood Park Public Service District authorizing the District's Sewerage System Revenue Bonds, Series A and Series B.

- DBPH 8. Certified copy of the First Supplemental Resolution passed by the Public Service Board of the Claywood Park Public Service District setting forth the terms of the Bonds, approving the Bank Interim Financing Agreement with Commercial Banking & Trust Company, and approving the Registrar's Agreement
- 9. Loan Agreement and Application
- 10. Supplemental Loan Agreement
- DBPH 11. Certified copy of the Minutes of the meeting of the Public Service Board for Claywood Park Public Service District adopting the Bond Resolution and Supplemental Resolution on October 10, 1989
- DBPH 12. General Certificate of District and Attorney
- DBPH 13. Registrar's Agreement
- DBPH 14. Registrar's Certificate
- DBPH 15. Public Service Commission Order and copy of the Claywood Park Public Service District's Sewer Tariff
- DBPH 16. NPDES Permit
- DBPH 17. EPA Grant Agreement, with Part B Amendment
- DBPH 18. Engineer's Certificate
- HTMI 19. Certificate of Certified Public Accountant
- DBPH 20. Arbitrage Certificate
- DBPH 21. IRS Information Return (Form 8038G)
- DBPH 22. Opinion of Davis, Bailey, Pfalzgraf & Hall as to the Series A Bond
- DBPH 23. Opinion of Davis, Bailey, Pfalzgraf & Hall as to the Series B Bond
- DBPH 24. Arbitrage Opinion of Davis, Bailey, Pfalzgraf & Hall
- DBPH 25. Opinion of Counsel to Issuer

- DBPH 26. Municipal Bond Commission New Issue Report
- DBPH 27. Assignment Separate from Bond
- DBPH 28. Certificate of Registration of Bonds
- DBPH 29. Bank Credit Agreement
- DBPH 30. Cross-Receipt for Bonds and Bond Proceeds
- DBPH 31. Request and Authorization to Authenticate
and Deliver Bonds

3702E



CERTIFICATE

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

THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13A OF THE WEST VIRGINIA CODE AND CHAPTER 16, ARTICLE 13A OF THE 1989 CUMULATIVE SUPPLEMENT TO THE WEST VIRGINIA CODE AS INDICATED BY THE RECORDS OF THIS OFFICE.

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

Twenty-fifth day of
September 1989



Ken Heckler
Secretary of State.

amended, may be passed and put into effect. A copy of the schedule of such rates and charges so established shall be kept on file in the office of the sanitary board having charge of the construction and operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinbefore provided. Provided, however, that if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. If any rate or charge so established shall not be paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the sanitary board of such municipal corporation in a civil action in the name of the municipality. Any municipal corporation exercising the powers given herein shall have authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery, or works necessary to comply with such order of the state water resources board, and the authority provided herein to establish, maintain and collect rates or charges shall be construed as a further additional and alternative method of financing such works and matters, and shall be independent of any other provision of this article insofar as such article provides for or requires the issuance of revenue bonds or the imposition of rates and charges in connection with such bonds. Provided, however, that except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in compliance with an order of the state water resources board, and the rights, powers, and duties of such municipal corporation and the respective officers and departments thereof, including the sanitary board, shall be governed by the provisions of this article. (1955, c. 135; 1967, c. 105.)

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

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

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

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

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

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

Constitutionality of article. — The act from which this article was derived, authorizing the creation of public service districts by the county courts of this State, defining the powers and duties of the governing boards of such districts in the acquisition, construction, maintenance, operation, improvement and extension of property supplying water and sewerage services, and authorizing the issuance of bonds of such districts payable solely from revenue to be derived from the operation of such properties, does not violate any provision of the Constitution of this State or the Fourteenth Amendment to the Constitution of the United States. State

ex rel. *McMillion v. Stahl*, 141 W. Va. 233, 89 S.E.2d 893 (1955).
 The title to Act 1953, c. 147, is sufficient to give a fair and reasonable index to all of the purposes of the act. *State ex rel. McMillion v. Stahl*, 141 W. Va. 233, 89 S.E.2d 893 (1955).
 And purpose. — The purpose of this article is to provide water and sewerage facilities in unincorporated districts. *State ex rel. McMillion v. Stahl*, 141 W. Va. 233, 89 S.E.2d 893 (1955).
 Public service districts are "public utilities." 50 Op. Atty Gen. 447 (1963).

Hence, they are required to pay a special license fee pursuant to § 24-3-6 for support of the public service commission. 50 Op. Atty. Gen. 447 (1963).
 Cited in Berkeley County Pub. Serv. Dist. v. Vito Corp. of Am., 152 W. Va. 252, 162 S.E.2d 189 (1968).

§ 16-13A-1. General purpose of districts.

Any territory constituting the whole or any part of one or more counties in the State so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of properties supplying water or sewerage services, or gas distribution services or all of these within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may be constituted a public service district under and in the manner provided by this article. The words "public service properties," when used in this article, shall mean and include any facility used or to be used for or in connection with (1) the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses (herein sometimes referred to as "water facilities," (2) the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (herein sometimes referred to as "sewer facilities" or "landfills") or (3) the distribution or the furnishing of natural gas for the public, for industrial, public, private or other uses (herein sometimes referred to as "gas utilities or gas system"). (1953, c. 147, 1960, c. 60.)

Purpose found in order creating district and in hearings. — The purpose for the creation of a public service district may be ascertained by a review of the order establishing the district and the history behind the creation of the district (the notice of hearing and hearing held prior to the creation of the district). Op. Atty. Gen., July 8, 1976.

The county courts (now county commissions) may not supersede the authority delegated by them to public service districts created in accordance with the

provisions of this article. Op. Atty. Gen., June 27, 1973.

A public service district, which was created only for the purposes of furnishing water services, has no power to condemn real estate for sewerage facilities. Canyon Pub. Serv. Dist. v. Tass Coal Co., 156 W. Va. 606, 196 S.E.2d 647 (1973).

Cited in State ex rel. Appalachian Power Co. v. Garner, 149 W. Va. 740, 143 S.E.2d 351 (1965); Shobe v. Latimer, 253 S.E.2d 54 (W. Va. 1979).

§ 16-13A-2. Creation of districts by county commission; enlarging, reducing or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the secretary of state.

The county commission of any county may on its own motion by order duly adopted propose the creation of such public service district within such county, setting forth in such order a description, including metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed

district, or twenty-five percent of the registered voters who reside within the limits of such proposed public service district within one or more counties may petition for the creation thereof, which 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. Any territory may be included regardless of whether or not such 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, that the same territory shall not be included within the boundaries of more than one public service district except where such territory or part thereof is included within the boundaries of a separate public service district organized to supply water, sewerage services or gas facilities not being furnished within such territory or part thereof: Provided, however, that no city, incorporated town or other municipal corporation shall be included within the boundaries of such proposed district except upon the adoption of a resolution of the governing body of such city, incorporated town or other municipal corporation consenting.

Such 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 such territory is situated in more than one county, then such petition shall be filed in the office of the clerk of the county commission of the county in which the major portion of such 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 such county at the first regular meeting after such filing or at a special meeting called for the consideration thereof.

When the county commission of any county enters an order on its own motion proposing the creation of a public service district, as aforesaid, or when a petition for such creation is presented, as aforesaid, the county commission shall at the same session fix a date of hearing in such county on the creation 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 such action. If the territory proposed to be included is situated in more than one county, the county commission, when fixing a date of hearing, shall provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county commission of each county in which any territory in the proposed public service district is located shall cause notice of such hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three § 59-3-1 et seq., chapter fifty-nine of this Code, and the publication area for such publication shall be each county in which any territory in the proposed public service district is located. The publication shall be at least ten days prior to such hearing. In all cases where proceedings for the creation of such 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 such 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.

All persons residing in or owning or having any interest in property in such proposed public service district shall have an opportunity to be heard for and against its creation. At such hearing the county commission before which the hearing is conducted shall consider and determine the feasibility of the creation 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 such 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 such public service district and such order is conclusive and final in that regard. If the commission, after due consideration, determines that the proposed district will not be conducive to the preservation of public health, comfort or convenience of such area or that the creation 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 the district as amended. 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 expansion, merger or other means, it shall refuse to enter an order creating the proposed district. Provided, that prior to refusing to enter such order, evidence must be presented to the satisfaction of the county commission that such expansion, merger or other procedure necessary to provide service to the area of the proposed district will be forthcoming. Provided, however, that no expansion 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 to be inadequate to provide such expanded 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 the district. Provided, that if at such hearing written protest is filed by thirty percent or more of the qualified voters registered and residing within said district, then the county commission shall not take any further action in creating such district unless the creation of such district is approved by a majority vote of the qualified registered voters voting at a referendum to be called by the county commission for such purpose. Such referendum shall be called in the manner provided in the general election laws of the State of West Virginia applicable thereto and the funds therefor shall be supplied from any county funds available for such purpose or from funds supplied from the persons who petitioned for the creation of such district. If a majority of the qualified regis-

tered voters participating in the referendum vote against the creation of the district, then such district shall not be created. If, however, a majority of the qualified registered voters participating in such referendum vote in favor of the creation of such district, then the county commission shall duly enter its order creating such district.

After the creation of such district 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 establish or consolidate two or more such districts. 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, 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 protest shall apply with like effect as if a district were being created. Provided, however, that no expansion of a public service district may occur if the physical facilities of the public service district are determined by the appropriate county commission to be inadequate to provide such expanded service. The commission shall at all times attempt to bring about the expansion 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 further, that the applicable provisions pertaining to referendum shall not apply if the results of a referendum could adversely affect the existing financial indebtedness of the district. 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. A list of all districts and their current board members shall be filed by the county commission with the secretary of state. (1953, c. 147; 1965, c. 134; 1967, c. 105; 1975, c. 140; 1980, c. 60; 1981, c. 124.)

There is no unlawful delegation of legislative power to the county courts (now county commissions) of this State under this section in violation of W. Va. Const., art. V, § 1, and art. VI, § 1. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

And there is no unconstitutional delegation of judicial functions to the county court (now county commission) made by this section. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

District need not be created by general law. — A public service district is a public corporation and does not come within the constitutional inhibition requiring all corporations to be created by general law. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Voters may not force referendum as to continuing or abolishing district. — There is no authority for voters, by written protest or

otherwise, to force a referendum upon the issue of whether or not a created public service district should be continued or abolished. 52 Op. Atty Gen. 33 (1965).

Certain provisions mandatory, but provisions for setting time of hearing and giving notice directory. — The provisions of this section relating to the filing of the petition or motion of the county court (now county commission), the description of the territory to be embraced and like provisions are mandatory, but the use of the word "shall" in relation to the requirements for the posting and publication of notice and the time of setting the hearing are directory and require only substantial compliance. Canyon Pub. Serv. Dist. v. Texas Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).

A county court (now county commission) has authority to add sewerage services to the facilities of a public service district which was created for the purpose of furnishing water

services, under appropriate proceedings, Canyon Pub. Serv. Dist. v. Tasa Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).

Relative powers of commission and voters in area.—(1) Only the county commission has the affirmative authority to create, enlarge or reduce a public service district; (2) in the absence of any action by a county commission, the requisite number of qualified voters in the affected geographic area may petition a county commission to create, enlarge or reduce a public service district, and, that upon the filing of such petition, a hearing shall be held thereon; (3) the county commission may, in its discretion, refuse to act in an affirmative manner upon such formal petition for creation, enlargement or reduction of such public service district, which action is not subject to protest or public referendum; (4) the county commission may, on its own motion or on the basis of such proper petition, enter an order creating,

enlarging or reducing a public service district, which such action and order are subject to a hearing requiring proper notice, and a formal protest and public referendum depending upon the number of qualified voters who protest such action. Op. Atty. Gen., Nov. 13, 1975.

"Shall apply with like effect," etc.—Because a protest against creation triggers a referendum, the language "shall apply with like effect as if a district were being created" can mean only that a protest against enlargement or reduction likewise triggers a referendum. Op. Atty. Gen., Nov. 13, 1975.

Overlapping districts.—Where there is no bond indebtedness outstanding to be paid by a public service district, the county commission creating a public service district may undertake to enlarge or reduce the areas of various overlapping districts or may even consolidate the overlapping districts into one district. Op. Atty. Gen., July 8, 1976.

§ 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 shall thereafter be 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 adapt an official seal and may enter into contracts necessary or incidental to its purposes, including contracts with any city, incorporated town or other municipal corporation located within or without its boundaries for furnishing wholesale supply of water for the distribution system of the city, town or other municipal corporation, and contract for the operation, maintenance, servicing, repair and extension of any properties owned by it or for the operation and improvement or extension by the district of all or any part of the existing municipally owned public service properties of any city, incorporated town or other municipal corporation included within the district. Provided, that no contract shall extend beyond a maximum of forty years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

The powers of each public service district shall be vested in and exercised by a public service board consisting of not less than three members, who shall be persons residing within the district who have successfully completed a training program to be established and administered by the public service commission in conjunction with the department of natural resources and the department of health. 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 shall be

entitled to appoint one member of the board, and each such 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 shall thereby 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 shall equal or exceed three, then no further members shall be appointed to the board and the members shall be and constitute the board of the district.

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, which three members shall become members of and constitute the board of the district without any further act or proceedings.

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, and the additional member or members shall thereupon become members of the board; 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, shall be and constitute 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, shall be conclusively considered to be the population stated for such city, incorporated town or other municipal corporation in the last official federal census.

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, and the term of the remaining member or members for six years, from the first day of the month during which the appointments are made. The first members of the board appointed as aforesaid shall meet at the office of the clerk of the county commission which entered the order creating the district as soon as practicable after the appointments and shall qualify by taking an oath of office. Provided, that any member or members of the board may be removed from their respective office as provided in section three-a [§ 16-13A-3a] of this article.

Any vacancy shall be filled for the unexpired term within thirty days, otherwise successor members of the board shall be appointed for terms of six years and the terms of office shall continue until successors have been appointed and qualified. All successor members shall be appointed in the same manner as the member succeeded was appointed.

The 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 chairman 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 chairman, secretary and treasurer thereof, shall make available to the county commission, at all times, all of its books and records pertaining to the district's operation, finances and affairs, for inspection and audit. The board shall meet at least monthly. (1953, c. 147; 1965, c. 134; 1971, c. 72; 1981, c. 124; 1983, c. 166.)

Effect of amendment of 1983. — The amendment, effective March 11, 1983, deleted "such" and substituted "the" for "such" at various places throughout the section; in the first sentence of the third paragraph inserted "having a population of more than three thousand but less than eighteen thousand"; near the beginning of the fourth paragraph inserted "having a population of more than three thousand"; in the sixth paragraph substituted "considered" for "deemed"; and in the first sentence of the next to the last paragraph substituted "the first day of January" for "January one."

Exemptions. — Public service districts of West Virginia are political subdivisions of the State, and as such, they are specifically, by express statute, exempted from the duty of paying registration fees (provided by § 17A-10-8), the privilege tax (imposed by § 17A-3-4), and the certificate of title charge (required by § 17A-3-4), 49 Op. Atty Gen. 131 (1981).

Furnishing water to municipal corporation in another state. — A public service district may furnish water wholesale in bulk quantities to a municipal corporation in another state. 51 Op. Atty Gen. 739 (1966).

Authority of districts. — Public service districts are agents of the county commission by which they were created, having no authority other than that expressly set out in this article. Op. Atty Gen. July 8, 1976.

Furnishing water to border residents in neighboring state. — See Op. Atty Gen., June 26, 1976.

§ 16-13A-3a. Removal of members of public service board.

The county commission or any other appointive body creating or establishing a public service district under the provisions of this article may remove 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 prescribed by law or for any misconduct in office, or upon written petition signed by twenty-five percent of the registered voters who reside within the limits of such proposed public service district. Provided, that such appointee shall be removed only after a full hearing of any complaint presented against him and after a ten-day notice of such hearing. (1963, c. 75; 1971, c. 72; 1981, c. 124.)

§ 16-13A-4. Board chairman; members' compensation; procedure; district name.

The chairman shall preside at all meetings of the board and may vote as any other members of the board but if he should be 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. Salaries of each of its members shall be fifty dollars per attendance at regular monthly meetings and thirty dollars per attendance at additional special meetings, total salary not to exceed seven hundred fifty dollars per annum. 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 and regulations of the board. The board shall by resolution determine its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings may be called. Public notice of meetings shall be given in accordance with section three [§ 6-9A-3], article nine-A, chapter six of this Code. Emergency meetings may be called as provided by section three, article nine-A, chapter six of this Code. A majority of the members constituting the board also constitute a quorum to do business. The members of the board are not personally liable or responsible for any obligations of the district or the board but are answerable only for willful misconduct in the performance of their duties. At any time prior to the issuance of bonds as hereinafter provided the board may by resolution change the official or corporate name of the public service district and such change shall be effective from and after filing an authenticated copy of such resolution with the clerk of the county commission of each county in which the territory embraced within such district or any part thereof is located. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located. (1953, c. 147; 1981, c. 124.)

§ 16-13A-5. General manager of board.

The board may employ a general manager to serve a term of not more than five years and until his successor is employed, and his compensation shall be fixed by resolution of the board. Such general manager shall devote all or the required portion of his time to the affairs of the district and may employ, discharge and fix the compensation of all employees of the district, except as in this article otherwise provided, and he shall perform and exercise such other powers and duties as may be conferred upon him by the board.

Such general manager shall be chosen without regard to his political affiliations and upon the sole basis of his administrative and technical qualifications to manage public service properties and affairs of the district and he may be discharged only upon the affirmative vote of two thirds of the board. Such general manager need not be a resident of the district at the time he is chosen. Such general manager may not be a member of the board but shall be an employee of the board.

The board of any public service district which purchases water service from a municipal water 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 system or public service district from which such water service is purchased provide professional management to the district, if the appropriate municipality or public service board agrees to provide such assistance. The general manager shall receive reasonable compensation for such service. (1953, c. 147; 1981, c. 124.)

§ 16-13A-6. Employees of board.

The board may in its discretion from time to time by resolution passed by a majority vote provide for the employment of an attorney, fiscal agent, one or more engineers and such other employees as the board may determine necessary and expedient. The board shall in and by such resolution fix the term of employment and compensation and prescribe the duties to be performed by such employees. (1953, c. 147; 1981, c. 124.)

§ 16-13A-7. Acquisition and operation of district properties.

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district and shall have power, and it shall be its duty, to maintain, operate, extend and improve the same. All contracts involving the expenditure by the district of more than five 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 provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the district. The publication shall not be less than ten days prior to making of any such contract. Any obligations incurred of any kind of character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years. (1953, c. 147; 1967, c. 105; 1981, c. 124; 1982, c. 24.)

§ 16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.

The board may acquire any publicly or privately owned public service properties located within the boundaries of the district regardless of whether or not all or any part of such properties are located within the corporate limits of any city, incorporated town or other municipal corporation included within the district and may purchase and acquire all rights and franchises and any and all property within or outside the district necessary or incidental to the purpose of the district.

The board may construct any public service properties within or outside the district necessary or incidental to its purposes and each such district may acquire, construct, maintain and operate any such public service properties within the corporate limits of any city, incorporated town or other municipal corporation included within the district or in any unincorporated territory within ten miles of the territorial boundaries of the district. Provided, that if any incorporated city, town or other municipal corporation included within the district owns and operates either water facilities, sewer facilities or gas facilities or all of these, then the district may not acquire, construct, establish, improve or extend any public service properties of the same kind within such city, incorporated towns or other municipal corporations or the adjacent unincorporated territory served by such cities, incorporated towns or other municipal corporations, except upon the approval of the public service commission, the consent of such cities, incorporated towns or other municipal corporations and in conformity and compliance with the rights of the holders of any revenue bonds or obligations theretofore issued by such cities, incorporated towns or other municipal corporations then outstanding and in accordance with the ordinance, resolution or other proceedings which authorize the issuance of such revenue bonds or obligations.

Whenever such district has constructed, acquired or established water facilities, sewer facilities or gas facilities for water, sewer or gas services within any city, incorporated town or other municipal corporation included within a district, then such city, incorporated town or other municipal corporation may not thereafter construct, acquire or establish any facilities of the same kind within such city, incorporated town or other municipal corporation without the consent of such district.

For the purpose of acquiring any public service properties or lands, rights or easements deemed necessary or incidental for the purposes of the district, each such district has the right of eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by cities, incorporated towns and other municipal corporations. Provided, that such board may not acquire all or any substantial part of a privately owned waterworks system unless and until authorized so to do by the public service commission of West Virginia, and that this section shall not be construed to authorize any district to acquire through condemnation proceedings either in whole or substantial part an existing privately

owned waterworks plant or system or gas facilities located in or furnishing water or gas service within such district or extensions made or to be made by it in territory contiguous to such existing plant or system, nor may any such board construct or extend its public service properties to supply its services into areas served by or in competition with existing waterworks or gas facilities or extensions made or to be made in territory contiguous to such existing plant or system by the owner thereof. (1953, c. 147; 1980, c. 60; 1981, c. 124.)

District may exercise control over sewers where ownership is unknown in unincorporated areas. 45 Op. Atty. Gen. 506 (1953).
 State ex rel. McMillan v. Sahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Valid grant of power of eminent domain.

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

The board may make, enact and enforce all needful rules and regulations in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district, and the board shall establish rates and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of such public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds hereunder. The schedule of such rates and charges may be based upon either (a) the consumption of water or gas on premises connected with such facilities taking into consideration domestic, commercial, industrial and public use of water and gas; or (b) the number and kind of fixtures connected with such facilities located on the various premises; or (c) the number of persons served by such facilities; or (d) any combination thereof; or (e) may be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. Where water, sewer and gas services are all furnished to any premises the schedule of charges may be billed as a single amount for the aggregate thereof. Whenever any rates, rentals or charges for services or facilities furnished remain unpaid for a period of thirty days after the same become due and payable, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. The board may, under reasonable rules and regulations 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.

In the event that any city, incorporated town or other municipal corporation included within the district owns and operates separately either water facilities or gas facilities, and the district owns and operates within such city, incorporated town or other municipal corporation the other kind of facilities, either water or gas facilities, as the case may be, then the district and such city, incorporated town or other municipal corporation may covenant and contract with each other to shut off and discontinue the supplying of the kind of facilities furnished by the district or such city, incorporated town or other municipal corporation, as the case may be, for the nonpayment of fees and charges for the other kind of facilities furnished by the district or city, incorporated town or other municipal corporation, as the case may be.

Any district furnishing sewer facilities within the district may require all owners, tenants or occupants of any houses, dwellings and buildings located near any such sewer facilities, where sewage will flow by gravity or be transported by such other methods approved by the department of health from such houses, dwellings or buildings into such sewer facilities, to connect with and use such sewer facilities, and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such houses, dwellings and buildings where there is such gravity flow or transportation by such other methods approved by the department of health and such houses, dwellings and buildings can be adequately served by the sewer facilities of the district, and it is hereby found, determined and declared that the mandatory use of such sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of such districts and of the State.

If the property owner must connect with the sewer facilities even when sewage from such dwellings may not flow to the main line by gravity and the property owner must incur costs for any changes in the existing dwelling plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for such changes in the plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump, or any other method approved by the department of health; maintenance and operation costs for such extra installation should be reflected in the users charge for approval of the public service commission.

Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near such sewer facility, and the engineer for the district has certified that such sewer facilities are available to and are adequate to serve such owner, tenant or occupant, and sewage will flow by gravity or be transported by such other methods approved by the department of health from such house, dwelling or building into such sewer facilities, the district may charge, and such owner, tenant or occupant shall pay the rates and charges for services established under this article only after thirty-day notice of the availability of the facilities has been received by the owner.

All delinquent fees, rates and charges of the district for either water facilities, sewer facilities or gas facilities are liens on the premises served of

equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes. When such fees, rates and charges have been delinquent for thirty days, the district may forthwith foreclose the lien on the premises served in the same manner now provided in the law of the State of West Virginia for the foreclosure of mortgages on real property.

Anything in this section to the contrary notwithstanding, any establishment, as defined in section two [§ 20-5A-2], article five-A, chapter twenty, now or hereafter operating its own sewage disposal system, pursuant to a permit issued by the department of natural resources, as prescribed by section seven [§ 20-5A-7], article five-A, chapter twenty of this Code, is exempt from the provisions of this section. (1953, c. 147; 1965, c. 134; 1980, c. 60; 1981, c. 124.)

§ 16-13A-9a. Limitations with respect to foreclosure.
 No public service district shall foreclose upon the premises served by such district for delinquent fees, rates or charges for which a lien is authorized by sections nine or nineteen [§§ 16-13A-9 or 16-13A-19] of this article except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county wherein the district lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that the district prior to the bringing of such action had exhausted all other remedies for the collection of debts with respect to such delinquencies. In no event shall foreclosure procedures be instituted by any such district or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought. (1982, c. 74.)

§ 16-13A-10. Budget.

The board shall establish the beginning and ending of its fiscal year, which period shall constitute its budget year, and at least thirty days prior to the beginning of the first full fiscal year after the creation of the district and annually thereafter the general manager shall prepare and submit to the board a tentative budget which shall include all operation and maintenance expenses, payments to a capital replacement account and bond payment

schedules for the ensuing fiscal year. Such tentative budget shall be considered by the board, and, subject to any revisions or amendments that may be determined by the board, shall be adopted as the budget for the ensuing fiscal year. Upon adoption of the budget, a copy of the budget shall be forwarded to the county commission. No expenditures for operation and maintenance expenses in excess of the budget shall be made during such fiscal year unless unanimously authorized and directed by the board. (1953, c. 147; 1981, c. 124.)

§ 16-13A-11. Accounts; audit.

The general manager, under direction of the board, shall install and maintain a proper system of accounts 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 by an independent public accountant. A copy of the audit shall be forwarded within thirty days of completion 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, and shall at all times have such records readily available for public inspection. At the end of his term of office, the treasurer of each public service district shall promptly deliver all financial records of the public service district to his successor in office. Any treasurer of a public service district who knowingly or willfully violates any provision of this section is guilty of a misdemeanor and shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned in the county jail not more than ten days, or both. (1953, c. 147; 1981, c. 124.)

§ 16-13A-12. Disbursement of district funds.

No money may be paid out by a district except upon an order signed by the chairman and secretary of such board, or such other person or persons authorized by the chairman or secretary, as the case may be, to sign such orders on their behalf. Each order for the payment of money shall specify the purposes for which the amount thereof is to be paid, with sufficient clearness to indicate the purpose for which the order is issued, and there shall be endorsed thereon the name of the particular fund out of which it is payable and it shall be payable from the fund constituted for such purpose, and no other. All such orders shall be reflected in the minutes of the next meeting of the board. (1953, c. 147; 1981, c. 124.)

§ 16-13A-13. Revenue bonds.

For constructing or acquiring any public service properties for the authorized purposes of the district, or necessary or incidental thereto, and for constructing improvements and extensions thereto, and also for reimbursing or paying the costs and expenses of creating the district, the board of any such district is hereby authorized to borrow money from time to time and in evidence thereof issue the bonds of such district, payable solely from the revenues derived from the operation of the public service properties under control of the district. Such

bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their respective dates, may bear interest at such rate or rates not exceeding twelve percent per annum, payable at such times, may be in such form, may carry such redemption 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 herefrom does not exceed thirteen 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. (1953, c. 147; 1970, cc. 11, 12; 1970, 1st Ex. Sess., c. 2; 1980, c. 33; 1981, 1st Ex. Sess., c. 2.)

Cross reference. — Procedure for borrowing and issuing bonds, § 16-13A-25.

§ 16-13A-14. Items included in cost of properties.

The cost of any public service properties acquired under the provisions of this article shall be deemed to include the cost of the acquisition or construction thereof, the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses for estimates of cost and of revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the construction or acquisition of the properties and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof. (1953, c. 147.)

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

In the discretion and at the option of the board such bonds may be secured by a trust indenture by and between the district and a corporate trustee, which may be a trust company or bank having powers of a trust company within or without the State of West Virginia, but no such trust indenture shall convey, mortgage or create any lien upon the public service properties or any part thereof. The resolution authorizing the bonds and fixing the details thereof may provide that such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the district and the members of its board and officers in relation to the construction or acquisition of public service properties and the improvement, extension, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that all or any part of the construction work shall be contracted for, constructed and paid for, under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, their successors, assignees or nominees, who may be given the right to require the security given by contractors and by any depository of the proceeds of bonds or revenues of the public service properties or other money pertaining thereto be satisfactory to such purchasers, their successors, assignees or nominees. Such indenture may set forth the rights and remedies of the bondholders and such trustee. (1953, c. 147.)

§ 16-13A-16. Sinking fund for revenue bonds.

At or before the time of the issuance of any bonds under this article the board shall by resolution or in the trust indenture provide for the creation of a sinking fund and for monthly payments into such fund from the revenues of the public service properties operated by the district such sums in excess of the cost of maintenance and operation of such properties as will be sufficient to pay the accruing interest and retire the bonds at or before the time each will respectively become due and to establish and maintain reserves therefor. All sums which are or should be, in accordance with such provisions, paid into such sinking fund shall be used solely for payment of interest and for the retirement of such bonds at or prior to maturity as may be provided or required by such resolutions. (1953, c. 147.)

§ 16-13A-17. Collection, etc., of revenues and enforcement of covenants; default; suit, etc., by bondholder or trustee to compel performance of duties; appointment and powers of receiver.

The board of any such district shall have power to insert enforceable provisions in any resolution authorizing the issuance of bonds relating to the collection, custody and application of revenues of the district from the operation of the public service properties under its control and to the enforcement of the

covenants and undertakings of the district. In the event there shall be default in the sinking fund provisions aforesaid or in the payment of the principal or interest on any of such bonds or, in the event the district or its board or any of its officers, agents or employees, shall fail or refuse to comply with the provisions of this article, or shall default in any covenant or agreement made any holder or holders of such bonds and any such trustee under the trust indenture, if there be one, shall have the right by suit, action, mandamus or other proceeding instituted in the circuit court for the county or any of the counties wherein the district extends, or in any other court of competent jurisdiction, to enforce and compel performance of all duties required by this article or undertaken by the district in connection with the issuance of such bonds, and upon application of any such holder or holders, or such trustee, such court shall, upon proof of such defaults, appoint a receiver for the affairs of the district and its properties, which receiver so appointed shall forthwith directly, or by his agents and attorneys, enter into and upon and take possession of the affairs of the district and each and every part thereof, and hold, use, operate, manage and control the same, and in the name of the district exercise all of the rights and powers of such district as shall be deemed expedient, and such receiver shall have power and authority to collect and receive all revenues and apply same in such manner as the court shall direct. Whenever the default causing the appointment of such receiver shall have been cleared and fully discharged and all other defaults shall have been cured, the court may in its discretion and after such notice and hearing as it deems reasonable and proper direct the receiver to surrender possession of the affairs of the district to its board. Such receiver so appointed shall have no power to sell, assign, mortgage, or otherwise dispose of any assets of the district except as hereinbefore provided. (1953, c. 147.)

Rules of Civil Procedure.—As to abolition of the procedural distinctions between law and equity, see Rule 2, appearing in Vol. 1A. As to receivers, see Rule 86. As to application of rules to writ of mandamus, see Rule 81(a)(5). As to effect of rules on jurisdiction and venue, see Rule 82.

Mandamus.—Mandamus is a proper remedy to be pursued by the holder of a municipal revenue bond to require a municipal corporation to comply with rate covenants in its revenue bonds. *State ex rel. Allstate Ins. Co. v. Union Pub. Serv. Dist.*, 151 W. Va. 207, 151 S.E.2d 102 (1966).

§ 16-13A-18. Operating contracts.

The board may enter into contracts or agreements with any persons, firms or corporations for the operation and management of the public service properties within the district, or any part thereof, for such period of time and under such terms and conditions as shall be agreed upon between the board and such persons, firms or corporations. The board shall have power to provide in the resolution authorizing the issuance of bonds, or in any trust indenture

securing such bonds, that such contracts or agreements shall be valid and binding upon the district as long as any of said bonds, or interest thereon, are outstanding and unpaid. (1953, c. 147.)

§ 16-13A-18a. Sale, lease or rental of water system by district; distribution of proceeds.

In any case where a public service district owns a water system, and all the members of the public service board thereof deem it for the best interests of the district to sell, lease or rent such water system to any municipality or privately owned water system, or to any water system owned by an adjacent public service district, the board may so sell, lease or rent such water 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 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 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 system is located to be placed in the general funds of such county commission. (1963, c. 75; 1981, c. 124.)

§ 16-13A-19. Statutory mortgage lien created; foreclosure thereof.

There shall be and is hereby created a statutory mortgage lien upon such public service properties of the district, which shall exist in favor of the holders of bonds hereby authorized to be issued, and each of them, and the coupons attached to said bonds, and such public service properties shall remain subject to such statutory mortgage lien until payment in full of all principal of and interest on such bonds. Any holder of such bonds, of any coupons attached thereto, may, either at law or in equity, enforce said statutory mortgage lien conferred hereby and upon default in the payment of the principal of or interest on said bonds, may foreclose such statutory mortgage lien in the manner now provided by the laws of the State of West Virginia for the foreclosure of mortgages on real property. (1953, c. 147.)

Rules of Civil Procedure.—As to abolition of the procedural distinctions between law and equity, see Rule 2, appearing in Vol. 1A.

Statutory mortgage lien is valid. *State ex rel. McMillion v. Stahl*, 141 W. Va. 233, 89 S.E.2d 693 (1955).

The provision granting to bondholders a

§ 16-13A-20. Refunding revenue bonds.

The board of any district having issued bonds under the provisions of this article is hereby empowered thereafter by resolution to issue refunding bonds of such district for the purpose of retiring or refinancing such outstanding bonds, together with any unpaid interest thereon and redemption premium thereunto appertaining and all of the provisions of this article relating to the issuance, security and payment of bonds shall be applicable to such refunding bonds, subject, however, to the provisions of the proceedings which authorized the issuance of the bonds to be so refunded. (1953, c. 147.)

The only purpose for refunding bonds is the retirement or refinancing of outstanding bond issues of a particular district. Op. Atty. Gen., July 8, 1976.

language in this section. Op. Atty. Gen., July 8, 1976.

Previous issuance of bonds required. — This section is clearly written in language which speaks only of refunding bonds issued by any district which has previously issued bonds. Op. Atty. Gen., July 8, 1976.

§ 16-13A-21. Complete authority of article; liberal construction; district to be public instrumentality; tax exemption.

This article shall constitute 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, shall be 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 state department of health and the state water resources board shall remain unaffected by this article. Every district organized under this article is declared to be 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 shall be exempt from taxation by the State of West Virginia, and the other taxing bodies of the State. Provided, however, that the board of any such district may use and apply any of its available revenues and income for the payment of what such board determines to be tax or license fee equivalents to any local taxing body and in any proceedings for the issuance of bonds of such district may reserve the right to annually pay a fixed or computable sum to such taxing bodies as such tax or license fee equivalent. (1953, c. 147.)

Tax exemption constitutional. — The tax exemption granted to the property, income, and bonds of the district does not violate W. Va. Const., art. X, § 1. State ex rel. McMillion v.

Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1965).
Applied in Rhodes v. Malden Pub. Serv. Dist., 301 S.E.2d 601 (W. Va. 1983).

§ 16-13A-22. Validation of prior acts and proceedings of county courts for creation of districts, inclusion of additional territory, and appointment of members of district boards.

All acts and proceedings taken by any county court 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 [January 29, 1960], for the purpose of creating public service districts or for the purpose of subsequent inclusion of additional territory to existing public service districts, after notice published by any such county court having territorial jurisdiction thereof of its intention to include such additional territory after hearing thereon, are hereby validated, ratified, approved and confirmed notwithstanding any other lack of power (other than constitutional) of any such county court to create such public service districts or to include additional territory to existing public service districts or irregularities (other than constitutional) in such proceedings, relating to the appointment and qualification of more than three members to the board of any such public service district or the subsequent appointment of successors of any or all of such members, notwithstanding that no city, incorporated town or other municipal corporation having a population in excess of three thousand is included within the district, and the appointment and qualification of such members, and further including any irregularities in the petition for the creation of any public service district, irregularities in the description of the area embraced by such district, and irregularities in the notice and publication of notice for the hearing creating such district, prior to the date this section takes effect, is hereby validated, ratified, approved and confirmed; and, further, in such cases where more than three members of the board of such districts have been so appointed prior to the date this section takes effect then such county court shall appoint, and they are hereby authorized and empowered to appoint, successors to such members in the manner as otherwise provided by this article. (1958, c. 14; 1960, c. 19.)

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

§ 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 [March 13, 1961], 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. (1958, c. 14; 1960, c. 19; 1965, c. 134.)

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

§ 16-13A-24. Acceptance of loans, grants or temporary advances.

Any public service district created pursuant to the provisions of this article is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of construction or acquisition of water systems, sewage systems or gas facilities, or all of these, and the other purposes herein authorized, from any authorized agency or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of the bonds authorized to be issued under the provisions of this article, the revenues of the said water system, sewage system or gas facilities or grants to the public service district from any authorized agency or from the United States of America or any federal or public agency or department of the United States or from any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any authorized agency or the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. (1958, c. 14; 1980, c. 60; 1981, c. 124.)

§ 16-13A-25. Borrowing and bond issuance — Procedure.

Notwithstanding any other provisions of this article to the contrary, a public service district shall not borrow money or issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of section thirteen, twenty or twenty-four [§§ 16-13A-13, 16-13A-20 or 16-13A-24] of this article without the prior consent and approval of the public service commission. Notwithstanding any other provision of this Code, when a public service district is seeking to borrow money for the acquisition or construction of public service properties, or contract to issue revenue bonds to commence the construction or acquisition of public service properties, the public service district shall publish a Class II legal advertisement in a newspaper of general circulation within the district, which legal advertisement shall state:

- (1) The amount of money to be borrowed, or the amount of revenue bonds to be issued;
- (2) The interest rate and terms of the loan or bonds;
- (3) The public service properties to be acquired or constructed, and the cost of same;

- (4) The anticipated rates which will be charged by the district; and
- (5) The fact that a form is available in the county clerk's office and at the office of the public service district for residents of that portion of the public service district which will be served by the public service property to be acquired or constructed to sign indicating their opposition to the public service district borrowing money or issuing revenue bonds. In addition, the public service district shall cause to be posted in conspicuous places throughout that portion of the public service district which will be served by the public service property to be acquired or constructed signs measuring not less than eight and one-half inches in width and eleven inches in length which include the same information as required in the Class II legal advertisement.

For a period of thirty days beginning with the first publication of the legal advertisement, the county clerk shall maintain within the courthouse of the county containing the public service district and the public service district shall maintain at its office a form provided by the public service district to be signed by any registered voter who is a resident of that portion of the public service district which will be served by the public service property to be acquired or constructed, and who is opposed to the public service district borrowing money or issuing revenue bonds upon the terms or for the purposes stated in the legal advertisement. The form available in the county clerk's office and in the office of the public service district shall state:

- (1) The amount of money to be borrowed, or the amount of revenue bonds to be issued;
 - (2) The interest rate and terms of the loan or bonds;
 - (3) The public service properties to be acquired or constructed, and the cost of same; and
 - (4) The anticipated rates which will be charged by the district. The form shall be arranged in a manner that permits every registered voter who is opposed to sign his name and list his address. The commission shall not grant its consent and approval if more than fifty percent of the registered voters who are residents of that portion of the public service district which will be served by the public service property to be acquired or constructed sign the form indicating their opposition. The commission may grant its consent and approval subject to such terms and conditions as may be necessary for the protection of the public interest, pursuant to the provisions of chapter twenty-four [§ 24-1-1 et seq.] of this Code, or may withhold such consent and approval for the protection of the public interest.
- In the event of disapproval, the reasons therefor shall be assigned in writing by the commission. If written disapproval has not been given by the commission within sixty days after receipt of the application by the commission, it may be deemed by the applicant that approval has in fact been given. (1969, 1st Ex. Sess., c. 6; 1981, c. 124.)

Cross reference. — Class II legal advertisement defined, § 59-3-2.

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withstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument.

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

Effect of amendment of 1986. — The amendment added the last sentence in the first paragraph.

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

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

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

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| <p>Sec. 16-13A-1. Legislative findings.</p> <p>16-13A-1a. Jurisdiction of the public service commission.</p> <p>16-13A-1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts.</p> <p>16-13A-1c. General purpose of districts.</p> <p>16-13A-2. Creation of districts by county commission; enlarging, reducing or dissolving district; consolidating, agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the secretary of state.</p> <p>16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.</p> <p>16-13A-3a. Removal of members of public service board.</p> <p>16-13A-4. Board chairman; members' com-</p> | <p>pensation; procedure; district name.</p> <p>16-13A-5. General manager of board.</p> <p>16-13A-7. Acquisition and operation of district properties.</p> <p>16-13A-9. Rules and regulations; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.</p> <p>16-13A-11. Accounts; audit.</p> <p>16-13A-13. Revenue bonds.</p> <p>16-13A-18a. Sale, lease or rental of water, sewer or gas system by district; distribution of proceeds.</p> <p>16-13A-21. Complete authority of article; liberal construction; district to be public instrumentality; tax exemption.</p> <p>16-13A-24. Acceptance of loans, grants or temporary advances.</p> <p>16-13A-25. Borrowing and bond issuance; procedure.</p> |
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Cited in State v. Neary, 365 S.E.2d 395 (W. Va. 1987).

§ 16-13A-1. Legislative findings.

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

In addition to the expanded powers which shall be given to the public service commission, the Legislature also concludes that it is in the best interest of the public for each county commission to review current technology available and consider consolidating existing public service districts where it is feasible and will not result in the interference with existing bond instruments. Further, if such consolidation is not feasible, the Legislature finds that it is in the best interest of the public for each county commission to review current technology available and consider consolidating or centralizing the management of public service districts within its county or multi-county area to achieve efficiency of operations. The Legislature also finds that additional guidelines should be imposed on the creation of new public service districts and that county commissions shall dissolve inactive public service districts as hereinafter provided. The Legislature also finds that the public service commission shall promulgate rules and regulations to effectuate the expanded powers given to the commission relating to public service districts. (1953, c. 147; 1980, c. 60; 1986, c. 81.)

Effect of amendment of 1986. — The amendment rewrote the section.

§ 16-13A-1a. Jurisdiction of the public service commission.

The jurisdiction of the public service commission relating to public service districts shall be expanded to include the following powers, and such powers shall be in addition to all other powers of the public service commission set forth in this code:

- (a) To study, modify, approve, deny or amend the plans created under section one-b [§ 16-13A-1b] of this article for consolidation or merger of public service districts and their facilities, personnel or administration;
- (b) To petition the appropriate circuit court for the removal of a public service district board member or members; and

(c) To create by general order a separate division within the public service commission to provide assistance to public service districts in technological, operational, financial and regulatory matters. (1986, c. 81.)

§ 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 [June 6, 1986] 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 shall have 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 department of health and the department of natural resources 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 shall have 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 and regulations promulgated by the public service commission and such order shall be implemented by the county commission. (1986, c. 81.)

§ 16-13A-1c. General purpose of districts.

Any territory constituting the whole or any part of one or more counties in the state so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of, properties supplying water or sewerage services or gas distribution services or all of these within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may be constituted a public service district under and in the manner provided by this article. The words

"public service properties," when used in this article, shall mean and include any facility used or to be used for or in connection with (1) the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses (herein sometimes referred to as "water facilities"), (2) the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (herein sometimes referred to as "sewer facilities" or "landfills") or (3) the distribution or the furnishing of natural gas to the public for industrial, public, private or other uses (herein sometimes referred to as "gas utilities or gas system"). (1986, c. 81.)

§ 16-13A-2. Creation of districts by county commission; enlarging, reducing or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the secretary of state.

The county commission of any county may, on its own motion by order duly adopted or upon the recommendation of the public service commission, propose the creation of such public service district within such county, setting forth in such order a description, including metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed district, or twenty-five percent of the registered voters who reside within the limits of such proposed public service district within one or more counties may petition for the creation thereof, which 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 [June 6, 1986], no new public service district shall be created under this section without the written consent and approval of the public service commission, which approval and consent shall be in accordance with rules and regulations 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 such 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 such territory or part thereof is included within the boundaries of a separate public service district organized to supply water, sewerage services or gas facilities not being furnished within such territory or part thereof: Provided further, That no city, incorporated town or other municipal corporation shall be included within the boundaries of such proposed district except upon the adoption of a resolution of the gov-

erning body of such city, incorporated town or other municipal corporation consenting.

Such 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 such territory is situated in more than one county, then such petition shall be filed in the office of the clerk of the county commission of the county in which the major portion of such 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 such county at the first regular meeting after such filing or at a special meeting called for the consideration thereof.

When the county commission of any county enters an order on its own motion proposing the creation of a public service district, as aforesaid, or when a petition for such creation is presented, as aforesaid, the county commission shall at the same session fix a date of hearing in such county on the creation 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 such action. If the territory proposed to be included is situated in more than one county, the county commission, when fixing a date of hearing, shall provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county commission of each county in which any territory in the proposed public service district is located shall cause notice of such hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such 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 such hearing. In all cases where proceedings for the creation of such 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 such 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.

All persons residing in or owning or having any interest in property in such proposed public service district shall have an opportunity to be heard for and against its creation. At such hearing the county commission before which the hearing is conducted shall consider and determine the feasibility of the creation 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 such 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 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 such area or that the creation 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 the district as amended. 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 expansion, merger or other means, it shall refuse to enter an order creating the proposed district and shall enter an order expanding, merging or consolidating the area with an existing public service district, in accordance with rules and regulations adopted by the public service commission for such purpose: Provided, That no expansion 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 expanded 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, expanding, merging or consolidating the district: Provided, however, That within ten days after the entry of an order creating, expanding or merging or consolidating a district, such order must be filed for review and approval by the public service commission. The public service commission shall provide a hearing in the affected county on the matter and may approve, reject or modify the order of the county commission if it finds it is in the best interests of the public to do so. The public service commission shall adopt rules and regulations relating to such filings and the approval, disapproval or modification of county commission orders for creating, expanding, merging or consolidating districts.

The county commission may, 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 establish 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 with like effect as if a district were being created. The commission shall at all times attempt to bring about the expansion 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. A list of all districts and their current board members shall be filed by the county commission with the secretary of state and the public service commission by the first day of July of each year. (1953, c. 147; 1965, c. 134; 1967, c. 105; 1975, c. 140; 1980, c. 60; 1981, c. 124; 1986, c. 81.)

Effect of amendment of 1986. — The corporation designated by the commission rewrote the section.
Merger or consolidation of districts. — This section authorizes either merger or consolidation of public service districts. Op. Att'y Gen., June 12, 1985, No. 9.
 A merger or consolidation results in one corporation which, in the case of merger, will be

§ 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 shall thereafter be a public corporation and political subdivision of the state, but without any power to levy or collect ad valorem taxes. Each district may acquire, own and hold property, both real and personal, in its corporate name, and may sue, may be sued, may adopt an official seal and may enter into contracts necessary or incidental to its purposes, including contracts with any city, incorporated town or other municipal corporation located within or without its boundaries for furnishing wholesale supply of water for the distribution system of the city, town or other municipal corporation, and contract for the operation, maintenance, servicing, repair and extension of any properties owned by it or for the operation and improvement or extension by the district of all or any part of the existing municipally owned public service properties of any city, incorporated town or other municipal corporation included within the district: Provided, That no contract shall extend beyond a maximum of forty years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

The powers of each public service district shall be vested in and exercised by a public service board consisting of not less than three members, who shall be persons residing within the district who possess certain educational, business or work experience which will be conducive to operating a public service

district. Each board member shall, within six months of taking office, successfully complete the training program to be established and administered by the public service commission in conjunction with the department of natural resources and the department of 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 such 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 not less than eighteen thousand shall be entitled to appoint one member of the board, and each such 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 shall thereby 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 shall equal or exceed three, then no further members shall be appointed to the board and the members shall be and constitute the board of the district.

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, which three members shall become members of and constitute the board of the district without any further act or proceedings.

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, and the additional member or members shall thereupon become members of the board; 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, shall be and constitute 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, shall be conclusively considered to be the population stated for such city, incorporated town or other municipal corporation in the last official federal census.

Notwithstanding any provision of this code to the contrary, whenever a district is consolidated or merged pursuant to section two [§ 16-13A-2] of this article, the terms of office of the existing board members shall end on the effective date of the merger or consolidation. The county commission shall appoint a new board according to rules and regulations promulgated by the public service commission.

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, and the term of the remaining member or members for six years, from the first day of the month during which the appointments are made. The first members of the board appointed as aforesaid shall meet at the office of the clerk of the county commission which entered the order creating the district as soon as practicable after the appointments and shall qualify by taking an oath of office. Provided, That any member or members of the board may be removed from their respective office as provided in section three-a [§ 16-13A-3a] of this article.

Any vacancy shall be filled for the unexpired term within thirty days, otherwise successor members of the board shall be appointed for terms of six years and the terms of office shall continue until successors have been appointed and qualified. All successor members shall be appointed in the same manner as the member succeeded was appointed.

The 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 chairman 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 the 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 chairman, secretary and treasurer thereof, shall make available to the county commission, at all times, all of its books and records pertaining to the district's operation, finances and affairs, for inspection and audit. The board shall meet at least monthly. (1953, c. 147; 1955, c. 134; 1971, c. 72; 1981, c. 124; 1983, c. 166; 1986, c. 81.)

Effect of amendment of 1986. — The amendment rewrote the second paragraph and added the present seventh paragraph. Cited in State v. Neary, 365 S.E.2d 395 (W. Va. 1987).

§ 16-13A-3a. Removal of members of public service board.
The county commission or the public service commission or any other appointive body creating or establishing a public service district under the provisions of this article, or any group of five percent or more of the customers of a public service district, may petition the circuit court of the county in which the district maintains its principal office for the removal of any member of the governing board thereof for consistent violations of any provisions of this article, for reasonable cause which includes, but is not limited to, a continued failure to attend meetings of the board, failure to diligently pursue the objectives for which the district was created, or failure to perform any other duty either prescribed by law or required by a final order of the public service commission or for any malfeasance in public office. Any board member charged with a violation under this section who offers a successful defense against such charges shall be reimbursed for the reasonable costs of such defense from district revenues. Such costs shall be considered as costs associated with rate determination by the public service district and the public service commission. If the circuit court, judge hearing the petition for removal finds that the charges are frivolous in nature, the judge may assess all or part of the court costs, plus the reasonable costs associated with the board member's defense, against the party or parties who petitioned the court for the board member's removal. (1963, c. 75; 1971, c. 72; 1981, c. 124; 1986, c. 81.)

Effect of amendment of 1986. — The amendment rewrote the section. Cited in State v. Neary, 365 S.E.2d 395 (W. Va. 1987).

§ 16-13A-4. Board chairman; members' compensation; procedure; district name.

The chairman shall preside at all meetings of the board and may vote as any other members of the board but if he should be 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. Salaries of each of its board members shall be as follows: For districts with fewer than six hundred customers, each board member shall receive fifty dollars per attendance at regular monthly meetings and thirty dollars per attendance at additional special meetings, total salary not to exceed nine hundred dollars per annum; for districts with six hundred customers or more but fewer than two thousand customers, each board member shall receive one hundred dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed eighteen hundred dollars per annum; and for districts with two thousand customers or more, each board member shall receive one hundred dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed three thousand 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. 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 and regulations of the board. The board shall by resolution determine its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings may be called. Public notice of meetings shall be given in accordance with section three (§ 6-9A-3), article nine-a, chapter six of this code. Emergency meetings may be called as provided by section three (§ 6-9A-3), article nine-a, chapter six of this code. A majority of the members constituting the board also constitute a quorum to do business. The members of the board are not personally liable or responsible for any obligations of the district or the board but are answerable only for willful misconduct in the performance of their duties. At any time prior to the issuance of bonds as hereinafter provided, the board may by resolution change the official or corporate name of the public service district and such change shall be effective from and after filing an authenticated copy of such resolution with the clerk of the county commission of each county in which the territory embraced within such district or any part thereof is located. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

Effect of amendment of 1986. — The amendment rewrote the section.

§ 16-13A-5. General manager of board.

The board may employ a general manager to serve a term of not more than five years and until his successor is employed, and his compensation shall be fixed by resolution of the board. Such general manager shall devote all or the required portion of his time to the affairs of the district and may employ, discharge and fix the compensation of all employees of the district, except as in this article otherwise provided, and he shall perform and exercise such other powers and duties as may be conferred upon him by the board.

Such general manager shall be chosen without regard to his political affiliations and upon the sole basis of his administrative and technical qualifications to manage public service properties and affairs of the district and he may be discharged only upon the affirmative vote of two thirds of the board. Such general manager need not be a resident of the district at the time he is chosen. Such general manager may not be a member of the board but shall be an employee of the board.

The board of any public service district which purchases water or sewer service from a municipal water or sewer system or another public service district may, as an alternative to hiring its own general manager, elect to permit the general manager of the municipal water or sewer system or public

service district from which such water or sewer service is purchased provide professional management to the district, if the appropriate municipality or public service board agrees to provide such assistance. The general manager shall receive reasonable compensation for such service. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

Effect of amendment of 1986. — The amendment added "or sewer" in four places in the last paragraph.

§ 16-13A-7. Acquisition and operation of district properties.

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same. All contracts involving the expenditure by the district of more than five 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 provisions of article three (§ 59-3-1 et seq.), chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two (§ 16-13A-2) of this article in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American-made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years. (1953, c. 147; 1967, c. 105; 1981, c. 124; 1982, c. 24; 1986, c. 81.)

Effect of amendment of 1986. — The amendment rewrote the second sentence; and made other minor changes.

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

The board may make, enact and enforce all needful rules and regulations in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district, and the board shall establish rates and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of such public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds hereunder. The schedule of such rates and charges may be based upon either (a) the consumption of water or gas on premises connected with such facilities, taking into consideration domestic, commercial, industrial and public use of water and gas; or (b) the number and kind of fixtures connected with such facilities located on the various premises; or (c) the number of persons served by such facilities; or (d) any combination thereof; or (e) may be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. Where water, sewer and gas services are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate thereof. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he shall state the name and address of the owner or owners of the premises to be served by the district. All new applicants for service shall deposit a minimum of fifty dollars with the district to secure the payment of service rates and charges in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another minimum deposit of fifty dollars has been remitted to the district. Whenever any rates, rentals or charges for services or facilities furnished remain unpaid for a period of thirty days after the same become due and payable, the property and the owner thereof, as well as the user of the services and facilities provided shall be delinquent and the owner, user and property shall be held liable at law until such time as all such rates and charges are fully paid: Provided, That the property owner shall be given notice of any said delinquency by certified mail, return receipt requested. The board may, under reasonable rules and regulations promulgated by the public service commission, shut off and discontinue water or gas services to all delin-

quent users of either water or gas facilities, or both: Provided, however, That upon written request of the owner or owners of the premises, the board shall shut off and discontinue water and gas services where any rates, rentals, or charges for services or facilities remain unpaid by the user of the premises for a period of sixty days after the same became due and payable.

In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separately either water facilities or sewer facilities, and the district owns and operates the other kind of facilities, either water or sewer, as the case may be, then the district and such publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the non-payment 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 shall have 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, regulations and orders of the public service commission.

Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the department of health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any such sewer facilities, where sewage will flow by gravity or be transported by such other methods approved by the department of health including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine § 16-1-9), article one, chapter sixteen of this code, from such houses, dwellings or buildings into such sewer facilities, to connect with and use such sewer facilities, and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such houses, dwellings and buildings where there is such gravity flow or transportation by such other methods approved by the department of health including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine § 16-1-9), article one, chapter sixteen of this code, and such houses, dwellings and buildings can be adequately served by the sewer facilities of the district, and it is hereby found, determined and declared that the mandatory use of such sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and

residents of such districts and of the state: Provided, That if the public service district determines that the property owner must connect with the sewer facilities even when sewage from such dwellings may not flow to the main line by gravity and the property owner must incur costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for such changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump, or any other method approved by the department of health; maintenance and operation costs for such extra installation should be reflected in the users charge for approval of the public service commission. The circuit court shall adjudicate the merits of such petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near such sewer facility, and the engineer for the district has certified that such sewer facilities are available to and are adequate to serve such owner, tenant or occupant, and sewage will flow by gravity or be transported by such other methods approved by the department of health from such house, dwelling or building into such sewer facilities, the district may charge, and such owner, tenant or occupant shall pay the rates and charges for services established under this article only after thirty-day notice of the availability of the facilities has been received by the owner.

All delinquent fees, rates and charges of the district for either water facilities, sewer facilities or gas facilities are liens on the premises served of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes. In addition to the other remedies provided in this section, public service districts are hereby granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrates court for the collection of delinquent water, sewer or gas bills. If the district collects the delinquent account, plus reasonable costs, from its customer or other responsible party, the district shall pay to the magistrate the normal filing fee and reasonable costs which were previously deferred. In addition, each public service district may exchange with other public service districts a list of delinquent accounts.

Anything in this section to the contrary notwithstanding, any establishment, as defined in section two (§ 20-5A-2), article five-a, chapter twenty, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the department of natural resources, as prescribed by section seven (§ 20-5A-7), article five-a, chapter twenty of this code, is exempt from the provisions of this section. (1953, c. 147; 1965, c. 134; 1980, c. 60; 1981, c. 124; 1986, c. 81; 1989, c. 174.)

Effect of amendment of 1986. — The amendment rewrote the section.

Effect of amendment of 1989. — The amendment, effective April 8, 1989, in the first paragraph, added the present fourth through seventh sentences, and added the proviso at the end of the last sentence; substituted "shall covenant" for "may covenant" in the first sentence.

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tence of the second paragraph, and substituted "users" for "user's" near the end of the third paragraph.

§ 16-13A-11. Accounts; audit.

The general manager, under direction of the board, shall install and maintain a proper system of accounts, in accordance with all rules, regulations or orders pertaining thereto by the public service commission, showing receipts from operation and application of the same, and the board shall at least once a year cause such accounts to be properly audited: Provided, That such audit may be any audit by an independent public accountant completed within one year of the time required for the submission of the report: Provided, however, That if the district is required to have its books, records and accounts audited annually by an independent certified public accountant as a result of any covenant in any board resolution or bond instrument, a copy of such audit may be submitted in satisfaction of the requirements of this section, and is hereby found, declared and determined to be sufficient to satisfy the requirements of article nine (§ 6-9-1 et seq.), chapter six of this code pertaining to the annual audit report by the state tax commission. A copy of the audit shall be forwarded within thirty days of submission to the county commission and to the public service commission.

The treasurer of each public service district shall keep and preserve all financial records of the public service district for ten years, and shall at all times have such records readily available for public inspection. At the end of his term of office, the treasurer of each public service district shall promptly deliver all financial records of the public service district to his successor in office. Any treasurer of a public service district who knowingly or willfully violates any provision of this section is guilty of a misdemeanor, and shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned in the county jail not more than ten days, or both. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

Effect of amendment of 1986. — The amendment rewrote the section.

§ 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,

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

Effect of amendment of 1989. — The in the second sentence and "nineteen percent" amendment, effective April 8, 1989, substituting "thirteen percent" in the fifth sentence; and "eighteen percent" for "twelve percent" made a minor punctuation change.

§ 16-13A-18a. Sale, lease or rental of water, sewer or gas system by district; distribution of proceeds.

In any case where a public service district owns a water, sewer or gas system, and all the members of the public service board thereof deem it for the best interests of the district to sell, lease or rent such water, sewer or gas system to any municipality or privately owned water, sewer or gas system, or to any water, sewer or gas system owned by an adjacent public service district, the board may so sell, lease or rent such water, sewer or gas system upon such terms and conditions as said board, in its discretion, considers in the best interests of the district. Provided, That such sale, leasing or rental may be made only upon approval by the public service commission of West Virginia.

In the event of any such sale, the proceeds thereof, if any, remaining after payment of all outstanding bonds and other obligations of the district, shall be ratably distributed to any persons who have made contributions in aid of construction of such water, sewer or gas system, such distribution not to exceed the actual amount of any such contribution, without interest, and any balance of funds thereafter remaining shall be paid to the county commission of the county in which the major portion of such water, sewer or gas system is

located to be placed in the general funds of such county commission. (1963, c. 75; 1981, c. 124; 1986, c. 81.)

Effect of amendment of 1998. — The places and made a minor change in punctuation added "sewer or gas" in seven places.

§ 16-13A-21. Complete authority of article; liberal construction; district to be public instrumentality; tax exemption.

This article shall constitute 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, shall be 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 state department of health and the state water resources board shall remain unaffected by this article. Every district organized, consolidated, merged or expanded under this article is declared to be 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 shall be exempt from taxation by the state of West Virginia, and the other taxing bodies of the state. Provided, however, That the board of any such district may use and apply any of its available revenues and income for the payment of what such board determines to be tax or license fee equivalents to any local taxing body and in any proceedings for the issuance of bonds of such district may reserve the right to annually pay a fixed or computable sum to such taxing bodies as such tax or license fee equivalent. (1953, c. 147; 1986, c. 81.)

Effect of amendment of 1998. — The amendment added "consolidated, merged or expanded" near the middle of the section.

§ 16-13A-24. Acceptance of loans, grants or temporary advances.

Any public service district created pursuant to the provisions of this article is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of construction or acquisition of water systems, sewage systems or gas facilities, or all of these, and the other purposes herein authorized, from any authorized agency or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid

out of the proceeds of the bonds authorized to be issued under the provisions of this article, the revenues of the said water system, sewage system or gas facilities or grants to the public service district from any authorized agency or from the United States of America or any federal or public agency or department of the United States or from any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any authorized agency or the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument. (1958, c. 14; 1980, c. 60; 1981, c. 124; 1986, c. 118.)

Effect of amendment of 1986. — The amendment added the last sentence.

§ 16-13A-25. Borrowing and bond issuance; procedure.

Notwithstanding any other provisions of this article to the contrary, a public service district shall not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of sections thirteen, twenty or twenty-four [§§ 16-13A-13, 16-13A-20 or 16-13A-24] of this article, without the prior consent and approval of the public service commission. Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the public service commission in accordance with the provisions of chapter twenty-four [§ 24-1-1 et seq.] of this code, when a public service district is seeking to acquire or construct public service property.

Sixty days prior to making formal application for said certificate, the public service district shall profile with the public service commission its plans and supporting information for said project and shall publish a Class II legal advertisement in a newspaper or newspapers of general circulation in each city, incorporated town or municipal corporation if available in the district, which legal advertisement shall state:

- (a) The amount of money to be borrowed, or the amount of revenue bonds to be issued: Provided, That if the amount is an estimate, the notice may be stated in terms of an amount "not to exceed" a specific amount;
- (b) The interest rate and terms of the loan or bonds: Provided, That if the interest rate is an estimate, the notice may be stated in terms of a rate "not to exceed" a specific rate;
- (c) The public service properties to be acquired or constructed, and the cost of same;
- (d) The anticipated rates which will be charged by the district: Provided, That if the rates are an estimate, the notice may be stated in terms of rates "not to exceed" a specific rate; and

(e) The date that the formal application for a certificate of public convenience and necessity is to be filed with the public service commission. The public service commission may grant its consent and approval for the certificate, or any other request for approval under this section, subject to such terms and conditions as may be necessary for the protection of the public interest, pursuant to the provisions of chapter twenty-four [§ 24-1-1 et seq.] of this code, or may withhold such consent and approval for the protection of the public interest.

In the event of disapproval, the reasons therefor shall be assigned in writing by the commission. (1969, 1st Ex. Sess., c. 6; 1981, c. 124; 1986, c. 81.)

Effect of amendment of 1986. — The amendment rewrote the section.

ARTICLE 14.

BARBERS AND BEAUTICIANS.

Sec. 16-14-2. Barbering, beauty culture and manicuring defined.

§ 16-14-1. Jurisdiction over barbers and beauticians; powers and duties of director of health.

Stated in *Wheeling Barber College v. Roush*, 321 S.E.2d 694 (W. Va. 1964).

§ 16-14-2. Barbering, beauty culture and manicuring defined.

For the purpose of this article "barbering" shall mean any one or combination of the following acts, when done on the human body, and not for the treatment of disease, to wit: Shaving, shaping and trimming the beard; cutting, singeing, shampooing or dyeing the hair, or applying tonics thereto; applications, treatment or massages of the face, neck or scalp with oils, creams, lotions, antiseptics, cosmetics, powders, clays or other preparations; and any such acts when done to encourage the use or sale of articles of trade, or for pay, rewards or other compensation, whether to be received directly or indirectly.

"Beauty culture" shall mean any one or combination of the following acts, when done on the human body, and not for the treatment of disease, to wit: The care, preservation and beautification of the hands and nails, commonly called manicuring; the cleansing, curling, waving, permanent waving, straightening, arranging, dressing, bleaching, tinting, coloring and shaping the hair, including such cutting of the hair as is necessary for the purposes mentioned in this paragraph; the application to, or treatment and massage of, the scalp, face, neck, arms, hands, or upper part of the body with oils, creams,

ORDERS—Wood County Court, Virginia

19 64

OCTOBER

TWENTY-SECOND DAY, SATURDAY, NOVEMBER 21st, 1964

NOVEMBER

19 64

OCTOBER TERM

TWENTY-SECOND DAY SATURDAY, NOVEMBER 21st, 1964

NOVEMBER, 1964

At a regular session of the County Court, continued and held for the County of Wood, at the Court House thereof, on Saturday, the 21st day of November, 1964, Present, J. L. Anos, President of said Court, and Frank J. Harrison and Harry C. Nicely, Commissioners. The orders and proceedings of the previous session of this Court, held on Thursday, the 19th day of November, 1964, were read in open Court, approved and ordered signed.

IN RE: CLAYWOOD PARK PUBLIC SERVICE DISTRICT

On the 21st day of November, 1964, this matter came upon again to be heard, this Court having heretofore on October 27, 1964, having fixed this date for a public hearing on the creation of the proposed Claywood Park Public Service District and having provided in the said Order that all persons residing in or owning or having any interest in property in the said proposed public service district might appear before the County Court at this hearing and have an opportunity to be heard for and against the creation of the said public service district.

It appearing to the Court from the certificate of the publisher thereof that notice of this hearing was duly published as required by Chapter 1b, Article 13e of the Code of West Virginia, 1931, as amended, which said certificate is hereby ORDERED to be filed herein, and it further appearing to the Court that all interested persons have been afforded an opportunity of being heard for and against the creation of the said district and it further appearing to the Court that no written protests have been filed by any qualified voters registered and residing within the said proposed public service district, the Court did proceed to hear and consider testimony and evidence relating to the feasibility of the creation of the said public service district from all of which the Court does find that it is feasible and desirable to create the proposed Claywood Park Public Service District and that the construction and acquisition and maintenance, operation and improvement of the public service properties by the proposed public service district will be conducive to the preservation of public health and convenience within the area of the proposed public service district hereinafter described. It is accordingly ORDERED as follows:

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

BEGINNING on the northerly bank of the Little Kanawha River at a point in the center of Worthington Creek and thence with the center line of Worthington Creek upstream in a general northeasterly direction fifteen hundred (1500) feet more or less to a point; thence south thirty (30) degrees east eight thousand one hundred (8,100) feet more or less to a point; thence north sixty-three (63) degrees east crossing Dry Run twelve hundred (1200) feet more or less to a point; thence south seventy-three (73) degrees ten (10) minutes east eighteen hundred (1800) feet more or less to a point in the westerly controlled access right-of-way line of Interstate Route #77; thence north seventy-eight (78) degrees fifty (50) minutes west fifty-five hundred (5500) feet more or less to a point; thence north ten (10) degrees east crossing U. S. Route #50 six thousand four hundred (6,400) feet to a point; thence south three (3) degrees east twenty-five hundred (2500) feet to a point; thence south sixty-five (65) degrees east twenty-nine hundred (2900) feet more or less to a point; thence south eight (8) degrees ten (10) minutes east twenty-two hundred (2200) feet more or less to a point; thence south forty (40) degrees twenty-five (25) minutes west crossing U. S. Route #50 five thousand four hundred (5,400) feet more or less to a point; thence west one hundred (100) feet to a point; thence south fifty (50) degrees thirty (30) minutes west crossing State Route #47 thirteen thousand two hundred (13,200) feet more or less to a point on the northerly bank of the Little Kanawha River; thence with the northerly bank of the Little Kanawha River down stream twenty-seven thousand (27000) feet more or less to the place of beginning.

2. That said public service district so created shall have the name and corporate title of Claywood Park Public Service District and shall constitute a public corporation and political subdivision of the State of West Virginia having all of the rights, powers and duties conferred

There appearing no further business to claim the attention of this Court, it is, hereby ordered that this Court do now adjourn to meet in regular session on Tuesday, the 24th day of November, 1964, at 9:30 o'clock A. M.

J. L. Anos
President

STATE OF WEST VIRGINIA.
COUNTY OF WOOD, TO-WIT:

I, H. K. Smith, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Office in whose custody the files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of ORDER: LE RE: CLAYWOOD
PARK PUBLIC SERVICE DISTRICT.

as the same appears of record in my said Office in ORDER BOOK 29 Page 418

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 21ST day of FEBRUARY 19 84

H. K. SMITH
CLERK WOOD COUNTY COMMISSION

By: *Wm. S. Lickinger*
Deputy

IN THE COUNTY COMMISSION OF WOOD COUNTY, WEST VIRGINIA

31/249

IN RE:
CLAYWOOD PARK PUBLIC SERVICE
DISTRICT ENLARGEMENT

O R D E R

On the 10th day of June, 1976, at 10:00 o'clock A. M., this matter came on to be heard, this Commission having heretofore by ORDER entered on May 13, 1976, and appears of Record in Order Book No. 37, at Page 257, fix this date and time for a public hearing on the enlargement of Claywood Park Public Service District, and having provided in said Order that all persons residing in, or owning, or having any interest in property in Claywood Park Public Service District, might appear before the County Commission at this hearing and have an opportunity to be heard for and against the enlargement of the said Public Service District.

Thereupon, Claywood Park Public Service District tendered to the Commission for filing, the following:

1) The Affidavit of Mary P. Chevront that Notice of the time and place of this hearing was published in the Parkersburg Sentinel on the 29th day of May, 1976, which was more than ten (10) days prior to the date of this hearing.

2) The return of G. G. Chapman, a Deputy Sheriff in and for the County of Wood, State of West Virginia, that notice of the time and place of this hearing was posted by the said G. G. Chapman, at five (5) conspicuous places in Claywood Park Public Service District and in the proposed enlargement of Claywood Park Public Service District.

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

I, L. W. Burdette, Clerk of the County Court in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody the files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of

ORDER IN RE: CLAYWOOD PARK PUBLIC SERVICE DISTRICT ENLARGEMENT

as the same appears of record in my said Office in ORDER BOOK NO. 37 Page 269

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 10th day of JUNE, 1976.

L. W. BURDETTE,
CLERK WOOD COUNTY COURT

The Commission, having examined the foregoing, and the same appearing to be proper, the said affidavit and return are hereby ordered to be, and are hereby filed herein.

It further appearing to the Commission that all interested persons have been afforded an opportunity of being heard, for and against, the enlargement of the said Public Service District, and it further appearing to this Commission that no written protests have been filed by any qualified voters, registered or residing within the said Public Service District or the proposed addition thereto, the Commission did proceed to hear and consider testimony and evidence relating to the necessity and feasibility of enlarging Claywood Park/^{Public}Service District, so as to include the additional territory described in the Petition heretofore filed, herein, and in the Notice hereinabove referred to, from all of which the Commission does find that it is necessary, feasible and proper to enlarge Claywood Park Public Service District so as to include the additional territory described in said Petition, and the Commission does further find that the enlargement of Claywood Park Public Service District will be conducive to the preservation of public health, comfort and convenience within the area of the enlarged public service district.

IT IS ACCORDINGLY ORDERED, that the boundaries of Claywood Park Public Service District heretofore created by this Commission (formerly Court and successor by conversion), by Order entered on November 21, 1964, and enlarged by Order entered on September 13, 1966, and reduced and enlarged by Order entered on March 8, 1973, be again enlarged so as to include within the boundaries of the said Claywood Park Public Service District, all of the area bounded and described as follows:

BEGINNING on the northerly bank of the Little Kanawha River at a point in the line of the Parkersburg Magisterial District 2,600 ft., more or less, upstream from the mouth of Worthington Creek; thence, proceeding up the Little Kanawha River with the south boundary of Parkersburg and Clay Magisterial Districts, 73,700 ft. to the intersection of the Wood-Wirt County line (Point #2); thence, proceeding with the Wood-Wirt County line 42,000 ft., more or less, to the intersection of the Ritchie County line near the community of Eatons (Point #3); thence, proceeding along the Wood-Ritchie County line 42,000 ft., more or less, to the intersection of the Wood-Ritchie-Pleasants County line (Point #4); thence, proceeding along the Wood-Pleasants County line 43,000 ft., more or less, to the mouth of Horseneck Run and Bull Run and a point on the Union-Williams Public Service District boundary (Point #5); thence, proceeding in a southwesterly direction with the Union-Williams Public Service District boundary 19,475 ft., more or less, to the community of Doyle (Point #6); thence, proceeding in a westerly direction along the Union-Williams Public Service District boundary 28,500 ft., more or less, to the community of Boreman at the intersection of West Virginia Secondary Route 16 and 16/5 (Point #7); thence, continuing in a southwesterly direction 9,400 ft. to the intersection of U. S. Route 50 and Interstate Highway I-77 (Point #8); thence, continuing in a southwesterly direction 10,000 ft. to a point in Dry Run 800 ft., more or less, from State Route 47 (Point #9); thence, proceeding in a northwesterly direction 6,200 ft., more or less, to a point in the property line of land now owned by J. Stewart Dudley, the proposed corporation line of the City of Parkersburg (Point #10); thence, with the Dudley line extended S 29°13' W 1,500 ft., more or less, to the place of beginning, containing 107 sq. miles, more or less, which said area is shown on a map entitled "Claywood Park Public Service District, Wood County, West Virginia, March, 1976", prepared by Carrone & Vaughn, Inc., Professional Engineers, which said map is on file in the Office of the Clerk of the County Commission of Wood County, West Virginia.

THE COUNTY COMMISSION OF WOOD COUNTY

Victor H. Wafferty
Victor H. Wafferty, President

James A. Fittro
James A. Fittro, Commissioner

Marvin H. Leach
Marvin H. Leach, Commissioner

ENTER: JUNE 10, 1976

ORDERS—Wood County Court,

Virginia

JANUARY Term,

THIRTIETH DAY
TUE DAY, MARCH 6th, 1973

MARCH 19 73

JANUARY TERM

THIRTIETH DAY
THURSDAY, MARCH 8th, 1973

MARCH 1973

At a regular session of the County Court, continued and held for the County of Wood, at the Court House thereof, Thursday, March 8th, 1973, Present, Marvin M. Leach, President of said Court and Victor H. Rafferty and James A. Pittro, Commissioners.

The orders and proceedings of the previous session of this Court held on Tuesday, March 6th, 1973, were read in open Court, approved and ordered signed.

IN RE: CLAYWOOD PARK PUBLIC SERVICE DISTRICT

ORDER

On this 8th day of March, 1973, the Court again considered the enlargement and reduction of Claywood Park Public Service District. The Court finds and determines that the written protests in the form of Petitions filed with the Court on March 1, 1973, do not constitute written protests by 30% or more of the qualified voters registered in or residing in the proposed boundaries of Claywood Park Public Service District. Accordingly, the Court having on February 6 and March 3 heard and considered testimony and evidence relating to the necessity, feasibility, and propriety of enlarging Claywood Park Public Service District so as to include the additional territory described in the petition heretofore filed herein, and in notice of said Public Hearing on February 6, 1973, and further did proceed to hear and consider evidence relating to the necessity, feasibility, and propriety of reducing Claywood Park Public Service District so as to remove therefrom the territory also described in the petition herein, and in the notice heretofore referred to, and all interested persons having been afforded an opportunity to be heard for and against the enlargement and reduction of the said Public Service District the Court does find that it is necessary, feasible, and proper to enlarge Claywood Park Public Service District so as to include therein the additional territory hereinafter fully described and to reduce the said District by removing therefrom the territory reduction of Claywood Park Public Service District will be conducive to the preservation of public health and convenience within the area of the enlarged public service district. It is accordingly ordered that the boundaries of Claywood Park Public Service District heretofore created by this Court by order entered on November 21, 1964, and enlarged by order entered on September 13, 1966, be again enlarged so as to include within the boundaries of the said Claywood Park Public Service District all of the area in Parkersburg, Clay, Walker, and Union Magisterial Districts of Wood County, West Virginia bounded and described as follows and that the District be reduced by removing therefrom that territory in Parkersburg District adjacent to the present corporate limits of the City of Parkersburg more fully shown and described upon the map or plat hereinafter referred to:

BEGINNING on the northerly bank of the Little Kanawha River at a point in the line of the Parkersburg Magisterial District 2600 feet, more or less, upstream from the mouth of Worthington Creek thence proceeding up the Little Kanawha River with the Parkersburg Magisterial south boundary to the Clay Magisterial boundary at Dry Run and continuing up the Little Kanawha River along the south boundary of Clay Magisterial District 47,400 feet to the mouth of Walker Creek; thence northeastward 11,700 feet to community of Doyle at the center line of the intersection of West Virginia State Route 31 and West Virginia Secondary Road No. 3/16, a common corner of Union Williams Public Service District; thence with the Union Williams Public Service District boundary westward 28,500 feet to the community of Foreman at the intersection of West Virginia Secondary Route 16 and 16/5; thence proceeding 9400 feet to the center of the intersection of Interstate Highway 77 and U. S. Route 50; thence the boundary proceeds 6200 feet, more or less, northwesterly to a point in the property line of land now owned by J. Stewart Dudley, the proposed corporation line of the City of Parkersburg; thence with the Dudley line extended S. 29° 13' W. 1500 feet, more or less, to the place of beginning; containing 35 square miles, more or less, which said area is shown on a map entitled Claywood Park Public Service District New and Enlarged Boundary Wood County, West Virginia, dated August 1, 1972, prepared by Carrone & Vaurin, Inc., professional engineers, which said map is attached to the petition heretofore filed herein and made a part thereof and to which reference is hereby made and had.

And thence the boundary proceeds 10,100 feet, in a southwesterly direction to Dry Run approximately 800 feet, more or less, northeast of West Virginia State Route 47;

There appearing no further business to claim the attention of this Court, it is hereby ordered that this Court do now adjourn to meet in regular session, Saturday, March 10, 1973, at 9:00 o'clock, A. M.

Marvin M. Leach
President

STATE OF WEST VIRGINIA.
COUNTY OF WOOD, TO-WIT:

I, H. K. Smith, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody the files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of ORDER: IN RE: CLAYWOOD
PARK PUBLIC SERVICE DISTRICT.

as the same appears of record in my said Office in ORDER BOOK 36 Page 161

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 21ST day of FEBRUARY 19 84

H. K. SMITH
CLERK WOOD COUNTY COMMISSION

By: *Forth S. Keith*
Deputy

2/17/22 ✓
E

IN THE COUNTY COURT OF WOOD COUNTY, WEST VIRGINIA

IN RE:

CLAYWOOD PARK PUBLIC SERVICE
DISTRICT ENLARGMENT

O R D E R

On the 13th day of September, 1966, this matter came again to be heard, this Court having heretofore by order entered on August 23, 1966, fixed this date for a public hearing on the enlargement of Claywood Park Public Service District, and having provided in the said order that all persons residing in, or owning, or having any interest in property in Claywood Park Public Service District, or in the proposed addition to Claywood Park Public Service District, might appear before the County Court at this hearing and have an opportunity to be heard for and against the enlargement of the said Public Service District.

It appearing to the Court from the certificate of the publisher thereof, that notice of this hearing was duly published as required by Chapter 16, Article 13-a, of the Code of West Virginia of 1931, as amended, which said certificate is hereby ORDERED to be filed herein, and it further appearing to the Court that all interested persons have been afforded an opportunity of being heard for and against the enlargement of the said district, and it further appearing to the Court that no written protests have been filed by any qualified voters registered in or residing within the said Public Service District

or the proposed addition thereto, the Court did proceed to hear and consider testimony and evidence relating to the necessity, feasibility, and propriety of enlarging Claywood Park Public Service District so as to include the additional territory described in the petition heretofore filed herein, and in the notice above referred to, from all of which the Court does find that it is necessary, feasible, and proper to enlarge Claywood Park Public Service District so as to include therein, the additional territory hereinafter fully described, and the Court does further find that the enlargement of Claywood Park Public Service District will be conducive to the preservation of public health and convenience within the area of the enlarged public service district. It is accordingly ORDERED as follows:

- 1.) That the boundaries of Claywood Park Public Service District heretofore created by this Court by order entered in the County Court of Wood County, on November 21, 1964, be enlarged so as to include within the boundaries of the said public service district, the area described in the order last above referred to, and in addition thereto, the following addition:

BEGINNING on the Northerly bank of the Little Kanawha River at the point at which the present Southeasterly boundary of Claywood Park Public Service District intersects the said Northerly bank of the Little Kanawha River, and thence with the Northerly bank of the Little Kanawha River upstream to the mouth of Allen Run; thence with the center of Allen Run to the intersection of West Virginia State Route 47 and said Allen Run; thence South 58° West 12,000 feet, more or less, to a point in the present Southeasterly line of Claywood Park Public Service District; thence with the present Southeasterly line of Claywood Park Public

Service District South 50° 30' West 7,800 feet, more or less, to the place of beginning; which said area is shown on a map entitled "Addition to Claywood Park Public Service District, Wood County, West Virginia", dated August, 1966, prepared by M. Edward Norman, professional Engineer, which said map has been filed with the Clerk of the County Court of Wood County, West Virginia.

THE COUNTY COURT OF WOOD COUNTY

By: Frank J. Harrison
Frank J. Harrison, President

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

L. W. Burdette Clerk of the County Court in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody the files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of IN RE: CLAYWOOD PARK PUBLIC

SERVICE DISTRICT ENLARGMENT

as the same appears of record in my said Office in COURT ORDER RECORD #32 Page 122

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 22nd. day of December 19 66

CLERK WOOD COUNTY COURT L. W. Burdette
By: Walter H. Foley
Deputy

JULY TERM

TWENTY-NINTH DAY
TUESDAY, SEPTEMBER 13th, 1966

SEPTEMBER

SEPTEMBER, 1966

At a regular session of the County Court, continued and held for the County of Wood, at the Court House thereof, on Tuesday, the 13th day of September, 1966. Present, Frank J. Harrison, President of said Court, and Harry C. Nicely, Commissioner. The orders and proceedings of the previous session of this Court, held on Saturday, the 10th day of September, 1966, were read in open Court, approved and ordered signed.

IN RE: CLAYWOOD PARK PUBLIC SERVICE DISTRICT ENLARGEMENT
ORDER

On the 13th day of September, 1966, this matter came again to be heard, this Court having heretofore by order entered on August 23, 1966, fixed this date for a public hearing on the enlargement of Claywood Park Public Service District, and having provided in said order that all persons residing in, or owning, or having any interest in property in Claywood Park Public Service District, or in the proposed addition to Claywood Park Public Service District, might appear before the County Court at this hearing and have an opportunity to be heard for and against the enlargement of the said Public Service District.

It appearing to the Court from the certificate of the publisher thereof, that notice of this hearing was duly published as required by Chapter 16, Article 13a, of the Code of West Virginia of 1931, as amended, which said certificate is hereby ORDERED to be filed herein, and it further appearing to the Court that all interested persons have been afforded an opportunity of being heard for and against the enlargement of the said district, and it further appearing to the Court that no written protests have been filed by any qualified voters residing in or residing within the said Public Service District or the proposed addition thereto, the Court did proceed to hear and consider testimony and evidence relating to the necessary, feasibility, and propriety of enlarging Claywood Park Public Service District so as to include the additional territory described in the petition heretofore filed herein, and in the notice above referred to, from all of which the Court does find that it is necessary, feasible and proper to enlarge Claywood Park Public Service District so as to include therein, the additional territory hereinafter fully described, and the Court does further find that the enlargement of Claywood Park Public Service District will be conducive to the preservation of public health and convenience within the area of the enlarged public service district. It is accordingly ORDERED as follows:

1.) That the boundaries of Claywood Park Public Service District heretofore created by this Court by order entered in the County Court of Wood County, on November, 21, 1964, be enlarged so as to include within the boundaries of the said public service district, the area described in the order last above referred to, and in addition thereto, the following addition:

BEGINNING on the Northernly bank of the Little Kanawha River at the point at which the present southeasterly boundary of Claywood Park Public Service District intersects the said Northernly bank of the Little Kanawha River, and thence with the Northernly bank of the Little Kanawha River upstream to the mouth of Allen Run; thence with the center of Allen Run to the intersection of West Virginia State Route 47 and said Allen Run; thence South 58° West 12,000 feet, more or less, to a point in the present southeasterly line of Claywood Park Public Service District; thence with the present southeasterly line of Claywood Park Public

District South 50° West 7,000 feet, more or less, to the place of BEGINNING; which said area is shown on a map entitled "Addition to Claywood Park Public Service District, Wood County, West Virginia", dated August, 1966, prepared by M. Edward Norman, Professional Engineer, which said map has been filed with the Clerk of the County Court of Wood County, West Virginia.

THE COUNTY COURT OF WOOD COUNTY
By: Frank J. Harrison, President.

There appearing no further business to claim the attention of this Court, it is hereby ordered that this Court do now adjourn to meet in regular session on Thursday, the 15th day of September, 1966, at 9:30 o'clock A. M.

Frank J. Harrison
President

STATE OF WEST VIRGINIA
COUNTY OF WOOD, TO-WIT

I, H. K. Smith, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody the files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of ORDER: IN RE: CLAYWOOD PARK
PUBLIC SERVICE DISTRICT ENLARGEMENT.

as the same appears of record in my said Office in ORDER BOOK 32 Page 122

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 21ST day of FEBRUARY 19 84

H. K. SMITH

CLERK WOOD COUNTY COMMISSION

By: *Wanda J. Fuldberg*
Deputy

BY-LAWS

CLAYWOOD PARK PUBLIC SERVICE DISTRICT

ARTICLE I

Name and Place of Business

Section 1. Name: CLAYWOOD PARK PUBLIC SERVICE DISTRICT

Section 2. The principal office of this Public Service District will be located at Route #5, P. O. Box 39, Parkersburg, in Wood County, West Virginia.

Section 3. The Common Seal of the District shall consist of two concentric circles between which circles shall be inscribed Claywood Park Public Service District, and in the center "seal" as follows:

Section 4. The fiscal year of the District shall begin the 1st day of July in each year and shall end on the following June 30.

ARTICLE II

Purpose

This District is organized exclusively for the purposes set forth in Chapter 16, Article 13a of the Code of West Virginia of 1931, as amended.

ARTICLE III

Membership

Section 1. The members of the Public Service Board of this District shall be those persons appointed by the County Court of Wood County, West Virginia, who shall serve for such terms as may be specified in the order of the County Court by which they are appointed.

Section 2. Should any member of the Public Service Board resign or otherwise become legally disqualified to serve as a member of the Public Service Board, the Secretary shall immediately notify the County Court of Wood County and request the appointment of a qualified person to fill such vacancy. Prior to the end of the term of any member of the Public Service Board, the Secretary shall notify the County Court of the pending termination and request the County Court to enter an order of appointment or re-appointment to maintain a fully qualified membership of the Public Service Board.

ARTICLE IV

Meetings of the Public Service Board

Section 1. The members of the Public Service Board of this District shall hold regular monthly meetings on the second Monday of each month at such place and hour as the members shall determine from time to time. If the day stated shall follow a legal holiday, the meeting shall be held on the following day. Special meetings of the Public Service Board may be called at any time by the Chairman or by a quorum of the Board.

Section 2. At any meeting of the Public Service Board of the District, two members shall constitute a quorum. Each member of the Public Service Board shall have one vote at any membership meeting and if a quorum is not present, those present may adjourn the meeting to a later date.

Section 3. No notice shall be required for regular meetings. Notice in writing of each special meeting of the membership shall be given to all members by the Secretary by mailing the same to the last known post office addresses of the members at least three (3) days before the date fixed for such meeting. The notice of any special meeting shall state briefly the purposes of such meeting and the nature of the business to be transacted thereat, and no business other than that stated in the notice or incident thereto shall be transacted at any such special meeting. However, if all the members are present, they may hold a special meeting at any time and at any place without notice and may consider any business that comes before them. Notice of any special meeting may be waived in writing by all of the members.

ARTICLE V

Officers

Section 1. The officers of the Public Service Board shall be a Chairman, Secretary and Treasurer. The Chairman shall be elected

from the members of the Public Service Board. The Secretary and Treasurer need not be members of the Public Service Board.

Section 2. The officers of the Public Service Board shall be elected each year by the members at the first meeting held in the month of January of such year. The Officers so elected shall serve until the next annual election by the membership and until their successors are duly elected and qualified. Any vacancy occurring among the officers shall be filled by the members of the Public Service Board at a regular or special meeting. Persons selected to fill vacancies shall serve until the following January meeting of the Board when their successors shall be elected as hereinabove provided.

ARTICLE VI

Duties of Officers

Section 1. When present, the Chairman shall preside as Chairman at all meetings of the Public Service Board. He shall, together with the Secretary, sign the minutes of all meetings at which he shall preside. He shall attend generally to the executive business of the Board and exercise such powers as may be conferred upon him by the Board, by these by-laws, or prescribed by law. He shall execute, and if necessary, acknowledge for record, any deeds, deeds of trust, contracts, notes, bonds, agreements or other papers necessary, requisite, proper or convenient to be executed by or on behalf of the Board when and if directed by the members of the Board.

Section 2. If the Chairman is absent from any meeting, the remaining members of the Board shall select a temporary chairman.

Section 3. The Secretary shall keep a record of all proceedings of the Board which shall be available for inspection as other public records. He shall, together with the Chairman, sign the minutes of the meetings at which he is present. The Secretary shall have charge of the minute book, be the custodian of deeds and other writings and papers of the Board. He shall also perform such other duties as he may have under law by virtue of his office or as may be conferred upon him from time to time by the members of the Board.

Section 4. The Treasurer shall be the lawful custodian of all funds of the District and shall pay same out on orders authorized or approved by the Board. The Treasurer shall furnish bond in an amount to be fixed by the Board from time to time for the use and benefit of the District. The Treasurer shall keep or cause to be kept proper and accurate books of accounts and proper receipts and vouchers for all disbursements made by or through him and shall prepare and submit such reports and statements of the financial condition of the Board as the members may from time to time prescribe. He shall perform such other duties as may be required of him by law or as may be conferred upon him by the members of the Board.

ARTICLE VII

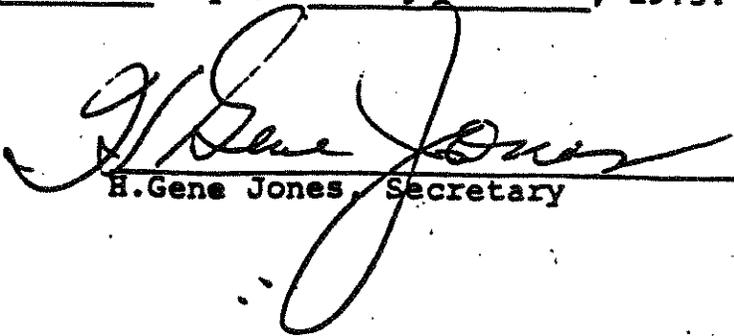
Amendments to by-laws

These by-laws may be altered, changed, amended or added to at any regular or special meeting of the Board by a majority vote of the entire Board, or at any regular or special meeting of the members when a quorum is present in person and a majority of those present vote for the amendment; but no such change, alteration, amendment or addition shall be made at any special meeting unless notice of the intention to propose such change, alteration, amendment or addition and a clear statement of the substance thereof be included in the written notice calling such meeting.

CERTIFICATION

The undersigned, H. Gene Jones, Secretary of the Public Service Board of Claywood Park Public Service District hereby certifies that the foregoing Bylaws of the Public Service Board of Claywood Park Public Service District are a true and correct copy of the original Bylaws.

Dated this 16th day of August, 1973.


H. Gene Jones, Secretary

APRIL TERM

THIRD DAY
MONDAY, APRIL 6, 1987

APRIL, 1987

✓ IN RE: EDNA F. SUMMERS--APPOINTMENT--OATH OF OFFICE--MEMBER OF THE PUBLIC SERVICE BOARD OF CLAYWOOD PARK
PUBLIC SERVICE DISTRICT.

Upon motion duly made, seconded and passed, and made unanimous, this day the Wood County Commission appointed Edna F. Summers as a member of the Public Service Board of Claywood Park Public Service District, to fill the vacancy created by the term of Lynda Kay Rhodes expiring on the 1st day of November, 1986, and the County Commission not reappointing the said Lynda Kay Rhodes as a member of the Public Service Board of Claywood Park Public Service District. The said term of Edna F. Summers as such member will expire on the 1st day of November, 1992. With the approval of the County Commission, the said Edna F. Summers subscribed to the following oath as such appointed member of the Public Service Board of Claywood Park Public Service District, and in compliance with Chapter 16, Article 13A, Section 3, of the West Virginia Code, the said Edna F. Summers will take the training program established and administered by the public service commission in conjunction with the Department of Natural Resources and the Department of Health, as soon as possible.

"STATE OF WEST VIRGINIA,
COUNTY OF WOOD TO-MIT:

I, Edna F. Summers, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of the office of APPOINTMENT--MEMBER OF THE PUBLIC SERVICE BOARD OF CLAYWOOD PARK PUBLIC SERVICE DISTRICT in and for Wood County, West Virginia, to the best of my skill and judgment, during my continuance in the same; SO HELP ME GOD.
s/ Edna F. Summers

Subscribed and sworn to, before THE COUNTY COMMISSION of Wood County, West Virginia, this 6th day of April, 1987.

Jamie Six
Clerk Wood County Commission
By: Pauline Eaton, Deputy"
Term expires: 11/1/92.

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

I, JAMIE SIX, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody the files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of _____
IN RE: EDNA F. SUMMERS--APPOINTMENT--OATH OF OFFICE--MEMBER OF THE PUBLIC SERVICE BOARD OF
CLAYWOOD PARK PUBLIC SERVICE DISTRICT.

as the same appears of record in my said Office in _____ COURT ORDER BOOK #47 _____, Page _____ 414

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the _____ 13th _____ day of _____ April _____, 19 _____ 87

JAMIE SIX

CLERK WOOD COUNTY COMMISSION

By: _____
Deputy

OCTOBER TERM

FIFTH DAY

MONDAY, OCTOBER 22, 1984

OCTOBER TERM, 1984

At a regular session of the County Commission, continued and held for the County of Hood, at the Court House thereof, Monday, October 22, 1984, Present, William C. Parrish, President of said Commission, and Dexter L. Buckley, Jr., Commissioner.

The orders and proceedings of the previous session of this Commission, held on Thursday, October 18, 1984, were read before the Commission, approved and ordered signed.

✓ IN RE: CLAYWOOD PARK PUBLIC SERVICE DISTRICT;
REAPPOINTMENT OF WILLIAM RAY MAZE AS A MEMBER
OF THE PUBLIC SERVICE BOARD OF CLAYWOOD
PARK PUBLIC SERVICE DISTRICT

O R D E R

It appearing to the Commission that by Order heretofore entered, William Ray Maze was appointed as a member of the Public Service Board of Claywood Park Public Service District, and
It further appearing to the Commission that the term of office of said William Ray Maze expires as of November 1, 1984;

It is, accordingly, ADJUDGED, ORDERED and DECREED that WILLIAM RAY MAZE be, and he is hereby reappointed as a member of the Public Service Board of Claywood Park Public Service District to serve a term of six years expiring on November 1, 1990. In compliance with Chapter 16, Article 13A, Section 3 of the Code of West Virginia, the said WILLIAM RAY MAZE will take the training program to be established and administered by the Public Service Commission in conjunction with the Department of Natural Resources and the Department of Health, when it is available.

THE COUNTY COMMISSION OF HOOD COUNTY

By: s/ William C. Parrish

President

TERM EXPIRES: November 1, 1990

09665

✓ IN RE: WILLIAM RAY MAZE--OATH OF OFFICE--REAPPOINTED MEMBER--PUBLIC SERVICE BOARD OF CLAYWOOD PARK PUBLIC SERVICE DISTRICT.

Came this day, William Ray Maze, who was, heretofore by order of this Commission reappointed as a member of the Public Service Board of Claywood Park Public Service District, and the said term of William Ray Maze as a reappointed member of the Public Service Board of Claywood Park Public Service District will be from November 1, 1984 to November 1, 1990. With the approval of the County Commission, the said William Ray Maze subscribed to the following oath as such reappointed member of the Public Service Board of Claywood Park Public Service District:

"STATE OF WEST VIRGINIA,
COUNTY OF HOOD

TO-WIT:

I, William Ray Maze, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of the office of REAPPOINTED MEMBER OF THE PUBLIC SERVICE BOARD OF CLAYWOOD PARK PUBLIC SERVICE DISTRICT in and for Hood County, West Virginia, to the best of my skill and judgment, during my continuance in the same; SO HELP ME GOD.

s/ William Ray Maze

Subscribed and sworn to, before THE COUNTY COMMISSION of Hood County, West Virginia, this 22nd day of October, 1984.

H. K. Smith

Clerk Hood County Commission

By: Pauline Eaton, Deputy

Term: 11/1/84 to 11/1/90.

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

I, JAMIE SIX, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody the files, books and records of said Office are required by laws of said State to be kept, do hereby certify that

the attached and foregoing writing is a full, true and complete transcript and copy of

IN RE: CLAYWOOD PARK PUBLIC SERVICE DISTRICT: REAPPOINTMENT OF WILLIAM RAY MAZE AS A MEMBER
OF THE PUBLIC SERVICE BOARD OF CLAYWOOD PARK PUBLIC SERVICE DISTRICT -- OATH OF OFFICE

as the same appears of record in my said Office in
COURT ORDER BOOK #47
Page 145

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of
Wood and State of West Virginia, this the 18th day of February, 1987

JAMIE SIX

CLERK WOOD COUNTY COMMISSION

By: *Jamie Six*
Deputy

OCTOBER TERM

THURSDAY, NOVEMBER 3, 1988
NINTH DAY

NOVEMBER, 1988

IN RE: CHARLES TOWNSEND--REAPPOINTMENT--OATH OF OFFICE--MEMBER OF THE PUBLIC SERVICE BOARD OF CLAYWOOD
PARK PUBLIC SERVICE DISTRICT.

Upon motion duly made, seconded, and made unanimous, this day the Wood County Commission reappointed Charles Townsend as a member of the Public Service Board of Claywood Park Public Service District for a term of six (6) years, and the said term of Charles Townsend, as such member will expire on the 1st day of November, 1994, and with the approval of the County Commission, the said Charles Townsend subscribed to the following oath as such reappointed member of the Public Service Board of Claywood Park Public Service District.

"STATE OF WEST VIRGINIA,
COUNTY OF WOOD

TO WIT:

I, Charles Townsend, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of the office of REAPPOINTED MEMBER OF THE PUBLIC SERVICE BOARD OF CLAYWOOD PARK PUBLIC SERVICE DISTRICT in and for Wood County, West Virginia, to the best of my skill and judgment, during my continuance in the same; SO HELP ME GOD.

Subscribed and sworn to, before THE COUNTY COMMISSION of Wood County, West Virginia, this 3rd day of November, 1988.

Term expires: 11/1/94.

Jamie Six
Clerk Wood County Commission
By: Pauline Eaton, Deputy"

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

I, JAMIE SIX, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody the files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of CHARLES TOWNSEND--REAPPOINTMENT
OATH OF OFFICE--MEMBER OF THE PUBLIC SERVICE BOARD OF CLAYWOOD PARK PUBLIC SERVICE DISTRICT.

as the same appears of record in my said Office in _____ 51 _____, Page _____ 118 _____

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 4TH day of NOVEMBER, 19 88.

JAMIE SIX

CLERK WOOD COUNTY COMMISSION
By: 
Deputy

CLAYWOOD PARK

PUBLIC SERVICE DISTRICT

RT. NO. 5, BOX 39

PARKERSBURG, W. VA. 26101

PHONE 422-6042

MINUTES

Date: Jan. 3, 1989

Time: 7:00PM

Place: Claywood Park P.S.D. Office

Attending: Neil Bee, Clara Bee, Edna Summers, Charles Townsend, & Ray Maze.

The meeting opened with Neil Bee calling for the nomination of officers for the new year. Edna Summers nominated Charles Townsend for chairman. Ray Maze seconded the motion. Motion carried unanimously. Edna Summers nominated Ray Maze as Secretary and Charles Townsend seconded the motion. Motion carried unanimously.

Charles Townsend, chairman, said he would like to make a correction in last months minutes. In the first sentence it should read: Charles Townsend, chairman, called the meeting to order and said if there were no objections that we would dispense with the reading of the minutes. This was corrected on the Dec. 6, 1988 minutes.

Charles then said that if there was no objections we would dispense with the reading of last months minutes. A sheet of the December disbursements was passed around and initialed by all the commissioners.

Claywood Park Wastewater Project- Neil said that the DNR was on strike and that the Cedar Grove Sewer plans and spec's were still waiting on review from them. Neil said that the PSC has not responded to our application, this being the case, Dave Simon, has been taken off of R/W procurement for awhile. DEERWALK WATER LINE EXT. Neil said that he had received the first set of interrogatories from the PSC in the form of 13 questions that had to be answered by Dec. 19th, which was done. He said that senator, Donna Boley had contacted the PSC and talked to Mr. Casto, one of the PSC commissioners. He felt there was no problem and to send future correspondence to him. The FmHA will let us go to bid when we have the letter of conditions material complete. It then must be submitted to the FmHA in Morgantown. Neil then read letters that he had written to FmHA and the PSC as the FmHA had written Claywood Park PSD a letter saying that they were going to deobligate the Deerwalk loan if we didn't send them a detailed schedule of what was going on with the Deerwalk project.

NEWARK PROJECT - Neil said that the Newark line is completed and the customers received their first bill Dec. 31, 1988.

CENTRAL BOAZ WASTEWATER PROJECT- Neil said that the SBR plant had some control problems today and some sewage had backed up in the basement of the Plant. This problem has been corrected. Approximately three weeks ago, two technical representatives from the Air Vac Co. came to job site and fine tuned the controls on the vacuum valves. Since then the system has been doing better.

RIDGE ROAD-WALKER-KITES RUN- There is nothing new on these projects.

Neil said that Carl Kelly had bought the Roy Taggart property and cleared out the old saw mill at Kanawha. He is going to make a new access road into the property and asked us to relocate the fire hydrant. This will be done, when weather permits.

CLAYWOOD PARK

PUBLIC SERVICE DISTRICT

RT. NO. 5, BOX 39

PARKERSBURG, W. VA. 26101

PHONE 422-6042

MINUTES CONTINUED 1/03/89

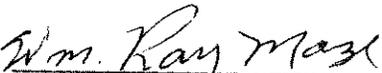
Neil said that we were having the normal amount of taps for this time of year. He said that all the concrete driveways on Northwood Terrace in Boaz were completed. The new service truck for the Boaz sewer system came in on Dec. 10th and has been put into service.

Neil asked if there were any questions. Edna Summers asked about the \$2,450 bill of archeologist, Jeff Graybill and Charles Townsend asked about the \$2,500 bill for Rule 42, prepared by Harmon, Thompson, Mallory & Ice. Neil explained both of these bills to the commissioners.

Charles said if there was no other business, the meeting was adjourned at 7:40PM.

Clara Bee, Treasurer

I Wm. Ray Maze Secretary of Claywood Park Public Service District certify that the foregoing and hereto annexed minutes of the January 3, 1989 meeting of the commissioners of the Claywood Park Public Service District is a true copy of said minutes, duly adopted by said commissioners.



Wm. Ray Maze, Secretary

CLAYWOOD PARK PUBLIC SERVICE DISTRICT

CLAYWOOD PARK PUBLIC SERVICE DISTRICT
BOND RESOLUTION

ARTICLE I:
DEFINITIONS, STATUTORY AUTHORITY AND FINDINGS

- Section 1.01 Definitions
- Section 1.02 Authority for this Resolution
- Section 1.03 Findings
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OF ACTIONS: APPROVAL AND EXECUTION
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- Section 2.02 Approval of Application, Loan Agreement, Amended
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- Section 3.02 Term of the Series A Bond and Series B Bond
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- Section 3.07 Bonds Mutilated, Destroyed, Stolen or Lost
- Section 3.08 Person Treated as Owners
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Bond
- Section 3.10 Application of Proceeds of Bonds
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Loan Agreement with Authority

ARTICLE IV:
INTERIM CONSTRUCTION FINANCING

- Section 4.01 Authorization and General Terms
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ARTICLE V:
BOND PROCEEDS; REVENUES;
FUNDS; AND ACCOUNTS

- Section 5.01 Establishment of Funds and Accounts with Depository Bank
- Section 5.02 Establishment of Funds and Accounts with Bond Commission
- Section 5.03 Revenues; Funds and Accounts
- Section 5.04 Construction Trust Fund
- Section 5.05 Tap Fees, I/A Future Connection Fund; I/A Renewal and Replacement Fund; Tap Fees Account
- Section 5.06 Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds

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ADDITIONAL COVENANTS OF THE DISTRICT

- Section 6.01 General Covenants of the District
- Section 6.02 Bonds and Note Not To Be Indebtedness of the District
- Section 6.03 Bonds Secured by Pledge of Net Revenues, Funds and Unexpended Bond Proceeds
- Section 6.04 Rates
- Section 6.05 Completion, Operation and Maintenance, Right of Access
- Section 6.06 Sale of the System While the Bonds are Outstanding
- Section 6.07 Additional Provisions Concerning the Sale of the System
- Section 6.08 Issuance of Other Obligations Payable Out of Net Revenues and General Covenant Against Encumbrances
- Section 6.09 Parity Bonds
- Section 6.10 Insurance, Construction and Fidelity Bonds, Workers' Compensation
- Section 6.11 Service Rendered to the District
- Section 6.12 Enforcement of Collections
- Section 6.13 No Competing Franchise
- Section 6.14 Books and Records
- Section 6.15 Initial Schedule of Rates
- Section 6.16 Operating Budget
- Section 6.17 Mandatory Connections

Section 6.18 Redemption of Bonds Held By Authority
Section 6.19 Payment of Program Expenses
Section 6.20 Authority Rights on Default
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Abatement Assurance
Section 6.22 Tax Covenants
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INVESTMENTS: NON-ARBITRAGE

Section 7.01 Investments
Section 7.02 Arbitrage
Section 7.03 Rebate of Excess Arbitrage Earnings to the
United States

ARTICLE VIII:
DEFAULTS AND REMEDIES

Section 8.01 Events of Default
Section 8.02 Enforcement
Section 8.03 Appointment of Receiver
Section 8.04 Restoration of District and Holder of the
Bonds

ARTICLE IX
REGISTRAR; PAYING AGENT

Section 9.01 Appointment of Registrar

ARTICLE X:
DEFEASANCE; DISCHARGE OF PLEDGE

Section 10.01 Defeasance of Series A Bond
Section 10.02 Defeasance of Series B Bond
Section 10.03 Defeasance of the Note

ARTICLE XI:
MISCELLANEOUS

Section 11.01 Amendment of Resolution

Section 11.02	Evidence of Signatures of Holders and Ownership of Bonds
Section 11.03	Preservation and Inspection of Documents
Section 11.04	Cancellation of the Bonds
Section 11.05	Failure To Present Bonds
Section 11.06	Notices, Demands and Requests
Section 11.07	Conflicting Provisions Repealed
Section 11.08	No Personal Liability
Section 11.09	Law Applicable
Section 11.10	Parties Interested Herein
Section 11.11	Severability of Invalid Provisions
Section 11.12	Table of Contents and Headings
Section 11.13	Effective Date

EXHIBITS

Exhibit A	Description of the Project
Exhibit B	Form of Series A Bond
Exhibit C	Form of Series B Bond
Exhibit D	Loan Agreement
Exhibit E	Supplemental Loan Agreement

3684E

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CLAYWOOD PARK PUBLIC SERVICE DISTRICT
BOND AND NOTE RESOLUTION

A RESOLUTION AUTHORIZING THE CONSTRUCTION AND ACQUISITION OF CERTAIN PUBLIC SERVICE PROPERTIES FOR THE COLLECTION, TREATMENT, PURIFICATION AND DISPOSAL OF LIQUID OR SOLID WASTES, SEWAGE AND INDUSTRIAL WASTES IN THE CLAYWOOD PARK PUBLIC SERVICE DISTRICT, WOOD COUNTY, WEST VIRGINIA, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF, THROUGH THE ISSUANCE BY THE CLAYWOOD PARK PUBLIC SERVICE DISTRICT OF NOT MORE THAN \$3,217,202 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, SERIES A AND SERIES B; AUTHORIZING THE FINANCING OF CERTAIN COSTS OF SUCH CONSTRUCTION AND ACQUISITION, PENDING RECEIPT OF CERTAIN GRANT PROCEEDS, THROUGH THE ISSUANCE AND EXECUTION BY THE CLAYWOOD PARK PUBLIC SERVICE DISTRICT OF A CREDIT LINE NOTE OF \$750,000; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH SEWERAGE SYSTEM REVENUE BONDS AND SUCH SEWERAGE SYSTEM CREDIT LINE NOTE; AUTHORIZING THE SALE OF SUCH SEWERAGE SYSTEM REVENUE BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY BY SUPPLEMENTAL RESOLUTION; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

The Public Service Board of the Claywood Park Public Service District hereby adopts and orders:

ARTICLE I

DEFINITIONS, STATUTORY AUTHORITY AND FINDINGS

Section 1.01. Definitions. The following terms have the following meanings in this Resolution 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 or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the chairman of the Board, as hereinafter defined, or any other officer of the public service board of the Claywood Park Public Service District specifically designated by resolution of the Board, as hereinafter defined, as such.

"Bank Credit Agreement" means the line of credit agreement which may be entered into between the District and the Depository Bank evidenced by the Note and all supplements and amendments thereto.

"Board" means the public service board of the Claywood Park Public Service District 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 Claywood Park Public Service District.

"Bond or Bonds" means the District's Series A Bond and Series B Bond, as hereinafter defined, and any additional bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution and any Supplemental Resolution.

"Bonds Capitalized Interest Account" means the Sewerage System Revenue Bonds Capitalized Interest Account established with the Bond Commission by Section 5.02(1) hereof.

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

"Bond Year" means the 12 month period beginning on the anniversary of the closing date of the Bonds of each year and ending on the date immediately preceding the anniversary of the closing date for the Bonds in the following year, except that the first Bond Year shall begin with the closing date for the Bonds.

"Code" means the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder, or under any predecessor thereto.

"Construction Trust Fund" means the Claywood Park Public Service District Construction Trust Fund established by Section 5.01(5) hereof.

"Consulting Engineers" means Cerrone & Associates, Inc., consulting engineers, Wheeling, 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 have been retained by the Claywood Park Public Service District as Consulting Engineers for the System, as hereinafter defined.

"Cost(s) of the Project" or similar phrases mean those costs described in Section 1.03F hereof to be part of the costs of construction and acquisition of the Project, as hereinafter defined.

"Depository Bank" means Commercial Banking and Trust Company, a state banking corporation, Parkersburg, West Virginia, or any one or more State banking corporations or national banking associations located in the State, eligible under the laws of the State to receive deposits of state and municipal funds and insured by the FDIC, as hereinafter defined and designated as custodian of any one or more of the funds or accounts established by Article V hereof.

"District" means the Claywood Park Public Service District, a public corporation organized and existing under the laws of, and a political subdivision of, the State of West Virginia and, where appropriate, the Board thereof.

"Earnings Fund" means the Claywood Park Public Service District Earnings Fund created in Section 7.03B hereof.

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

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

(A) the excess of (i) the amount earned on all Nonpurpose Investments [other than investments attributable to an excess described in this subparagraph (A)], over (ii) the amount which would have been earned if such Nonpurpose Investments were invested at a rate equal to the yield on the issue, plus

(B) any income attributable to the excess described in subparagraph (A).

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

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

"General Resolution" means the general resolution adopted by the Authority.

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

"Grant" means an amount expected to be received by the District from the EPA in aid of financing a certain portion of the Costs of the Project.

"Gross Proceeds" means the definition that is given such term in Section 148(f)(6)(B) of the Code.

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

"I/A Future Connection Fund" means the Innovative or Alternative Future Connection Fund established by Section 5.01(3) hereof.

"I/A Renewal and Replacement Fund" means the Innovative or Alternative Renewal and Replacement Fund established by Section 5.01(4) hereof.

"Independent Accountants" means Harman, Thompson, Mallory & Ice, certified public accountants, Parkersburg, West Virginia, or any other certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the District to prepare an independent annual or special audit of the accounts of the System, as hereinafter defined, or for any other purpose except keeping the accounts of such System in the normal operation of its business and affairs.

"Investment Property" means any security (as such 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 by Section 103 of the Code for Federal income tax purposes.

"Loan Agreement" means the loan agreement executed by the District on September 27, 1989, between the District and the Authority, pursuant to which the Authority has agreed to purchase \$2,801,862.00 in aggregate principal amount of the Series A Bond, as the same may be supplemented or amended.

"Net Revenues" means Gross Revenues less Operating Expenses, as hereinafter defined.

"Nonpurpose Investments" means the definition given such term in Section 148(f)(6)(A) of the Code.

"Note" means the not more than \$750,000 in principal amount of a note evidencing a line of credit originally authorized hereby.

"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 supplies, labor, wages, the cost of materials and supplies used for current operations, capitalized as part of the Cost of the Project), fees and expenses of fiscal agents, Paying Agents, as hereinafter defined, the Depository Bank and the Authority, 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 the Bonds or the Note and as of any particular date, describes all Bonds or the Note theretofore and thereupon being authenticated and delivered except (1) any Bond or Note cancelled by the Registrar at or prior to the date; (2) any Bond or Note for the payment of which moneys, equal to its principal amount, with interest to the date of maturity, shall be in trust under this Resolution and set aside for such payment (whether upon or prior to maturity); and (3) any Bond or Note deemed to have been paid as provided in Article X hereof.

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 6.09 hereof.

"Paying Agent" means the bank, or such other entity designated by the District by the Supplemental Resolution.

"Plans and Specifications" means the plans and specifications for the construction of the Project prepared by the Consulting Engineers on file in the office of the District.

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

"Project" means the public service properties for the collection, treatment, purification and disposal of liquid or solid wastes, sewage or industrial wastes of the District, as described in Exhibit A attached hereto and incorporated herein by reference.

"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 Federal National Mortgage Association (but only to the extent such obligations are guaranteed by the Government National Mortgage Association); or the Government National Mortgage Association;

C. Public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; temporary notes, preliminary loan notes or project notes issued by public agencies or municipalities, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

D. Certificates of deposit or other similar banking arrangements permitted by law, with a member bank or member banks of the Federal Reserve System or banks the deposits of which are insured by the FDIC, upon the terms and conditions as follows:

(i) all moneys invested in each such interest-bearing time deposit, certificate of deposit or similar banking arrangement shall be continuously and fully secured by obligations of the types described in clauses A, B and C above of a market value equal at all times to the amount of the deposit, certificate or similar banking arrangement; and

(ii) each such interest-bearing time deposit, certificate of deposit or similar banking arrangement shall permit the moneys so placed to be available for use at the times provided with respect to the investment or reinvestment of such moneys;

E. Direct and general obligations of the State or any other state within the territorial United States, to the payment of the principal of and interest on which the full faith and credit of such state is pledged; provided, that, at the time of their purchase, such obligations are rated in either of the two highest rating categories by a nationally recognized bond rating agency;

F. The "consolidated fund" (or any distinct portion thereof) managed by the West Virginia State Board of Investments pursuant to Chapter 12, Article 6 of the Code of West Virginia, 1931, as amended;

G. Repurchase agreements relating to any securities of the type described in clauses A or C above with any banking institution or association, including the Depository Bank, or any other financial institution, provided that the Depository Bank (unless it is the issuer, in which case a third party) or the Bond Commission, as the case may be, or its agent have possession of the collateral, and that such collateral be free of claims of third parties; and

H. Obligations of states or political subdivisions or agencies thereof, the interest on which is exempt from federal income taxation, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard and Poors Corporation.

"Rebate Fund" means the Claywood Park Public Service District Rebate Fund created by Section 7.03B hereof.

"Registrar" means the bank or such other entity designated by the District as Registrar herein or by the Supplemental Resolution and its successors and assigns.

"Renewal and Replacement Fund" means the Claywood Park Public Service District Sewerage System Renewal and Replacement Fund established by Section 5.01(2) hereof.

"Resolution" means this resolution, as from time to time amended or supplemented.

"Revenue Fund" means the Claywood Park Public Service District Sewerage System Revenue Fund established by Section 5.01(1) hereof.

"Series A Bond" means the Sewerage System Series A Bond of the District described in Section 3.02 hereof.

"Series A Bond Reserve Account" means the Series A Sewerage System Series A Revenue Bond Reserve Account established in the Series A Sinking Fund, as hereinafter defined by Section 5.02(1) hereof.

"Series A Bond Reserve Account Requirement" means the maximum amount of principal and interest which will come due on the Series A Bond in the then current or any succeeding year.

"Series A Sinking Fund" means the Sewerage System Series A Bond Sinking Fund established by Section 5.02(1) hereof.

"Series B Bond" means the Sewerage System Series B Bond of the District described in Section 3.02 hereof.

"Series B Bond Reserve Account" means the Sewerage System Series B Bond Reserve Account established in the Series B Sinking Fund, as hereinafter defined, by Section 5.02(2) hereof.

"Series B Bond Reserve Account Requirement" means the maximum amount of principal which will come due on the Series B Bond in the then current or any succeeding year.

"Series B Sinking Fund" means the Sewerage System Series B Bond Sinking Fund established by Section 5.02(2) hereof.

"State" means the State of West Virginia.

"Supplemental Loan Agreement" means the supplemental loan agreement executed by the District on September 27, 1989, between the District and the Authority, pursuant to which the Authority has agreed to purchase \$415,340.00 in aggregate principal amount of the Series B Bond, as the same may be supplemented or amended.

"Supplemental Resolution" means any resolution of the Board amending or supplementing this Resolution.

"Surplus Revenue" means the Net Revenue not required by the Resolution to be set aside and held for payment of or security for the Bonds or any other obligation of the District including the Renewal and Replacement Fund and the respective reserve accounts, the proceeds of which Bonds or other obligations are to be used to pay Costs of the Project.

"System" means the Project, in its entirety or any integral part thereof, and any improvements and extensions thereto hereafter constructed or acquired for the public services properties from any sources whatsoever, both within and without the District.

"Tap Fees" means the fees paid by customers of the District initially to connect onto the System.

"Tap Fees Account" means the Claywood Park Public Service District Project Tap Fees Account established by Section 5.01(5) hereof.

"Water Development Act" means Chapter 20, Article 5C, of the Code of West Virginia of 1931, as amended, and in effect on the date of adoption of this Resolution.

"Yield" means the definition given that term in Section 148(h) of the Code.

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 include the plural number in each case and vice versa; words importing the masculine gender include every other gender; and words importing persons include firms, partnerships, associations and corporations.

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 District is a public service district of the State of West Virginia situated in Wood County of the State. There is no consolidated public sewer system presently serving the residents of the District, and existing inadequate and unsatisfactory private sewage systems cause stream pollution and constitute public health hazards.

B. It is deemed necessary and desirable for the health, welfare and safety of the inhabitants of the District that the Project be constructed at an estimated cost of \$7,425,615, in accordance with the Plans and Specifications.

C. The District has received certain grants for the construction and acquisition of the Project, including a grant from the EPA in the approximate amount of \$4,108,340. The District has entered into a Step II/III grant agreement with the EPA, pursuant to which the EPA will reimburse the District for approximately seventy-five percent (75%) of those Costs of the Project incurred by the District, which are eligible for reimbursement by EPA.

D. The District does not have any bonds or other obligations outstanding as of the date hereof which have a lien on the Gross Revenues or on the Net Revenues derived from the operation of the System.

E. The estimated Gross Revenues to be derived from the operation of the System in each year after the construction of the Project will be sufficient to pay all Operating Expenses and to pay the principal of and interest on the Bonds and to pay all Sinking Fund, respective reserve account, and Renewal and Replacement Fund and other payments provided for in this Resolution.

F. It is deemed necessary for the District to issue its Bonds, to finance costs of the construction and acquisition of the Project, and to issue, as soon as may be practicable thereafter, the Note to temporarily finance costs of construction and acquisition of the Project. Costs of the Project shall be deemed to include the cost of the acquisition or construction of the Project; the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements determined upon is provided in the Act; interest upon the interim construction financing and upon the Bonds prior to, during and for six months after the completion of construction and acquisition of the Project; amounts which may be deposited in the respective reserve accounts; costs and expenses of the Authority related and incidental to the Project and the issuance of the Bonds, 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 Project; administrative expenses; commitment fees, fees and expenses of the Authority, discount, initial fees for the services of the Registrar, Paying Agent or depositories or other costs in connection with the sale of the Bonds and the Note; and such other expenses as may be necessary or incident to the financing authorized by this Resolution and the Act; the construction and 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 including with respect to the Bonds any commitment fees to the Authority

and with respect to the Note, any fees for the providing of a letter of credit, and any costs of obtaining insurance thereon; provided, that reimbursement to the District for any amounts expended by it for any allowable costs prior to the issuance of the Bonds or the Note or the repayment of indebtedness incurred by the District for such purposes shall be deemed Costs of the Project.

G. The Authority has agreed to purchase not more than \$3,217,202 in aggregate principal amount of the Bonds pursuant to the terms and provisions of the Loan Agreement and the Supplemental Loan Agreement.

H. It is in the best interests of the District that its Bonds be sold to the Authority pursuant to the Loan Agreement and the Supplemental Loan Agreement as soon after the adoption of this Resolution as may be practicable and authorized and permitted by applicable law.

I. The period of usefulness of the System after completion of the Project is not less than forty (40) years.

J. The District has complied with all requirements of State law relating to the authorization of the construction, acquisition and operation of the System and the issuance of the Bonds and the Note, or will have so complied prior to issuance of any thereof, including among other things, the obtaining of a Certificate of Convenience and Necessity from the Public Service Commission of the State by final order the time for rehearing and appeal of which have expired or the appeal of which shall have been waived by the District and the staff of the Public Service Commission of the State.

K. There are not outstanding any obligations of the District which will rank prior to or on a parity with the Bonds as to lien and source of the security for payment. The Series B Bond shall be junior and subordinate to the Series A Bond as set forth herein. The Note will not be payable from the Net Revenues, but will be payable from Grant receipts, all as shall be set forth in a Supplemental Resolution authorizing the Note.

Section 1.04. Resolution Constitutes Contract. In consideration of the acceptance of the Bonds and the Note 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 District and such holders of the Bonds and the Note, and the covenants and agreements herein set forth to be performed by the District shall be for the equal benefit, protection and security, respectively, of the

registered owners of any and all of such Bonds and the Note, all of which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, and between any one Note and any other Note by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

ARTICLE II

AUTHORIZATION OF THE PROJECT; APPROVAL OF ACTIONS: APPROVAL AND EXECUTION OF DOCUMENTS

Section 2.01. Authorization of the Project. There is hereby authorized the construction and acquisition of the Project described in Exhibit A hereto at an estimated cost of \$7,425,615, in accordance with the plans and specifications which have been prepared by the Consulting Engineers heretofore filed in the office of the Board. The Proceeds of the Bonds and the Note hereby authorized shall be applied as provided in Article V hereof.

Section 2.02. Approval of Application, Loan Agreement, Amended Application and Supplemental Loan Agreement. The application for a construction loan to the Authority executed by an Authorized Officer of the District on March 30, 1989; the Loan Agreement; the amended application for a construction loan to the Authority, executed by an authorized officer of the District on July 6, 1989; and the Supplemental Loan Agreement are hereby approved, accepted and ratified. The execution by the Chairman of the Board and the Secretary of the Board of the Loan Agreement and the Supplemental Loan Agreement, copies of which are attached hereto as Exhibit D and Exhibit E, are hereby approved and ratified. The Chairman of the Board and the Secretary of the Board are hereby authorized to execute all other documents required to be executed by or on behalf of the District by the terms of the Loan Agreement and the Supplemental Loan Agreement. All stipulations, covenants and agreements contained in the Loan Agreement and the Supplemental Loan Agreement are incorporated herein and made a part hereof as fully as if herein set out in full.

Section 2.03. Approval of Actions. The Chairman of the Board, the Secretary of the Board and the other officers of the District hereby are authorized and directed to execute any and all instruments and perform any and all acts as, in their discretion, may be necessary or advisable in effecting the purposes of this Resolution, any Supplemental Resolution, the Loan Agreement and the Supplemental Loan Agreement.

ARTICLE III

BONDS

Section 3.01. Authorization of Bonds. For the purpose of capitalizing interest on the Series A Bond, paying the Costs of the Project not otherwise provided for, funding the Series A Bond Reserve Account and Series B Bond Reserve Account, and paying certain costs of issuance and related costs, there shall be issued negotiable Bonds of the District, in an aggregate principal amount of not more than \$3,217,202. The Bonds shall be designated "Series A Bond" and "Series B Bond" in the aggregate principal amounts to be set forth in a Supplemental Resolution, and shall have such terms as set forth in Exhibit B and Exhibit C attached hereto or in a Supplemental Resolution. The proceeds of the Bonds remaining, if any, after funding of the respective Reserve Accounts and capitalization of interest shall be deposited in the Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of the Series A Bond and Series B Bond. The Series A Bond and Series B Bond shall bear interest, if any, at such rate or rates not exceeding the then legal maximum; shall mature on such day in such year and in such amounts; and shall be redeemable, in whole or part, all as the District shall prescribe in a Supplemental Resolution. The Series A Bond and Series B Bond shall be payable as to principal at the office of the Paying Agent in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series A Bond 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 Registrar, or by such other method as shall be mutually agreeable as long as the Authority is the holder thereof.

Unless otherwise provided by a Supplemental Resolution, the 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 a Supplemental Resolution. The Bonds of each series shall be exchangeable at the option of the registered owner for other fully registered Bonds of the same series in an aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

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

Section 3.03. Form of the Series A Bond and Series B Bond. The Series A Bond shall be issued in substantially the form set forth as Exhibit B hereto, with such appropriate corrections, omissions and insertions as are permitted or required by this Resolution or any Supplemental Resolution and are deemed advisable by the District.

The Series B Bond shall be issued in substantially the form set forth as Exhibit C hereto, with such appropriate corrections, omissions and insertions as are permitted or required by this Resolution or any Supplemental Resolution and are deemed advisable by the District.

Section 3.04. Execution of Bonds. The Bonds shall be executed in the name of the District by the manual signature of an Authorized Officer thereof, and the seal of the District shall be affixed thereto or imprinted thereon and attested by the Secretary of the District by manual or facsimile signature. In case any one or more of the persons who shall have signed or sealed any Bond shall cease to hold such office before such Bond so signed and sealed shall have been delivered, such Bond nevertheless may be delivered as herein provided and may be issued as if such person had not ceased to hold such office. Any Bond may be signed, sealed and attested on behalf of the District by such person who at the time of such actions shall hold the requisite office, regardless of whether such person shall have held such office or shall have been so authorized on the date of such Bond.

Section 3.05. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit hereof unless and until the Certificate of Authentication on such Bond shall have been duly executed by the Registrar. Any Certificate of Authentication upon any Bond so executed shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Resolution. The Certificate of Authentication on any Bond shall be deemed to have been executed by the Registrar if signed by the manual signature of any officer of the Registrar duly authorized. It shall not be necessary that the same authorized officer sign the Certificate of Authentication on all of the Bonds or on all of the Bonds of any series.

Section 3.06. Negotiability and Registration.

Subject to the requirements for transfer 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 the Bonds, shall be deemed conclusively to have agreed to the incontestability of the Bonds in the hands of a bona fide holder for value, subject to compliance by such holder with the registration provisions herein and therein provided.

As long as any of the Bonds remain Outstanding, the Registrar shall keep and maintain books for the registration and transfer of the Bonds.

A Bond shall be transferable only by transfer of registration upon the books of the Registrar by the registered owner thereof in person or by his attorney or legal representative duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or such duly authorized attorney or legal representative. Upon transfer of a Bond, there shall be issued another Bond or Bonds (at the option of the transferee) of the same series, interest rate, if any, and maturity as the transferred Bond and of an aggregate principal amount equal to the unpaid principal amount of the transferred Bond.

In all cases in which the privilege of transferring or exchanging a Bond is exercised, any such Bond shall be delivered in accordance with the provisions of this Resolution. All Bonds surrendered in any such transfer or exchange shall be cancelled forthwith by the Registrar. Transfers of Bonds and exchanges of Bonds in the event of partial redemption shall be made by the Registrar without charge to the holder or the transferee thereof. For every transfer or exchange of Bonds, the Registrar may make a charge sufficient to reimburse its office for any tax or other governmental charge required to be paid with respect to such transfer or exchange. The District shall pay such service charge, tax or other governmental charge. The Registrar shall not be obliged to make any such transfer or exchange of Bonds during the period commencing with the 15th day of the month preceding (i) an interest payment date on the Bonds, or (ii) the date of selection of the Bonds to be redeemed (in the case of any proposed redemption of Bonds), and ending on such interest payment date or such Bond 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 District may execute, and the Registrar shall authenticate, register and deliver, a new Bond of like series, maturity and principal amount as the Bond so mutilated,

destroyed, stolen or lost, either in exchange for and upon surrender and cancellation of, such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, but only if the holder shall furnish the District and the Registrar with proof of his ownership thereof and that the Bond has been destroyed, stolen or lost and shall comply with such other reasonable regulations and conditions as the District or the Registrar may stipulate and paying such expenses as the District and the Registrar may incur. The name of the holder listed in the the books of the Registrar shall constitute proof of ownership. All Bonds so surrendered shall be submitted to and cancelled by the Registrar, and evidence of such cancellation shall be given to the District. If any such Bond shall have matured or be about to mature, the District, by and through the Registrar, may pay the same without issuance of a substitute Bond therefor.

Section 3.08. Person Treated as Owners. The District, the Registrar and any agent of the District or the Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of the principal of and interest, if any, on such Bond, and for all other purposes, whether or not such Bond is overdue.

Section 3.09. Delivery of the Series A Bond and the Series B Bond. The District shall execute and deliver to the Registrar, and the Registrar shall authenticate, register and deliver to the Authority the Series A Bond and the Series B Bond, upon payment therefor and receipt of the documents set forth below:

A. A request and authorization to the Registrar on behalf of the District, signed by an Authorized Officer, to authenticate and deliver to the Authority the Series A Bond and the Series B Bond; and

B. The unqualified approving opinion of bond counsel designated by the District and acceptable to the Authority.

Section 3.10. Application of Proceeds of Bonds. The proceeds received from the sale of the Bonds, except for the funding of the Bond Capitalized Interest Account shall be deposited in the Construction Trust Fund, which, except as otherwise agreed to in writing by the holder of the Bonds, shall be held separate and apart from all other funds of the District and on which such holder of the Bonds shall have a lien until the Bond proceeds are applied to the Costs of the Project, provided, however, that to the extent, if any, that

the Costs of the Project include the funding of any reserve accounts for the Bonds and Bond proceeds are to be so applied, as shall be determined by a Supplemental Resolution, the Bond proceeds shall be credited to the Construction Trust Fund and deposited in the respective reserve accounts and the holder of the Bonds shall have a lien on the proceeds in such reserve accounts.

Section 3.11. Sale of Bonds; Ratification of Execution of Loan Agreement with Authority. The Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement and Supplemental Loan Agreement. If not so authorized by previous resolution, any Authorized Officer is specifically authorized and directed to execute the Loan Agreement and Supplemental Loan Agreement and the Secretary is directed to affix the seal of the District, attest the same and deliver the Loan Agreement and the Supplemental Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, ratified and approved. The District may approve any supplements or amendments to the Loan Agreement or Supplemental Loan Agreement by a Supplemental Resolution.

ARTICLE IV

INTERIM CONSTRUCTION FINANCING

Section 4.01. Authorization and General Terms. In order to pay certain portions of the Costs of the Project pending receipt of the EPA Grant proceeds, the District may issue its fully registered Note in principal amount not to exceed \$750,000. The Note shall be issued to evidence a line of credit from a commercial bank or other lender, at the discretion of the District, and as shall be set forth in a Supplemental Resolution hereto. The Note shall bear interest from the date or dates, at such rate or rates, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the Supplemental Resolution.

Section 4.02. Terms of and Security for Note. The Note, if issued, shall be issued in fully registered form, with such terms and secured in the manner set forth in the Bank Credit Agreement, which Bank Credit Agreement in the form to be executed and delivered by the District shall be approved by a Supplemental Resolution.

Section 4.03. Note is Special Obligation. The Note shall be a special obligation of the District payable as to principal and interest solely from the EPA Grant receipts, Surplus Revenues, and other sources described in the Bank Credit Agreement or Supplemental Resolution. The Note does not and shall not constitute an indebtedness of the District within the meaning of any constitutional or statutory provisions. The general funds of the District are not liable, and neither the full faith and credit nor the taxing power, if any, of the District is pledged for the payment of the Note. The holder of the Note shall never have the right to compel the forfeiture of any property of the District. The Note shall not be a debt of the District, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the District or upon any of its income, receipts or revenues except as set forth in the Bank Credit Agreement or the Supplemental Resolution.

ARTICLE V

BOND PROCEEDS; REVENUES; FUNDS; AND ACCOUNTS

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

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Innovative or Alternative Future Connection Fund;
- (4) Innovative or Alternative Renewal and Replacement Fund; and
- (5) Construction Trust Fund.
 - (a) Within the Construction Trust Fund, the Tap Fees Account.
- (6) Earnings Fund.
- (7) Rebate Fund.

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

- (1) Series A Sinking Fund;
 - (a) Within the Series A Sinking Fund, the Series A Bond Reserve Account;
 - (b) Within the Series A Sinking Fund, the Bonds Capitalized Interest Account.
- (2) Series B Sinking Fund;
 - (a) Within the Series B Sinking Fund, the Series B Bond Reserve Account.

Section 5.03. Revenues; Funds and Accounts.

A. The Gross Revenues from the operation of the System shall be deposited upon receipt with the Depository Bank 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 District and used solely for the purposes and in the manner herein provided. All revenues on deposit each month in the Revenue Fund shall first be used to pay all reasonable Operating Expenses of the System. Thereafter, disbursements shall be made from the Revenue Fund in the order and priority set forth in Subsections B, C, D, E, F, G and H of this Section 5.03 and shall be used only for the purposes and in the manner herein provided.

B. (1) On the first day of each month, beginning on the first day of that month which is seven months prior to the first interest payment date on which interest is to be paid on the Series A Bond for which interest has not been capitalized, the District shall apportion and set apart out of the Revenue Fund and remit to the Bond Commission for deposit the Series A Sinking Fund a sum equal to one-sixth of the amount of interest which will become due on the Series A Bond on the next ensuing semiannual interest payment date; provided, that "next ensuing semiannual interest payment date" shall not refer to the interest payment date on which any such deposit is made. In the event the period to elapse between the date of such initial deposit in the Series A Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, at least one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date.

(2) On the first day of each month, beginning on the first day of that month which is 13 months prior to the first principal payment date of the Series A Bond, the District shall apportion and set apart out of the Revenue Fund and remit to the Bond Commission for deposit in the Series A Sinking Fund, a sum equal to one-twelfth of the amount of principal which will mature and become due on the Series A Bond on the next ensuing principal payment date; provided, that "next ensuing principal payment date" shall not refer to the principal payment date on which any such deposit is made. In the event the period to elapse between the date of such initial deposit in the Series A Sinking Fund and the next annual principal payment date is less than 13 months, then such monthly payments shall be increased proportionately to provide, at least one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(3) To the extent the District has not funded the Series A Bond Reserve Account with Bond proceeds otherwise upon the issuance of the Series A Bond, the District shall next, from the Revenue Fund, remit to the Bond Commission for deposit in the Series A Bond Reserve Account on the first day of each month of each year, beginning with and including the month in which the payments required by Section 5.03 B (2) are commenced, an amount equal to 1/120th of the Series A Bond Reserve Account Requirement; provided that no further payments shall be made into the Series A Bond 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 A Bond Reserve Account Requirement.

Moneys in the Series A Bond Reserve Account shall be used only for the purpose of paying principal of or interest on the Series A Bond, as the same shall come due, when other moneys in the Series A Sinking Fund are insufficient therefor, and for no other purpose.

Any withdrawals from the Series A Bond Reserve Account shall be subsequently restored from the first Net Revenues available after all required payments to the Series A Sinking Fund and Series A Bond Reserve Account, including any deficiencies for prior payments, have been made in full.

C. On the first day of each month, beginning with the first month in which interest on the Series A Bond shall be payable from the Revenue Fund, the District shall apportion and set apart out of the Revenue Fund and transfer to the Depository Bank, for deposit in the Renewal and Replacement Fund a sum equal to 2-1/2% of Gross Revenues, less any amount transferred to the Series A Bond Reserve Account received during the previous month. All funds in the Renewal and Replacement Fund shall be kept separate and distinct from all other funds of the District and the Depository Bank.

Withdrawals and disbursements from the Renewal and Replacement Fund shall be made by the District only for the following purposes:

(1) For the payment of the reasonable costs of replacements, emergency repairs, improvements or extensions to the System;

(2) For the payment of the then payable principal of, premium, if any, and interest on the Series A Bond if there are not sufficient funds therefor in the Series A Sinking Fund (including the Series A Bond Reserve Account); and

(3) To make up any deficiency in the Series A Bond Reserve Account (so that the amount on deposit therein is at least equal to the Series A Bond Reserve Account Requirement), subject to the provisions of Section 5.03 B hereof;

D. The District shall restore any withdrawals from the Series A Bond Reserve Account which have the effect of reducing the value of the funds therein below the Series A Bond Reserve Account Requirement, first from moneys then remaining in the Revenue Fund and next from funds deposited in the Renewal and Replacement Fund and then from the first Net Revenues available after all required deposits to the Series A Sinking Fund, including deposits in respect of deficiencies for prior deposits, have been made in full.

E. (1) On the first day of each month, beginning on the first day of that month which is 13 months prior to the first principal payment date of the Series B Bond, the District shall apportion and set apart out of the Revenue Fund and remit to the Bond Commission for deposit in the Series B Sinking Fund a sum equal to one-twelfth of the amount of principal which will mature and become due on the Series B Bond on the next ensuing principal payment date; provided, that "next ensuing principal payment date" shall not refer to the principal payment date on which any such deposit is made. In the event the period to elapse between the date of such initial deposit in the Series B Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, at least one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(2) To the extent the District has not funded the Series B Bond Reserve Account with Bond proceeds, the District shall next, from the Revenue Fund, remit to the Bond Commission for deposit in the Series B Bond Reserve Account on the first day of each month of each year, beginning with and including the month in which the payments required by Section 5.03E(1) are commenced, an amount equal to 1/120th of the

Series B Bond Reserve Account Requirement; provided that no further payments shall be made into the Series B Bond 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 B Bond Reserve Account Requirement.

Moneys in the Series B Bond Reserve Account shall be used only for the purpose of paying the principal of the Series B Bond as the same shall become due, when other moneys in the Series B Sinking Fund are insufficient therefor, and for no other purpose.

Any withdrawals from the Series B Bond Reserve Account shall be subsequently restored from the first Net Revenues available after all required payments to the Series A Sinking Fund, Series A Bond Reserve Account, Renewal and Replacement Fund, Series B Sinking Fund and Series B Bond Reserve Account, including any deficiencies for prior payments, have been made in full.

F. On the first day of each month, beginning with the first month in which interest on the Series A Bond shall be payable from the Revenue Fund, and after making the deposit required by Section 5.03 E hereof, the District shall apportion and set apart out of the Revenue Fund and transfer to the Depository Bank, for deposit in the I/A Future Connection Fund, \$824.00. All funds in the I/A Future Connection Fund shall be kept separate and distinct from all other funds of the District and the Depository Bank.

Withdrawals and disbursements from the I/A Future Connection Fund shall be made by the District only for the following purposes:

(1) For the payment after the completion of the construction of the System of the actual cost of connecting future customers requiring either vacuum pump service or pressure valve service to the System (after application of any tap fee collected from such customers).

(2) For the payment of the then payable principal of, premium, if any, and interest on the Series A Bond if there are not sufficient funds therefor in the Series A Sinking Fund (including the Series A Bond Reserve Account), and for the payment of the then payable principal of and premium, if any, on the Series B Bond if there are not sufficient funds therefor in the Series B Sinking Fund (including the Series B Bond Reserve Account); and

(3) To make up any deficiency in the Series A Bond Reserve Account (so that the amount on deposit therein is at least equal to the Series A Bond Reserve Account Requirement), subject to the provisions of Section 5.03 B hereof, and to make up any deficiency in the Series B Bond Reserve Account (so that the amount on deposit therein is at least equal to the Series B Bond Reserve Account Requirement), subject to the provisions of Section 5.03 E hereof;

G. On the first day of each month, beginning with the first month in which interest on the Series A Bond shall be payable from the Revenue Fund, and after making the deposit required by Section 5.03 F hereof, the District shall apportion and set apart out of the Revenue Fund and transfer to the Depository Bank, for deposit in the I/A Renewal and Replacement Fund, \$880.00. All funds in the I/A Renewal and Replacement Fund shall be kept separate and distinct from all other funds of the District and the Depository Bank.

Withdrawals and disbursements from the I/A Renewal and Replacement Fund shall be made by the District only for the following purposes:

(1) For the payment after the completion of the construction of the System of the actual cost of replacing grinder pumps and vacuum valves;

(2) For the payment of the then payable principal of, premium, if any, and interest on the Series A Bond if there are not sufficient funds therefor in the Series A Sinking Fund (including the Series A Bond Reserve Account), and for the payment of the then payable principal of and premium, if any, on the Series B Bond if there are not sufficient funds therefor in the Series B Sinking Fund (including the Series B Bond Reserve Account); and

(3) To make up any deficiency in the Series A Bond Reserve Account (so that the amount on deposit therein is at least equal to the Series A Bond Reserve Account Requirement), subject to the provisions of Section 5.03 B hereof, and to make up any deficiency in the Series B Bond Reserve Account (so that the amount on deposit therein is at least equal to the Series B Bond Reserve Account Requirement), subject to the provisions of Section 5.03 E hereof;

H. On such dates as the Bond Commission shall require, the District shall remit to the Bond Commission such additional sums from the Revenue Fund as shall be necessary to pay the fiscal agency charges due for paying the Bonds and the interest thereon, if any.

Pending such application, moneys in the Revenue Fund shall be invested in accordance with Article VII hereof.

Moneys on deposit in the Series A Sinking Fund shall be used only for the purposes of paying the principal of and the interest on the Series A Bond as the same shall become due. Moneys on deposit in the Series B Sinking Fund shall be used only for the purpose of paying principal of the Series B Bond as the same shall become due.

The District shall not be required to make further deposits into the Series A Sinking Fund and the Series A Bond Reserve Account therein and the Series B Sinking Fund and the Series B Bond Reserve Account therein when the sums of cash, Government Obligations and interest to be earned on such Government Obligations, without reinvestment in the respective Sinking Funds and Reserve Accounts therein, is at least equal to the aggregate principal amount of Bonds then Outstanding plus the amount of interest due or thereafter to become due thereon.

As and when additional bonds are issued, provision shall be made for additional deposits into the respective Sinking Funds sufficient to pay the interest, if any, on such additional bonds and accomplish retirement thereof at or before maturity and to accumulate a balance in the appropriate reserve account in an amount equal to the maximum provided and required to be paid into the concomitant sinking fund in any year for account of the bonds of such series, including such additional bonds which by their terms are payable from such sinking fund.

Deposits into the respective Series A Sinking Fund and Series B Sinking Fund shall be made on the first day of each month, except that, when the first day of any month shall be a Saturday, Sunday or legal holiday, then such deposit shall be made on the next succeeding business day. All such deposits shall be remitted to the Bond Commission with appropriate instructions, consistent with the provisions of this Resolution, as to the custody, use and application of the funds deposited.

I. All investment earnings on moneys in the several Sinking Funds and Reserve Accounts shall be returned, not less than once each year, by the Commission to the District, and such amounts shall, during construction of the Project, be deposited in the Construction Trust Fund and following completion of the construction of the Project, shall be deposited in the Revenue Fund and applied in full, first, to the next ensuing interest payment, if any, due on the respective series of Bonds, and then to the next ensuing principal payments or prepayments due thereon.

J. Whenever all the required transfers and deposits from the Revenue Fund have been made and there remains on deposit in the Revenue Fund an amount exceeding the amount estimated to be required to be paid for Operating Expenses during the then current Fiscal Year and the next ensuing Fiscal Year, as determined by resolution of the Board, such Surplus Revenue may be transferred to the Renewal and Replacement Fund or used for any lawful purpose of the System, including payment of the Note, or payment on other obligations junior, subordinate and inferior to the Series A Bond and the Series B Bond as directed by the Board.

K. If on any payment date Net Revenues are insufficient to make the transfers and deposits hereinabove provided, the deficient transfer or deposit shall be corrected on the next ensuing payment date by payments in addition to the payments otherwise required to be made on such payment date.

L. The Bond Commission hereby is designated as the fiscal agent for the administration of the Series A Sinking Fund and the Series B Sinking Fund. All amounts to be deposited into the respective Sinking Funds shall be remitted by the District to the Bond Commission, as provided herein. All such remittances shall identify clearly the fund or account into which such remittance is to be deposited.

M. Funds on deposit in the Revenue Fund, excess Bond proceeds and the Renewal and Replacement Fund in excess of the amount insured by the FDIC shall be secured at all times to the full extent of such excess by such Qualified Investments as are eligible under the laws of the State to secure deposits of municipal funds.

N. Gross Revenues will be used only for the lawful purposes of the System.

Section 5.04. Construction Trust Fund. The Construction Trust Fund shall be segregated from all other funds and accounts of the Depository Bank or the District and used solely for the purposes provided herein.

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

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

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

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

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

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

Pending such application, moneys in the Construction Trust Fund may be invested and reinvested in Qualified Investments at the discretion of the District.

After completion of the Project, as certified by the Consulting Engineers, any moneys remaining in the Construction Trust Fund shall be applied to (i) the Series A Bond Reserve Account up to the amount of the Series A Bond Reserve Account Requirement; (ii) the Series B Bond Reserve Account up to the amount of the Series B Bond Reserve Account Requirement, and (iii) any remaining amount to the Revenue Fund, with the District to apply such moneys in full first, to the next ensuing interest payment due on the Series A Bond, second, to the next ensuing principal payment due on the Series A Bond, and third, to the next ensuing principal payment due on the Series B Bond. Notwithstanding the foregoing, if the Authority tenders any of its Series B Bonds to the District pursuant to the provisions of the Supplemental Loan Agreement, such moneys shall be applied to the purchase of such Series B Bonds.

Section 5.05. Tap Fees, I/A Future Connection Fund; I/A Renewal and Replacement Fund; Tap Fees Account. From the proceeds of all Tap Fees collection by the District prior to the completion of the construction of the System, there shall be made the following deposits:

- (1) To the I/A Future Connection Fund, \$22,500.00; and
- (2) To the Tap Fees Account in the Construction Trust Fund, the remaining proceeds.

The District shall pay promptly out of the Tap Fees Account the costs of connection to the System. Any amounts remaining in the Tap Fees Account after connections have been made for all customers who paid such Tap Fees shall be considered excess and shall be transferred by the Depository Bank to the Construction Trust Fund and used for authorized purposes thereof for as long as such Construction Trust Fund remains in existence, and thereafter to the Revenue Fund.

Section 5.06. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of the Series A Bond and Series B Bond, the following amounts shall be first deducted and deposited in the order set forth below:

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

B. From the proceeds of the Series A Bond, there shall be deposited with the Bond Commission in the Bond Capitalized Interest Account, the amount, if any, specified in a Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series A Bond for the period commencing on the date of issuance of the Series A Bond and ending six (6) months after the estimated date of completion of construction of the Project.

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

D. The remaining moneys derived from the sale of the Series A Bond and the Series B Bond shall be deposited with the Depository Bank in the Construction Trust Fund and applied solely to payment of the Cost of the Project in the manner set forth in Section 5.04 above.

E. The Depository Bank shall act as a trustee and fiduciary for the holder of the Series A Bond and the Series B Bond, 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 the Cost of the Project and until so expended, are hereby pledged as additional security for the Series A Bond and thereafter for the Series B Bond. In the event that the Note is issued, the disposition of funds in the Construction Trust Fund may be modified from that set forth herein, with the written consent of the Authority.

ARTICLE VI

ADDITIONAL COVENANTS OF THE DISTRICT

Section 6.01. General Covenants of the District. All the covenants, agreements and provisions of this Resolution shall be and constitute valid and legally binding covenants of the District and shall be enforceable in any court of competent jurisdiction by any holder or holders of the Bonds, as prescribed in Article VIII hereof. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, for as long as any Bonds remain Outstanding. Until the payment in full of the principal of and interest on the Note when due, and to the extent they do not materially adversely affect the holder or holders of any of the Bonds, the covenants, agreements and provisions contained in this Resolution shall, where applicable, also inure to the benefit of the holder of the Note and constitute valid and legally binding covenants of the District, enforceable in any court of competent jurisdiction by the holder or holders of the Note.

Section 6.02. Bonds and Note Not to be Indebtedness of the District. Neither the Bonds nor the Note shall be or constitute an indebtedness of the District 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 or the Note, shall ever have the right to compel the exercise of the taxing power, if any, of the District to pay said Bonds or Note or the interest thereon.

Section 6.03. Bonds Secured by Pledge of Net Revenues, Funds and Unexpended Bond Proceeds. The payment of the debt service on the Series A Bond issued hereunder shall be secured forthwith by a first lien on and pledge of the Net Revenues and the payment of the debt service on the Series B Bond issued hereunder shall be secured forthwith by a lien on and pledge of the Net Revenues, but such lien shall be junior and subordinate to the lien on the Net Revenues in favor of the holder of the Series A Bond. Net Revenues in an amount

sufficient to pay the principal of, premium, if any, and interest on first, the Series A Bond, and second, the Series B Bond, if any, and to make the deposits into the respective Sinking Funds and all other payments provided for in this Resolution, and the funds on deposit in the respective Sinking Funds, the Renewal and Replacement Fund, the I/A Future Connection Fund, and the I/A Renewal and Replacement Fund are pledged irrevocably hereby in the manner provided in this Resolution to the payment of the principal of, premium, if any, and interest, if any, on first, the Series A Bond, and second, the Series B Bond, as the same becomes due and for the other purposes provided in this Resolution. The District hereby pledges the unexpended proceeds, if any, of each series of Bonds as additional security for payment of the principal of, premium, if any, and interest, if any, on first, the Series A Bond, and second the Series B Bond, until expended in accordance with the provisions of this Resolution.

Section 6.04. Rates. Just and equitable rates and charges for the use of and the service rendered by the System shall be established, all in the manner and form required by law, and copies of such rates and charges so fixed and established at all times shall be kept on file in the offices of the District, open to inspection by all interested parties. The schedule of rates and charges shall produce in each year Gross Revenues sufficient to make the required payments into the funds and accounts created hereunder and to pay Operating Expenses. Such schedule of rates and charges shall be revised from time to time, 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 District hereby covenants and agrees that it will fix, establish and collect rates and charges which always shall provide Net Revenues along with all other revenues of the System after paying all Operating Expenses sufficient to leave a balance each year equal to not less than one hundred fifteen percent (115%) of the maximum annual amount required to pay the interest and principal as the same become due and accomplish retirement of all Bonds, and all other obligations secured by or payable from the Net 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 Account Requirements are on deposit in the respective Reserve Accounts and the reserve accounts for obligations prior to or on a parity with the Bonds are funded at least at the requirements therefor, the foregoing percentage may be adjusted by the District to one hundred ten percent (110%) of the maximum annual amount required to pay the principal of and interest on the Bonds and all other obligations secured by or payable from Net Revenues prior to or on a parity with the Bonds.

Section 6.05. Completion, Operation and Maintenance, Right of Access. The District will expeditiously complete the Project and will provide and maintain competent and adequate resident engineering services satisfactory to the District and the Authority for the supervision and inspection of the construction of the Project, and bearing the responsibility of assuring the construction conforms to the Plans and Specifications and shall require its resident engineer to certify to the Authority and the District at the completion of construction that construction is in accordance with the Plans and Specifications. Upon completion of the construction, the District will maintain the System in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner in compliance with the water quality standards established by the West Virginia Department of Natural Resources and the EPA, as well as all other State and Federal laws, regulations, orders, and standards, with qualified operating personnel properly certified, making expenditures for equipment and for the economical operation and maintenance thereof from Gross Revenues as provided in this Resolution. As long as the Authority shall hold the Bonds, the Authority, the EPA and their duly authorized agents shall have the right at all reasonable times to enter upon the System to examine and inspect the same and shall, prior to, at and after completion of construction and commencement of operation of the System, have such rights of access to the System as may be reasonably necessary to accomplish all of the powers and rights of the Authority in respect of the System pursuant to the pertinent provisions of the Water Development Act.

Section 6.06. Sale of the System while the Bonds are Outstanding. As long as any of the Bonds are Outstanding, the System may be sold, mortgaged, leased or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to defease the pledge created by this Resolution as provided by Sections 10.01 and 10.02 hereof. The proceeds from such sale, mortgage, lease or other disposition of the System immediately shall be remitted to the Bond Commission for deposit in the respective Sinking Funds, and with the written permission of the Authority, or in the event the Authority is no longer a holder of a Bond, the District shall direct the Bond Commission to apply such proceeds to the principal at maturity and interest on the Bonds. Any balance remaining after such payment and discharge shall be remitted to the District by the Bond Commission unless necessary for the payment of other obligations of the District payable out of Net Revenues.

Section 6.07. Additional Provisions Regarding the Sale of the System. The foregoing provisions notwithstanding, the District 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 District 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 District shall first, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding or by transfer to another political subdivision of the State. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$10,000 and not in excess of \$50,000, shall with the written consent of the Authority, be remitted by the District to the Bond Commission for deposit in the Series A Bond Sinking Fund and shall be applied only to the purchase of the Bonds of the last maturities then Outstanding at prices not greater than the par value thereof plus 3% of such par value or otherwise. Such payment of such proceeds into the Series A Bond Sinking Fund or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Resolution. No sale, lease or other disposition of the properties of the System shall be made by the District if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the holders, or their duly authorized representatives, of over 50% in amount of the Bonds then Outstanding and the Consulting Engineers. The District shall prepare the form of such approval and consent for execution by the then holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 6.08. Issuance of Other Obligations Payable out of Net Revenues and General Covenant Against Encumbrances. Except as provided in this Section and in Section 6.09 B, the District shall not issue any obligations whatsoever with a lien on or otherwise payable from any source of payment pledged originally to the Note issued under a Supplemental Resolution prior to or on a parity with the lien on behalf of such Note until such Note has been defeased in accordance with the provisions of this Resolution or the Bank Credit Agreement. Additionally, as long as any Bonds are Outstanding, the District shall not issue any other obligations whatsoever payable from Net Revenues which, as to lien, security and source of payment, rank prior or equal to the Bonds; provided, however, that additional Bonds on a parity with the Series B Bond only may be issued as provided in Section 6.09 hereof.

All obligations issued by the District after the issuance of the Bonds and payable from the Net Revenues of the System, except such additional parity bonds provided for by Section 6.09 shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Series A Bond and the Series B Bond; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the respective Reserve Accounts, the Renewal and Replacement Fund, the I/A Future Connection Fund, and the I/A 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 District shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Resolution or upon the System or any part thereof.

Section 6.09. Parity Bonds. A. No Parity Bonds, payable out of Net Revenues, shall be issued after the issuance of any Bonds pursuant to this Resolution, except under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series B Bond. No Parity Bonds shall be issued which shall be payable out of Net Revenues on a parity with the Series A Bond, unless the Series B Bond is no longer Outstanding.

No such Parity Bonds shall be issued except for the purpose of financing the costs of construction or acquisition of extensions, improvements or betterments to the System or refunding one or more of the 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 of the public service board of the District a written statement by the 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 for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

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

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

as stated in a certificate jointly made and signed by the Consulting Engineers and said Independent Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the District, the period for appeal of which has expired prior to the issuance of such Parity Bonds.

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

All covenants and other provisions of this 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 Bonds, and the holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this Section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond over any other Bond. The District 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.

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

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Series A Bond and the Series B Bond, on such revenues. The District 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 A Bond or the Series B Bond.

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 District 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 6.08 to the contrary, additional Bonds may be issued solely for the purpose of completing the Project as described in the application to the Authority submitted as of the date of the Loan Agreement without regard to the restrictions set forth in this Section 6.09 if there is first obtained by the District the written consent of the Authority to the issuance of bonds on a parity with the Bonds.

Section 6.10. Insurance; Construction and Fidelity Bonds; Workers' Compensation. The District shall provide and maintain with a reputable insurance carrier or carriers such insurance as is customarily carried with respect to works and properties similar to the System, against loss or damage by fire, lightening, vandalism, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. In time of war, the District also shall carry such insurance as may be available against loss or damage by the risks and hazards of war. Such insurance at all times shall be maintained in an amount equal to the fair appraisal value of the buildings, properties, furniture, fixtures and equipment of the System. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for repairs to and restoration of damaged or destroyed properties of the System or for the other purposes herein for which moneys in the Renewal and Replacement Fund may be applied. The District also shall provide and maintain liability insurance for injury or damage to persons or property in such amounts as are adequate for such purposes and customarily carried with respect to works and properties similar to the System. The District will provide and maintain or, at its option, require each contractor dealing directly with the District to provide and maintain: (i) Workers' Compensation coverage, (ii) public liability insurance; (iii) property damage insurance; (iv) vehicular liability insurance, all in amounts and on terms satisfactory to the District and the Authority and (v) performance and payment bonds in amounts of not less than 100% of the construction contracts. The District shall file such payment bonds with the Clerk of the County Commission of Wood County prior to the commencement of construction of the Project in compliance with Chapter 38, Article 2, Section 39 of the Code of West Virginia of 1931, as amended. The District will maintain in force Workers' Compensation coverage for employees of the District, and will obtain for and maintain in force for every officer or employee of the District having custody of any funds of the System fidelity bonds in an amount at least equal to the total amount of funds in the custody of such officer or employee at any one time. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if

flood insurance is available at a reasonable cost, a flood insurance policy shall be obtained by the District and maintained as long as any of the Bonds or the Note are Outstanding. Prior to commencing operation of the Project, the District will also obtain, and maintain as long as any Bonds or the Note are Outstanding, business interruption insurance, if available at a reasonable cost.

Section 6.11. Service Rendered to the District. The District will not render or cause to be rendered any free services of any nature by the System; and, in the event the District or any department, agency, instrumentality, officer or employee of the District shall avail itself or himself 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 District and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the District shall transfer from its general funds sufficient sums to pay such charges. The revenues so received shall be deemed to be Gross Revenues and shall be deposited and accounted for in the same manner as other Gross Revenues.

Section 6.12. Enforcement of Collections. The District diligently will 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 as shall become delinquent to the full extent permitted or authorized by the Act or otherwise by the laws of the State. The District shall to the full extent permitted by applicable law and the rules and regulations of the West Virginia Public Service Commission discontinue and shut off (1) the services and facilities of the System and (2) in the event the District owns a water facility, the services of such water facility to all users of the service of the System delinquent in payment of charges for the services of the System. The District will not restore the services of the System or of the water facility until all such delinquent amounts, including reasonable interest and penalty charges for services of the System, have been paid in full. As provided in the Act, all fees, rates and charges of the District for sewer facilities are liens on the premises served of equal dignity, rank and priority with the lien on such premises of State, county and school and municipal taxes. To the extent allowable under the Act, all other laws, and applicable rules and regulations of the Public Service Commission, the District will take reasonable steps to perfect such liens, and upon exhaustion of all other remedies to foreclose upon such premises in the manner required by Section 9a of the Act.

Section 6.13. No Competing Franchise. To the extent legally allowable, the District 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 6.14. Books and Records. The District will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the District, in which complete and correct entries shall be made of all transactions relating to the System and the Costs of the Project, and any holder of Bonds or the Note and the Authority shall have the right at all reasonable times to inspect the System, and all parts thereof, and all records, accounts and data of the District relating thereto. As long as the Authority shall hold the Bonds, the District shall submit to the Authority such documents and information as it may reasonably require in connection with the construction, acquisition and installation of the Project and the administration of the Bonds, the Note, the Grant, or other sources of financing for the Project.

The accounting system for the System shall follow current generally accepted accounting principles, to the extent allowable under and in accordance with the rules and regulations of the Public Service Commission of the State and the Act. Separate control accounting records shall be maintained by the District. 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 District. The District 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 District shall be reported to the Board and to such other agents of the District as the Board shall direct.

The District shall file with the Authority, and shall mail in each year to any holder of the Bonds, requesting the same, an annual report containing the following:

A. A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenue 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 the Bonds or the Note, and the status of all the funds and accounts.

C. The amount of the Bonds, the Note or other obligations Outstanding.

The District also, at least once a year, shall 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 the Independent Accountants, or a summary thereof, to any holder of the Bonds or the Note and shall file the report with the Authority. Said report shall be completed and made available within 120 days following the conclusion of each Fiscal Year. Such audit report shall specifically include a recital that the District is in compliance with the covenants and duties provided in this Resolution or the Loan Agreement and Supplemental Loan Agreement as applicable.

Section 6.15. Initial Schedule of Rates. The rates, fees and other charges for the use of the services and facilities of the System, established under a resolution enacted by the Board on or before the effective date of this Resolution and in full force and effect, or ordered by the Public Service Commission of the State, the time for appeal of such rates, fees and other charges having expired or been waived by any party who could so appeal, shall constitute the initial schedule, rates, fees and charges to be collected for use of the services and facilities of the System.

Section 6.16. Operating Budget. Annually, at least 30 days preceding the beginning of each Fiscal Year, the District shall prepare and adopt by resolution a detailed budget of the estimated expenditures for operation and maintenance of the System during the succeeding Fiscal Year. No expenditure for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefore in such budget without a written finding and recommendation by the Consulting Engineers stating in detail the purpose of and necessity for such increased expenditure for the operation and maintenance of the System, and no such increased expenditure shall be made until the District has approved such finding and recommendation by a resolution duly adopted. No increased expenditure in excess of ten percent (10%) of the amount of such budget shall be made except upon the further certificate of the Consulting Engineers that such increase expenditures are necessary for the continued operation of the System. The District shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and shall make available such budget and all such resolutions at all reasonable times to the Authority and, upon request, to any holder of the Bonds, or anyone acting for and in behalf of any such holder of the Bonds.

Section 6.17. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants of, and the economy of, the District and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory serviced by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30 day notice of the availability of the System, pay the rates and charges established therefor.

Subject to applicable State laws and regulations, any such building or structure from which emanates sewage or water-borne waste matter and 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 District and a public nuisance which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

Section 6.18. Redemption of Bonds Held by Authority. As long as the Authority is the owner of any of the Series A Bond and Series B Bond Outstanding, the District shall not redeem any of such Series A Bond and Series B Bond Outstanding without the written consent of the Authority, and any such redemption of Series A Bond and Series B Bond authorized by the Authority shall provide for the payment of interest to the first allowable redemption date for the applicable water development revenue bonds, the redemption premium payable on the applicable water development revenue bonds redeemable as a consequence of such redemption of Series A Bond and Series B Bond and the costs and expenses of the Authority in effecting any such redemption, all as further prescribed by Section 9.11 of the General Resolution.

Section 6.19. Payment of Program Expenses. As long as the Bonds are held by the Authority, the District agrees to pay from time to time, as required by the Authority, the District's allocable share of the reasonable administrative expenses of the Authority relating to the Program. Such administrative expenses shall be as determined by the Authority and shall include without limitation Program expenses and fees paid to the Trustee and paying agents for the water development revenue bonds. The District hereby specifically authorizes the Authority to exercise the powers granted it by Section 9.09(d) of the General Resolution.

In the event the District defaults in the payment of any fees due to the Authority pursuant to this section, the amount of such default shall bear interest at the rate of five percent (5%) per annum, from the date of default until the date of the payment thereof.

Section 6.20. Authority Rights on Default. As long as the Authority shall hold the Bonds, the District hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the District, the Authority may exercise any or all of the rights and powers granted under Section 6a of the Water Development Act, including without limitation the right to impose, enforce and collect directly charges upon users of the System; and the District hereby covenants and agrees that, if the Authority should hereafter have recourse to the rights and powers, the District shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority.

Section 6.21. Authority Approval of Federal Pollution Abatement Assurance. The District hereby covenants and agrees to secure approval of the Authority and all other State agencies having jurisdiction before hereafter applying for federal financial assistance for pollution abatement.

Section 6.22. Tax Covenants. The District hereby further covenants, represents and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. (i) Not in excess of 10% of the Net Proceeds of the Bonds is used for private business use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a private business use or in payments in respect of property used or to be used for a private business use or is to be derived from payments,

whether or not to the District, in respect of property or borrowed money used or to be used for a private business use; and (ii) in the event that both (A) in excess of 5% of the Net Proceeds of the Bonds are used for private business use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said private business use or in payments in respect of property used or to be used for said private business use or is to be derived from payments, whether or not to the District, in respect of property or borrowed money used or to be used for said private business use, then said excess of said 5% of Net Proceeds of the Bonds used for a private business use shall be used for a private business use related to the governmental use of the Project.

B. PRIVATE LOAN LIMITATION. Not in excess of the lesser of 5% of the Net Proceeds of the Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting nonpurpose investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The District 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 of Regulations promulgated thereunder.

D. REPORTING REQUIREMENTS. The District will file all reports or statements necessary to insure the tax-exempt status of the Bonds, including without limitation, the information return required under Section 149(e) of the Code.

Section 6.23. 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, shall take effect immediately upon delivery of the Bonds and shall be for the equal benefit of all holders of each respective series of the Bonds, provided however, that the statutory mortgage lien in favor of the holders of the Series A Bonds shall be senior to the statutory mortgage lien in favor of the holders of the Series B Bonds.

ARTICLE VII

INVESTMENTS: NON-ARBITRAGE

Section 7.01. Investments. The District shall invest and reinvest, and hereby instructs the Bond Commission and the Depository Bank to invest and reinvest, in Qualified Investments any moneys held as part of the funds and accounts created by this Resolution, other than the Revenue Fund, to the fullest extent possible subject to applicable laws and this Resolution, and the need for such moneys for the purposes set forth herein, and the specific restrictions and provisions set forth in this Section 7.01. The District may direct the Bond Commission and the Depository Bank in writing as to what particular permitted investments shall be made.

Except as otherwise provided herein or as provided below, any investment shall be held in and at all times be deemed a part of the fund or account in which the moneys and investments are held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the corresponding fund or account. The investments held by the Depository Bank shall be valued as of each January 1 and July 1 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 value if such investment is in the "Consolidated Fund"; provided, that no investment shall be sold or reduced by reason of the current market value exceeding the cost thereof. The Bond Commission or the Depository Bank, 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 any loss on such liquidation. The District may invest funds on deposit with the Depository Bank through the trust department of the Depository Bank. The Depository Bank shall not be responsible for any losses from such investments, except losses due to its own gross negligence or willful misconduct.

Any Qualified Investments acquired for the Bond Capitalized Interest Account shall mature or be subject to redemption at the option of the holder at least one day prior to the date on which such moneys are required for transfer to the Paying Agent.

Qualified Investments acquired for the Renewal and Replacement Fund shall mature or be subject to redemption at the option of the holder within three years from the date of such investment.

Qualified Investments acquired for the Series A Bond Reserve Account and the Series B Bond Reserve Account shall mature or be subject to redemption at the option of the holder within five years from the date of such investment.

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

Section 7.03. Rebates of Excess Arbitrage Earnings to the United States. A. GENERAL COVENANT. The District hereby 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.

B. CREATION OF FUNDS. Notwithstanding the above, 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, 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 District shall, upon receipt, be paid to the Depository Bank for deposit in the Earnings Fund. Annually, on the last day of each Bond Year or on the preceding business day in the event that such last day is not a business day, the Depository Bank shall transfer from the Earnings Fund to the Rebate Fund for purposes of ultimate payment to the United States an amount equal to Excess Investment Earnings, all as more particularly described in this Section. Following the transfer referenced in the preceding sentence, the Depository Bank shall transfer all amounts remaining in the Earnings Fund to be used for the payment of Debt Service on the next interest payment date and for such purpose, Debt Service due from the District on such date shall be credited by an amount equal to the amount so transferred.

C. DUTIES OF DISTRICT IN GENERAL. The District 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 Subsection E and F.

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

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

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

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

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

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

(E) 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 District shall assure that each such installment is in an amount equal to at least 90% of the Excess Investment Earnings with respect to the Gross Proceeds as of the close of the computation period. Not later than 60 days after the retirement of the Bonds, the District 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 District to be used for any lawful purpose of the System. The District shall remit payments to the United States at the address prescribed by the Regulations as the same may be in time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required by this Subsection E, the District shall assure that such payments are made by the District to the United States, on a timely basis, from any funds lawfully available therefor.

F. FURTHER OBLIGATIONS OF DISTRICT. The District shall assure that Excess Investment Earnings are not paid or disbursed except as required in this Section. To that end the District 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.

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

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

ARTICLE VIII

DEFAULTS AND REMEDIES

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

1. Default in the due and punctual payment of the principal of, premium, if any, or interest on any Bond;

2. Default in the observance by the District of any of the covenants, agreements or conditions on its part in this Resolution or any Supplemental Resolution or in the Bonds, and continuance thereof for a period of 30 days after written notice specifying such default and requiring that the same be remedied shall have been given to the District or by any holder of the Bonds; or

3. The filing by the District of a petition seeking bankruptcy, reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America or of the State.

B. Occurrence of any of the following events shall constitute an "Event of Default" with respect to the Note:

1. Default in the due and punctual payment of the principal of or interest on the Note; or

2. Default in the District's observance of any of the covenants, agreements or conditions on its part relating to the Note set forth in this Resolution, any Supplemental Resolution, the Bank Credit Agreement or in the Note, and such default shall have continued for a period of 30 days after the District shall have been given written notice specifying such default and requiring that the same be remedied shall have been given to the District or by any holder of the Note; or

3. The filing by the District of a petition seeking bankruptcy reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America or of the State.

Section 8.02. Enforcement. Upon the occurrence and during the continuance of any Event of Default, any holder of the Bonds or Note, may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his rights. Without limiting the generality of the foregoing, a holder of the Bonds or Note, may:

A. Bring suit for any unpaid principal, premium or interest then due;

B. By mandamus or other appropriate proceeding enforce all rights of the holders, including the performance by the District of its duties under the Act, this Resolution and the Bank Credit Agreement;

C. Bring suit upon the Bonds or Note;

D. By action at law or bill in equity require the District to account as if it were the Trustee of an express trust for the holders of the Bonds or Note; and

E. By action or bill in equity enjoin any acts in violation of this Resolution or of the rights of the holders of the Bonds or Note, provided however, that no remedy herein stated may be exercised by a holder of the Note in a manner

which adversely affects any remedy available to any holder of the Bonds and provided further that all rights and remedies of the holder of the Series B Bond shall be subject to those of the holder of the Series A Bond.

No remedy by the terms of this Resolution conferred upon or reserved to any holders of the Bonds, is intended to be exclusive of any other remedy, but each and every remedy shall be cumulative and shall be in addition to any other remedy given to the holders of any Bonds, hereunder or now or hereafter existing at law or by statute.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or Event of Default hereunder by any holders of the Bonds shall extend to or affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereon.

Section 8.03. Appointment of Receiver. Any holder of a Bond may, by proper legal action, compel the performance of the duties of the District under this Resolution, any Supplemental Resolution and the Act, including, after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If any Event of Default shall have occurred and be continuing, in addition to all other remedies or rights, any holder of the Bonds shall have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the District, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the principal of, premium, if any, and interest, if any, on the Bonds, the deposits into the funds and accounts hereby established as herein provided and the payment of Operating Expenses, and to apply such rates, rentals, fees, charges and any other Gross Revenues in conformity with the provisions of this Resolution and the Act.

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

Whenever all that is due upon the Bonds, and interest thereon, if any, and under any covenants of this Resolution for the funds and accounts hereby established, and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the Net Revenues, 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 District upon the entry of an order of the court to that effect. Upon any subsequent Event of Default, any holder of the Bonds, shall have the same right to secure the further appointment of a receiver.

Such receiver, in the performance of the powers hereinabove conferred, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby and a successor receiver appointed at the direction 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 District and for the joint protection and benefit of the District and first the holders of the Series A Bond and second the holders of the Series B 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 and the collection of rates and charges related to the services now provided by the System for the sole purpose of the protection of both the District and first the holders of the Series A Bond and second the holders of the Series B Bond, 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 District, 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.

Section 8.04. Restoration of District and Holder of the Bonds. In case any holder of the Bonds shall have proceeded to enforce any right under this Resolution by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the claims of such

holder of the Bonds, then and in every such case the District and such holder shall be restored to their former positions and rights hereunder, and all rights and remedies of such holder of the Bonds, shall continue as if no such proceedings had been taken, subject to such adverse determination as the court in such proceedings shall have made.

ARTICLE IX

REGISTRAR; PAYING AGENT

Section 9.01. Appointment of Registrar. The Registrar and the Paying Agent of the Bonds shall be appointed by the enactment of a Supplemental Resolution hereto.

ARTICLE X

DEFEASANCE; DISCHARGE OF PLEDGE

Section 10.01. Defeasance of Series A Bond. If the District shall pay or cause to be paid, or there shall otherwise be paid, to the holder of the Series A Bond, the principal of, premium, if any, and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, then with respect to the Series A Bond only, the pledge of Net Revenues and other moneys and securities pledged hereunder, and all covenants, agreements and other obligations of the District on behalf of the holder of the Series A Bond, made hereunder, 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 Government Obligations 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 respective principal of, premium, if any, and interest on such Series A Bond, shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section. Prior to the maturity thereof, the Series A Bond shall 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 Bond Commission either moneys in an amount

which shall be sufficient, or Government Obligations the principal of and the interest on which, when due, without reinvestment, will provide moneys which, together with the moneys, if any, deposited with the Bond Commission at the same or earlier time will be sufficient, to pay when due the principal of, premium, if any, and interest, if any, due and to become due on the Series A Bond, on and prior to the maturity date thereof. Neither Government Obligations nor moneys deposited with the Bond Commission pursuant to this Section, nor principal or interest payments on any such Government Obligations, shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, premium, if any, and interest, if any, on the Series A Bond; provided, that any cash received from such principal or interest payments on such Government Obligations deposited with the Bond Commission if not then needed for such purpose, to the extent practicable shall be reinvested in Government Obligations maturing at times and in amounts sufficient to pay when due the principal of, premium, if any, and interest, if any, to become due on the Series A Bond, on and prior to the maturity dates thereof and interest earned from such reinvestments shall be paid over to the District as received by the Bond Commission or its agent, free and clear of any trust, lien or pledge.

Section 10.02. Defeasance of Series B Bond. If the District shall pay or cause to be paid, or there shall otherwise be paid, to the respective holder of the Series B Bond, the principal of and premium, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, then with respect to the Series B Bond only, the pledge of Net Revenues and other moneys and securities pledged hereunder, and all covenants, agreements and other obligations of the District on behalf of the holders of the Series B Bond, made hereunder, 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 Government Obligations 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 respective principal of and premium, if any, on such Series B Bond, shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section. Prior to the maturity thereof, the Series B Bond shall 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 Bond Commission either moneys in an amount which shall

be sufficient, or Government Obligations the principal of and the interest on which, when due, without reinvestment, will provide moneys which, together with the moneys, if any, deposited with the Bond Commission at the same or earlier time will be sufficient, to pay when due the principal of and premium, if any, due and to become due on the Series B Bond, on and prior to the maturity date thereof. Neither Government Obligations nor moneys deposited with the Bond Commission pursuant to this Section, nor principal or interest payments on any such Government Obligations, shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and premium, if any, on the Series B Bond; provided, that any cash received from such principal or interest payments on such Government Obligations deposited with the Bond Commission if not then needed for such purpose, to the extent practicable shall be reinvested in Government Obligations maturing at times and in amounts sufficient to pay when due the principal of and premium, if any, to become due on the Series B Bond, on and prior to the maturity dates thereof and interest earned from such reinvestments shall be paid over to the District as received by the Bond Commission or its agent, free and clear of any trust, lien or pledge.

Section 10.03. Defeasance of the Note. If the District shall pay or cause to be paid, or there shall otherwise be paid, to the holder of the Note, the principal of and interest due or to become due thereon, at the times and in the manner set forth in the Bank Credit Agreement, then with respect to the Note only, this Resolution and the pledges of Grant receipts, and all covenants, agreements and other obligations of the District to the holder of the Note shall thereupon cease, terminate and become void and be discharged and satisfied.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment of Resolution. No amendment or modification to this Resolution or to any Supplemental Resolution which is materially adverse to the holder of any Bond, or any Note, may be made without the prior written consents, filed with the Secretary of the Board before any such modification or amendment may be made, of the holders of sixty percent in aggregate principal amount of the Bonds, or the holder of the Note, then Outstanding. No such modification or amendment shall extend the maturity of or reduce the interest

rate on, or otherwise alter the terms of payment of the principal of, premium, if any, or interest on any Bond or the Note, without the express written consent of the holder of such Bond or Note, nor reduce the percentage of Bonds required for consent to any such modification or amendment. Notwithstanding the foregoing, this Resolution may be amended without the consent of any holders of the Bonds or the Note as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion from gross income for Federal income taxation of interest on the Bonds and the Note.

Section 11.02. Evidence of Signatures of Holders and Ownership of Bonds. Any request, consent, revocation of consent or other instrument which this Resolution may require or permit to be signed and executed by the holder of any Bonds, may be in one or more instruments of similar tenor, and shall be signed or executed by such holders in person or by their attorneys duly authorized in writing. Proof of the execution of any such instrument, or of an instrument appointing or authorizing any such attorney, shall be sufficient for any purpose of this Resolution if made in the following manner, or in any other manner satisfactory to the District or the Registrar, as the case may be, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable.

A. The fact and date of the execution by any holder or his attorney of any such instrument may be proved (i) by the certificate of a notary public or other officer authorized to take acknowledgements of deeds to be recorded in the jurisdiction in which he purports to act that the person signing such instrument acknowledged to him the execution thereof, or by the affidavit of a witness of such execution, duly sworn before such a notary public or other officer, or (ii) by the certificate, which need not be acknowledged or verified, of an officer of a bank, trust company or financial firm or corporation satisfactory to the District or the Registrar, as the case may be, that the person signing such instrument acknowledged to such bank, trust company, firm or corporation the execution thereof.

B. The authority of a person or persons to execute any such instrument on behalf of a corporate holder of any Bonds may be established without further proof if such instrument is signed by a person purporting to be the president or treasurer or a vice-president or an assistant treasurer of such corporation with a corporate seal affixed and attested by a person purporting to be its secretary or assistant secretary.

C. The amount of Bonds held by a person executing any instrument as a holder of any Bonds, the date of his holding such Bonds, and the numbers and other identification thereof, shall be confirmed by the Register.

Any request, consent or other instrument executed by the holder of any Bond shall bind all future holders and owners of any Bond, in respect to anything done or suffered to be done hereunder by the District or the Registrar in accordance therewith.

Section 11.03. Preservation and Inspection of Documents. To the extent allowed under law, all reports, certificates, statements and other documents received by the Registrar under the provisions of this Resolution shall be retained in its possession and shall be available at all reasonable times for the inspection of the District, the holders of any Bonds, their agents and representatives, but, at the election of the Registrar, any such reports, certificates, statements or other documents may be destroyed or otherwise disposed of at any time after such date as the pledge created by this Resolution shall be discharged as provided in Article X.

Section 11.04. Cancellation of the Bonds. All Bonds purchased or paid and surrendered to the District shall be cancelled and delivered to the Registrar, or if surrendered to the Registrar, shall be cancelled by it. No such cancelled Bonds shall be deemed Outstanding under this Resolution, and no Bonds shall be issued in lieu thereof. All such Bonds shall be cancelled and upon order of the District shall be destroyed, and a certificate evidencing such destruction shall be delivered to the District.

Section 11.05. Failure To Present Bonds. Anything in this Resolution to the contrary notwithstanding, any moneys held by the Bond Commission in trust for the payment and discharge of any of the Bonds which remain unclaimed for one year after the date on which such Bonds have become due and payable, whether by maturity or upon call for redemption, shall at the written request of the District be paid by the Bond Commission to the District as its absolute property and free from trust, subject to applicable law on escheat, and the Bond Commission thereupon shall be released and discharged with respect thereto, and the holders of such Bonds shall look only to the District for the payment of such Bonds; provided, however, that before making any such payment to the District, at the request of the Bond Commission the Registrar shall send to the holder by certified mail, at the address listed on the Register, a notice that such moneys remain unclaimed and that after a date stated in the notice, which date shall be not less than 30 days after the date on which such notice is mailed, the balance of such moneys then unclaimed will be returned to the District.

Section 11.06. Notices, Demands and Requests. Unless otherwise expressly provided, all notices, demands and requests to be given or made hereunder to or by the District, the Registrar or the Depository Bank shall be in writing and shall be properly made if sent by United States mail, postage prepaid, and addressed as follows or if hand-delivered to the individual to whom such notice, demand or request is required to be directed as indicated below:

A. The District:

Claywood Park Public Service District
Route 5, Box 39
Parkersburg, West Virginia 26101
Attention: Chairman of the Public
Service Board; and to

B. Registrar - as shall be set out in
the Supplemental Resolution

C. Depository Bank:

Commercial Banking and Trust Company
415 Market Street
Parkersburg, West Virginia 26101

D. Authority:

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

Any party listed above may change the address given for it at any time upon written notice thereof sent by United States mail, postage prepaid, to the other parties.

Section 11.07. Conflicting Provisions Repealed. All orders or resolutions and or parts thereof in conflict with the provisions of this Resolution are to the extent of such conflict hereby repealed.

Section 11.08. No Personal Liability. No member of the Board of the District or official or employee of either shall be individually or personally liable for the payment of the principal of, premium, if any, or interest on any Bond or Note, as the case may be, but nothing herein contained shall relieve any such member, official or employee of any duty provided by law or this Resolution.

Section 11.09. Law Applicable. The laws of the State shall govern the construction of this Resolution and all Bonds issued hereunder.

Section 11.10. Parties Interested Herein. Nothing in this Resolution expressed or implied is intended or shall be construed to confer upon, or give to, any person or corporation, other than the District, the Registrar, the Paying Agent, the Bond Commission, the Depository Bank, the holders of the Bonds, the holder of the Note, and the Authority, any right, remedy or claim under or by reason of this Resolution. All the covenants, stipulations, promises and agreements contained in this Resolution by and on behalf of the District shall be for the sole and exclusive benefit of the District, the Registrar, the Paying Agent, the Bond Commission, the Depository Bank, the holders of the Bonds and the Note, and the Authority.

Section 11.11. 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.

Section 11.12. Table of Contents and Headings. The Table of Contents and headings of the articles and sections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 11.13. Effective Date. This Resolution shall take effect immediately upon adoption.

Adopted this 10th day of October, 1989.

CLAYWOOD PARK PUBLIC
SERVICE DISTRICT

Charles A. Jensen
Chairman

3402E

EXHIBIT A

[Description of the Project]

The public service properties to be constructed will consist of 8.0 miles of vacuum sewers, 11.8 miles of pressure sewers, 0.7 miles of gravity sewers and 3.0 miles of force main, one (1) vacuum station, two (2) lift stations and a treatment plant. In addition, 166 vacuum valves, 4 dual vacuum valves, and 266 grinder pumps are proposed. The properties will be located in the Parkersburg and Clay Magisterial Districts of Wood County, West Virginia.

EXHIBIT B

[FORM OF SERIES A BOND]

No. R-1

\$ _____

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CLAYWOOD PARK PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM REVENUE BOND, SERIES A

Original
Issuance
Date

Interest
Rate

Bond Date

Registered Owner: WEST VIRGINIA WATER DEVELOPMENT AUTHORITY
Principal Sum: \$ _____

CLAYWOOD PARK PUBLIC SERVICE DISTRICT, a public service district organized and existing under the laws of the State of West Virginia (the "District"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, the Principal Sum specified above to the Registered Owner named above or registered assigns (the "Registered Owner"), in the following principal installments on _____ of each of the following years:

<u>Year</u>	<u>Principal Installment</u>	<u>Year</u>	<u>Principal Installment</u>
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[TO BE INSERTED]

The District further hereby promises solely from such special funds also to pay interest on the outstanding principal balance of this Series A Bond from the Bond Date specified above at the Interest Rate per annum specified above semiannually, on the first day of _____ and the first day of _____ in each year, beginning _____.

The principal of this Series A Bond, and the premium hereon, if any, are payable in any coin or currency which, on the date of payment thereof, 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 as paying agent (the "Paying Agent"). Interest will be paid to the registered owner as of the close of business on the Record Date for such interest payment, which shall be the

fifteenth day (whether or not a business day) of the calendar month next preceding such interest payment date. Interest shall be paid by check or draft mailed to the address of such Registered Owner at the address as it appears on the books of the _____ as Registrar (the "Bond Register"), or by such other method as shall be mutually agreeable as long as the Authority is the Registered Owner hereof.

This Series A Bond is the duly authorized Series A Bond (herein referred to as the "Series A Bond") issuable under the Bond Resolution of the District, and pursuant to which this Series A Bond is issued, in the principal amount of \$ _____ and pursuant to which the Series B Bond in the principal amount of \$ _____ is issued, and is issued for the purpose of assisting the District in the permanent financing of costs of acquiring, constructing and installing sewerage collection and treatment facilities, capitalizing interest during the construction period and for six months thereafter, funding a debt service reserve account, and paying costs of issuance and other costs incidental thereto and to the financing thereof (the "Project"), located within the boundaries of Wood County, West Virginia, all 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 of 1931, as amended (the "Act"), the Resolution duly enacted by the Public Service Board of the District on the _____ day of _____, 198_, as supplemented by a supplemental resolution duly enacted by the Public Service Board of the District on the _____ day of _____, 198_ (collectively, the "Resolution"), and is subject to all the terms and conditions of the Resolution. The Resolution provides for the issuance of additional bonds under certain conditions, which 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 Series A Bond under the Resolution.

This Series A 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 District and the Authority executed by the District on September 27, 1989, as supplemented and amended.

This Series A Bond is issued contemporaneously with the Sewerage System Revenue Bond Series B of the District (the "Series B Bond"), issued in the aggregate principal amount of \$ _____, which Series B Bond is junior and subordinate with respect to liens and sources of security for payment to the Series A Bond.

This Series A Bond and the interest thereon are payable only from and are secured by a first lien on and pledge of the Net Revenues derived from the System, all funds in the Series A Sinking Fund, established under the Resolution, and the unexpended proceeds of the Series A Bond, and the District hereby and in the Resolution pledges such Net Revenues and funds to such payment, and the Net Revenues of the System shall be set aside as a special fund hereby pledged for such purpose. Such Net Revenues shall be sufficient to pay the principal of, premium, if any, and interest on all bonds issued pursuant to the Resolution and which shall be set aside as a special fund hereby pledged for such purpose. This Series A Bond does not constitute a corporate indebtedness of the District within the meaning of any statutory or constitutional limitation, nor shall the District be obligated to pay the same or the interest hereon except from the special fund provided from the Net Revenues of the System, all moneys in the Series A Bond Reserve Account and unexpended Series A Bond proceeds. Under the Resolution, the District has covenanted and agreed to fix, 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 one hundred fifteen percent (115%) of the amount required to pay the maximum amount due in any year of principal of and interest on the Series A Bond, the Series B Bond, and all other obligations secured by or payable from such revenues prior to or on a parity with the Series A Bond or the Series B Bond, provided however, that as long as there exists in the Series A Bond Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Series A Bond in the then current or any succeeding year, and in the respective reserve accounts established for the Series B Bond and any other obligations outstanding prior to or on a parity with the Series A Bond or the Series B Bond, an amount at least equal to the respective requirement therefor, such percentage may be reduced to one hundred ten percent (110%). The District has entered into certain further covenants with the Registered Owner of this Series A Bond, for the terms of which reference is made to the Resolution. Remedies provided the Registered Owner of this Series A Bond 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 transferrable, as provided in the Resolution, only upon the books of _____

_____, as registrar (the "Registrar") by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Series A 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.

All moneys received from the sale of the Series A Bond shall be applied solely to pay Costs of the Project as provided 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 the Series A Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this Series A 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 Series A Bond, together with all other obligations of the District, 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 the special funds by the District for the prompt payment of the principal of, premium, if any, and interest on the Series A Bond.

This Series A Bond, under the provisions 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, but may be transferred only by transfer of registration hereof with the Registrar.

This Series A Bond shall not be entitled to any benefit under the Resolution, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon shall have been manually signed by the Registrar.

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

IN WITNESS WHEREOF, in the manner provided in the Resolution, The District has caused this Series A Bond to be signed by _____, the Chairman of its Public Service Board, and the seal of the District to be impressed hereon and attested by the Secretary, and has caused this Series A Bond to be dated as of the Bond Date shown above.

[SEAL]

Chairman Public Service Board

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION
AND REGISTRATION

This Bond is one of the Bonds described in the within-mentioned Resolution and has been duly registered in the name set forth above on the date set forth below.

_____'
As Registrar

Date: _____

By: _____'
Its Authorized Officer

ASSIGNMENT

For value received, the undersigned Registered Owner do(es) hereby sell, assign and transfer unto _____

(name, address and social security number or other identifying number of assignee) the within Bond and hereby irrevocably constitute(s) and appoint(s) _____ to transfer the Bond on the books kept for registration of the within Bond with full power of substitution in the premises.

Date: _____

Registered Owner

Signature Guaranteed: _____

Notice: The Assignor's signature to this Assignment must correspond with the name as it appears upon the face of this Bond in every particular, without alteration or any change whatsoever.

EXHIBIT C

[FORM OF SERIES B BOND]

No. R-1

\$ _____

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CLAYWOOD PARK PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM REVENUE BOND, SERIES B

Original
Issuance
Date

Interest
Rate

Bond Date

0.00%

Registered Owner: WEST VIRGINIA WATER DEVELOPMENT AUTHORITY
Principal Sum: \$ _____

CLAYWOOD PARK PUBLIC SERVICE DISTRICT, a public service district organized and existing under the laws of the State of West Virginia (the "District"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, the Principal Sum specified above without interest to the Registered Owner named above or registered assigns (the "Registered Owner"), in the following principal installments on _____ of each of the following years:

Year Principal Maturing Year Principal Maturing

[TO BE INSERTED]

The principal of this Series B , and the premium hereon, if any, are payable in any coin or currency which, on the date of payment thereof, 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 as paying agent (the "Paying Agent").

This Series B Bond is the duly authorized Series B Bond (herein referred to as the "Series B Bond") issuable under the Resolution of the District, and pursuant to which this Series B Bond is issued, in the principal amount of \$ _____ and pursuant to which the Series A Bond in the principal amount of \$ _____ (the "Series A Bond") is issued, and is issued for

the purpose of assisting the District in the permanent financing of costs of acquiring, constructing and installing sewerage collection and treatment facilities, funding a debt service reserve account, and paying costs of issuance and other costs incidental thereto and to the financing thereof (the "Project"), located within the boundaries of Wood County, West Virginia. This Series B 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 of 1931, as amended (the "Act"), the Resolution duly enacted by the Public Service Board of the District on the _____ day of _____, 198_, as supplemented by supplemental resolutions duly enacted by the Public Service Board of the District on the _____ day of _____, 198_, and _____ collectively (the "Resolution"), and is subject to all the terms and conditions of the Resolution. The Resolution provides for the issuance of additional bonds under certain conditions, which 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 Series B Bond under the Resolution.

This Series B 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 District and the Authority executed by the District on September 27, 1989, as supplemental and amended.

This Series B Bond is payable only from and is secured by a second lien on and pledge of the Net Revenues derived from the System after there has first been paid from such Net Revenues all payments then due and owing on account of the Series A Bond herein described, moneys in the Series B Bond Reserve Account created under this Resolution, and the unexpended proceeds of the Series B Bond. Such Net Revenues shall be sufficient to pay the principal of, premium, if any, and interest, if any, on all bonds issued pursuant to the Resolution and which shall be set aside as a special fund hereby pledged for such purpose. This Series B Bond does not constitute a corporate indebtedness of the District within the meaning of any statutory or constitutional limitation, nor shall the District be obligated to pay the same except from the special fund provided from the Net Revenues of the System, all moneys in the Series B Bond Reserve Account and unexpended Series B Bond proceeds. Under the Resolution, the District has covenanted and agreed to fix, 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 one

hundred fifteen percent (115%) of the amount required to pay the maximum amount due in any year of principal of and interest, if any, on the Series B Bond, the Series A Bond, and all other obligations secured by or payable from such revenues prior to or on a parity with the Series A Bond or the Series B Bond, provided however, that as long as there exists in the Series B Bond Reserve Account an amount at least equal to the maximum amount of principal which will become due on the Series B Bond in the then current or any succeeding year, and in the respective reserve accounts established for the Series A Bond and any other obligations outstanding prior to or on a parity with the Series A Bond or the Series B Bond, an amount at least equal to the respective requirements therefor, such percentage may be reduced to one hundred ten percent (110%). The District has entered into certain further covenants with the Registered Owners of the Series B Bond, for the terms of which reference is made to the Resolution. Remedies provided to the Registered Owners of the Series B Bond 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 Series B Bond is transferrable, as provided in the Resolution, only upon the books of _____, as registrar (the "Registrar") by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of the Series B 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.

All moneys received from the sale of the Series B Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to pay 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 Series B Bond, which lien is subordinate to the lien in favor of the Registered Owner of the Series A Bond.

THIS SERIES B BOND IS JUNIOR AND SUBORDINATE WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT TO THE OUTSTANDING SERIES A BOND ISSUED CONCURRENTLY HERewith IN THE AGGREGATE PRINCIPAL AMOUNT OF \$ _____ DESCRIBED IN THE RESOLUTION.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this Series B 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 Series B Bond, together with all other obligations of the District, 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 the special funds by the District for the prompt payment of the principal of and premium, if any, on this Series B Bond.

This Series B Bond, under the provisions 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, but may be transferred only by transfer of registration hereof with the Registrar.

This Series B Bond shall not be entitled to any benefit under the Resolution, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon shall have been manually signed by the Registrar.

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

IN WITNESS WHEREOF, in the manner provided in the Resolution, The District has caused this Series B Bond to be signed by _____, the Chairman of its Public Service Board, and the seal of the District to be impressed hereon and attested by the Secretary, and has caused this Series B Bond to be dated as of the Bond Date shown above.

[SEAL]

Chairman Public Service Board

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION
AND REGISTRATION

This Bond is one of the Bonds described in the within-mentioned Resolution and has been duly registered in the name set forth above on the date set forth below.

_____ /
As Registrar

Date: _____

By: _____ /
Its Authorized Officer

ASSIGNMENT

For value received, the undersigned Registered Owner do(es) hereby sell, assign and transfer unto _____

(name, address and social security number or other identifying number of assignee) the within Bond and hereby irrevocably constitute(s) and appoint(s) _____ to transfer the Bond on the books kept for registration of the within Bond with full power of substitution in the premises.

Date: _____

Registered Owner

Signature Guaranteed: _____

Notice: The Assignor's signature to this Assignment must correspond with the name as it appears upon the face of this Bond in every particular, without alteration or any change whatsoever.

EXHIBIT D

LOAN AGREEMENT

See Transcript Item # 9.

EXHIBIT E

SUPPLEMENTAL LOAN AGREEMENT

See Transcript Item # 10.

CLAYWOOD PARK PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM REVENUE BONDS
SERIES A AND SERIES B

FIRST SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY, INTEREST RATE, PRINCIPAL PREPAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE SEWERAGE SYSTEM REVENUE BONDS SERIES A AND SERIES B OF CLAYWOOD PARK PUBLIC SERVICE DISTRICT; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF THE BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; APPROVING BANK INTERIM CREDIT AGREEMENT IN AN AMOUNT NOT TO EXCEED \$750,000; APPROVING AND ADOPTING THE RATES AND CHARGES AS ESTABLISHED BY THE WEST VIRGINIA PUBLIC SERVICE COMMISSION IN THE ORDER GRANTING THE DISTRICT A CERTIFICATE OF CONVENIENCE AND NECESSITY; AND MAKING OTHER PROVISIONS AS TO THE SERIES A AND SERIES B BONDS.

WHEREAS, the public service board (the "Board") of Claywood Park Public Service District (the "District"), has duly and officially adopted a bond resolution, effective October 10, 1989 (the "Resolution"), entitled:

A RESOLUTION AUTHORIZING THE CONSTRUCTION AND ACQUISITION OF CERTAIN PUBLIC SERVICE PROPERTIES FOR THE COLLECTION, TREATMENT, PURIFICATION AND DISPOSAL OF LIQUID OR SOLID WASTES, SEWAGE AND INDUSTRIAL WASTES IN THE CLAYWOOD PARK PUBLIC SERVICE DISTRICT, WOOD COUNTY, WEST VIRGINIA, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF, THROUGH THE ISSUANCE BY THE CLAYWOOD PARK PUBLIC SERVICE DISTRICT OF NOT MORE THAN \$3,217,202 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, SERIES A AND SERIES B; AUTHORIZING THE FINANCING OF CERTAIN COSTS OF SUCH CONSTRUCTION AND ACQUISITION, PENDING RECEIPT OF CERTAIN GRANT PROCEEDS, THROUGH THE ISSUANCE AND EXECUTION BY THE CLAYWOOD PARK

PUBLIC SERVICE DISTRICT OF A CREDIT LINE NOTE OF \$750,000; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH SEWERAGE SYSTEM REVENUE BONDS AND SUCH SEWERAGE SYSTEM CREDIT LINE NOTE; AUTHORIZING THE SALE OF SUCH SEWERAGE SYSTEM REVENUE BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY BY SUPPLEMENTAL RESOLUTION; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Resolution provides for the issuance of the Sewerage System Revenue Bonds Series A and Series B of the District (the "Bonds"), in a principal amount not to exceed \$3,217,202 and has authorized the execution and delivery of a Loan Agreement and a Supplemental Loan Agreement relating to the Bonds each executed by the District on September 27, 1989, by and between the District and West Virginia Water Development Authority (the "Authority"), all in accordance with Chapter 16, Article 13A of the Code of West Virginia of 1931, as amended (the "Act"); and in the Resolution it is provided that the exact principal amount, maturity date, interest rate, interest and principal prepayment schedule, sale price and other terms of the Bonds may be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds and to the Project be herein provided for;

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

WHEREAS, the Board deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the exact principal amount, the price, the maturity date, the redemption provision, the interest rate and the interest and principal payment dates of the Bonds be fixed hereby in the manner stated herein, that an interim credit agreement be approved with Commercial Banking & Trust Company, and that other matters relating to the Bonds and to the Project be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF CLAYWOOD PARK 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:

a. The Series A Bond designated R-1 shall be issued in the form of a single bond in typewritten form fully registered to the West Virginia Water Development Authority, in the denomination of \$2,801,262.00, with interest thereon at the rate of 8.40% per annum payable semi-annually on October 1 and April 1, first interest payable on April 1, 1990, representing the aggregate principal amount of the Series A Bond issue and shall mature in principal installments on October 1 of each year as follows:

<u>Year</u>	<u>Installment</u>	<u>Interest Rate</u>
1991	\$ 10,584.97	8.40%
1992	11,474.11	8.40%
1993	12,437.93	8.40%
1994	13,482.72	8.40%
1995	14,615.27	8.40%
1996	15,842.95	8.40%
1997	17,173.76	8.40%
1998	18,616.35	8.40%
1999	20,180.13	8.40%
2000	21,875.26	8.40%
2001	23,712.78	8.40%
2002	25,704.65	8.40%
2003	27,863.84	8.40%
2004	30,204.40	8.40%
2005	32,741.57	8.40%
2006	35,491.87	8.40%
2007	38,473.18	8.40%
2008	41,704.93	8.40%
2009	45,208.14	8.40%
2010	49,005.63	8.40%
2011	53,122.10	8.40%
2012	57,584.36	8.40%
2013	62,421.44	8.40%
2014	67,664.84	8.40%
2015	73,348.69	8.40%
2016	79,509.98	8.40%
2017	86,188.82	8.40%
2018	93,428.68	8.40%
2019	101,276.69	8.40%
2020	109,783.93	8.40%
2021	119,005.78	8.40%
2022	129,002.27	8.40%
2023	139,838.46	8.40%
2024	151,584.89	8.40%
2025	164,318.02	8.40%
2026	178,120.73	8.40%
2027	193,082.87	8.40%
2028	209,301.84	8.40%
2029	226,883.19	8.40%

b. The Series B Bond designated R-1 shall be issued in the form of single Bond in typewritten form, fully registered to the West Virginia Water Development Authority, in the denomination of \$415,340.00, without interest, representing the aggregate principal amount of the Series B Bond issue, and shall mature in principal installments on October 1, of each year after date as follows:

<u>Year</u>	<u>Installment</u>
1991	10,649.88
1992	10,649.74
1993	10,649.74
1994	10,649.74
1995	10,649.74
1996	10,649.74
1997	10,649.74
1998	10,649.74
1999	10,649.74
2000	10,649.74
2001	10,649.74
2002	10,649.74
2003	10,649.74
2004	10,649.74
2005	10,649.74
2006	10,649.74
2007	10,649.74
2008	10,649.74
2009	10,649.74
2010	10,649.74
2011	10,649.74
2012	10,649.74
2013	10,649.74
2014	10,649.74
2015	10,649.74
2016	10,649.74
2017	10,649.74
2018	10,649.74
2019	10,649.74
2020	10,649.74
2021	10,649.74
2022	10,649.74
2023	10,649.74
2024	10,649.74
2025	10,649.74
2026	10,649.74
2027	10,649.74
2028	10,649.74
2029	10,649.74

Section 3. The District does hereby appoint and designate Commercial Banking & Trust Company, a state banking association, Parkersburg, West Virginia, as Registrar for the Bonds, and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the District and the Registrar in substantially the form attached hereto, and the execution and delivery by the Chairman 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 4. The District does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, as Paying Agent for the Bonds.

Section 5. The District does hereby appoint and designate Commercial Banking & Trust Company, a state banking association, Parkersburg, West Virginia, as Depository Bank under the Resolution.

Section 6. The District does hereby approve and adopt the rates and charges as established by the West Virginia Public Service Commission in the Order granting the District a Certificate of Convenience and Necessity in Case No. 88-655-S-CN.

Section 7. Series A Bond proceeds in the amount of \$361,935 shall be deposited in the Bonds Capitalized Interest Fund within the Series A Sinking Fund, as capitalized interest.

Section 8. Series A Bond proceeds in the amount of \$245,942 shall be deposited in the Series A Bond Reserve Account within the Series A Sinking Fund.

Section 9. Series B Bond proceeds in the amount of \$10,650 shall be deposited in the Series B Bond Reserve Account within the Series B Sinking Fund.

Section 10. The Chairman 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 on or about October 10, 1989, to the Authority pursuant to the Loan Agreement and the Supplemental Loan Agreement.

Section 11. The financing of the Project in part with proceeds of the Bonds is in the public interest, serves a public purpose of the District and will promote the health, welfare and safety of the residents of the District.

Section 12. The District hereby determines that it is in the best interest of the District to invest all moneys in the funds and accounts established by the Resolution according to the letter of instructions of the District to be delivered at the closing (the "Letter of Instructions"), and the District hereby directs the Depository Bank and the Paying Agent to take such actions as may be necessary to cause such moneys to be invested in accordance therewith.

Section 13. The District does hereby approve and accept the interim Bank Credit Agreement by and between the District and Commercial Banking & Trust Company, dated as of October 10, 1989, a copy of which is attached hereto as Exhibit A. The officers of the District are hereby authorized and empowered to execute the same on behalf of the District.

Section 14. The District hereby determines to pay, on the date of delivery of the Bonds and receipt of proceeds thereof, all borrowings of the District heretofore incurred for the purpose of temporarily financing a portion of the Costs of the Project, including, but not limited to, any borrowings incurred for the purpose of paying engineering or design costs.

Section 15. This Supplemental Resolution shall be effective immediately upon adoption.

Adopted this 10th day of October, 1989.

CLAYWOOD PARK PUBLIC SERVICE DISTRICT

By: Charles A. Townsend
Charles A. Townsend, Chairman

3701E

EXHIBIT A

BANK CREDIT AGREEMENT

See Transcript Item # 29

WDA-5
(March 1988)

LOAN AGREEMENT

THIS LOAN AGREEMENT, Made and entered into in several counterparts, by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), and the governmental agency designated below (the "Governmental Agency").

CLAYWOOD PARK PUBLIC SERVICE DISTRICT
(Name of Governmental Agency)

W I T N E S S E T H:

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

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

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

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

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

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

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

ARTICLE I

Definitions

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

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

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

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

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

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

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

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

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

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

ARTICLE II

The Project and the System

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

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

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Governmental Agency, subject to any mortgage lien or other security interest as is provided for in the Local Statute.

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

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

2.6 The Governmental Agency agrees that it will permit the Authority and its agents to have access to the records of the Governmental Agency pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof.

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

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority. Until the Project facilities are completed

and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Governmental Agency, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Governmental Agency on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds is outstanding. Prior to commencing operation of the Project, the Governmental Agency must also obtain, and maintain so long as any of the Local Bonds is outstanding, business interruption insurance if available at a reasonable cost.

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

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

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

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

(e) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the construction of the Project and operation of the System, and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

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

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

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

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

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

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

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

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Authority for loans to finance water development projects and that the obligation of the Authority to make any such loan is subject to the Governmental Agency's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing and to the right of the Authority to make such loans to other governmental agencies as in the aggregate will permit the fullest and most timely utilization of such proceeds to enable the Authority to pay debt service on the water development revenue bonds issued by it. The Governmental Agency specifically recognizes that the Authority will not execute this Loan Agreement unless and until it has available funds sufficient to purchase all the Local Bonds and that, prior to such execution, the Authority may commit to and purchase the revenue bonds of other governmental agencies for which it has sufficient funds available. The Governmental Agency further specifically recognizes that during the last 90 days of a period to originate Loans from its water development revenue bond proceeds, the Authority may execute Loan Agreements, commit moneys and close Local Bond sales in such order and manner as it deems in the best interest of the Program.

ARTICLE IV

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

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

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

(b) Covenants substantially as follows:

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

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

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

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

(v) That the Governmental Agency shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%)

of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by a lien on or payable from the revenues of the System prior to the Local Bonds; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

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

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

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

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

(xi) That the Governmental Agency shall annually cause the records of the System to be audited by an independent certified public accountant and shall submit the report of said audit to the Authority, which report shall include a statement that the Governmental Agency is in compliance with the terms and provisions of the Local Act and this Loan Agreement;

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

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

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

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

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

(xvii) That the Governmental Agency shall take any and all action, or shall refrain from taking any action, as shall be deemed necessary by the Authority to maintain the exclusion from gross income for Federal income tax purposes of interest on the Authority's water development revenue bonds.

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

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

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

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

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

4.6 The Governmental Agency agrees to pay from time to time, as required by the Authority, the Governmental Agency's allocable share of the reasonable administrative expenses of the Authority relating to the Program. Such administrative expenses shall be as determined by the Authority and shall include without limitation Program expenses, legal fees paid by the Authority and fees paid to the trustee and paying agents for the water development revenue bonds. The Authority shall provide both the Governmental Agency and the trustee for the water development revenue bonds with a schedule of such fees and charges, and the Governmental Agency shall pay such fees and charges on the dates indicated directly to the trustee. The Governmental Agency hereby specifically authorizes the Authority to exercise the powers granted it by Section 9.06 of the General Resolution.

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

ARTICLE V

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

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

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

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

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

ARTICLE VI

Other Agreements of the Governmental Agency

6.1 The Governmental Agency hereby acknowledges to the Authority its understanding of the provisions of the Act, vesting in the Authority certain powers, rights and privileges with respect to water development projects in the event of default by governmental agencies in the terms and covenants of

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

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

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

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

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

6.6 Notwithstanding Section 6.5, the Authority may at any time, in its sole discretion, cause the rebate calculations prepared by or on behalf of the Governmental Agency to be monitored or cause the rebate calculations for the Governmental Agency to be prepared, in either case at the expense of the Governmental Agency.

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

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

ARTICLE VII

Miscellaneous

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

7.2 Schedule X shall be attached to this Loan Agreement by the Authority as soon as practicable after the Date of Loan Closing is established and shall be approved by an official action of the Governmental Agency supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority.

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

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

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

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

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

7.8 This Loan Agreement shall terminate upon the earlier of:

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

(ii) termination by the Authority pursuant to Section 6.3 hereof; or

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

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

CLAYWOOD PARK PUBLIC SERVICE DISTRICT
[Proper Name of Governmental Agency]

(SEAL)

By Charles J. Owens
Its Chairman, Public Service Board

Attest:

Date: September 27, 1989

W. Ray Mack
Its Secretary

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

(SEAL)

By Daniel B. Yenkosky
Director

Attest:

Date: October 3, 1989

Barbara B Meadows
Secretary-Treasurer

EXHIBIT A

[Opinion of Bond Counsel for Governmental Agency]

[To Be Dated as of Date of Loan Closing]

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

Gentlemen:

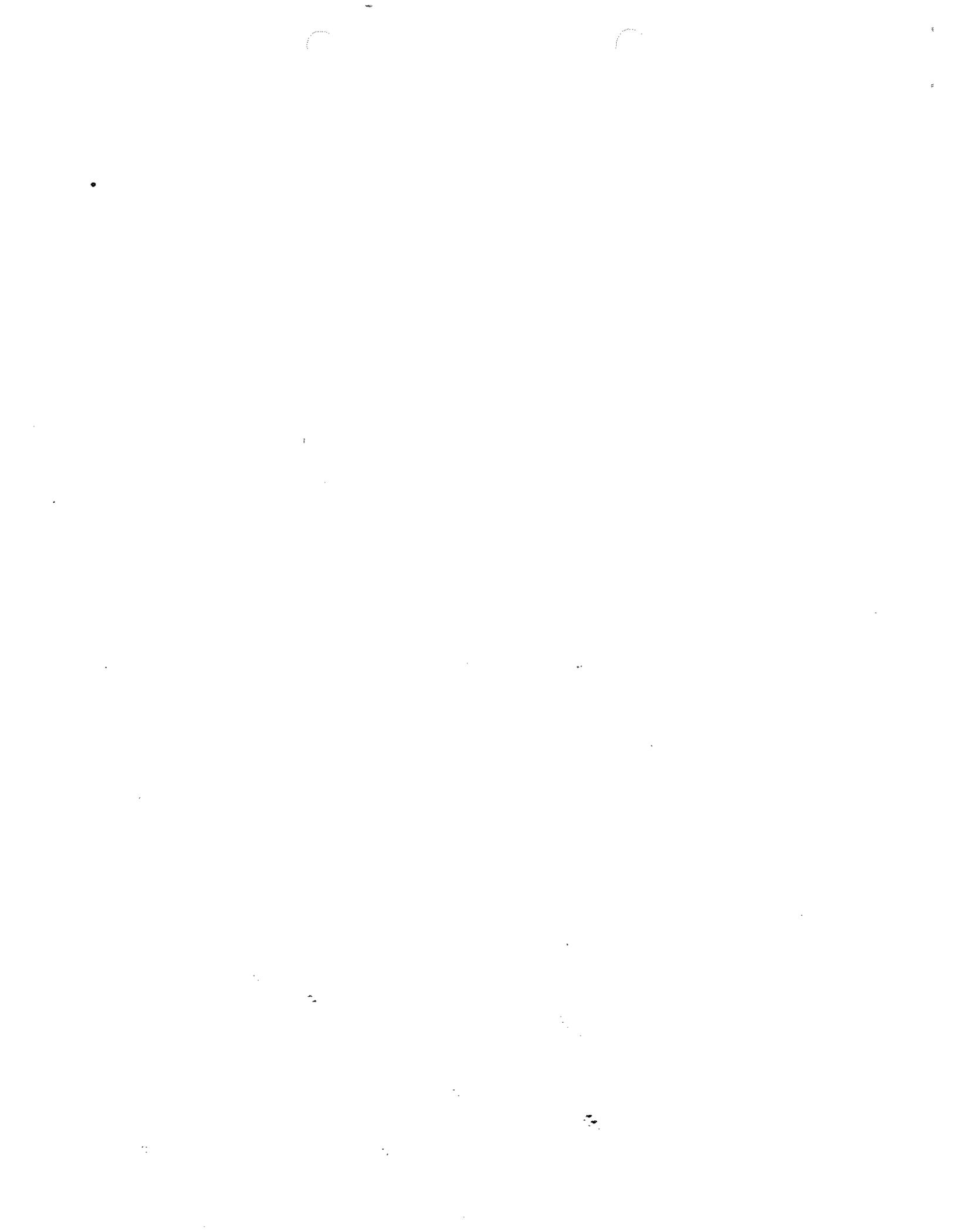
We are bond counsel to _____
(the "Governmental Agency"), a _____
_____.

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

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

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

We have also examined the applicable provisions of _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the



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

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

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

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

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

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

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

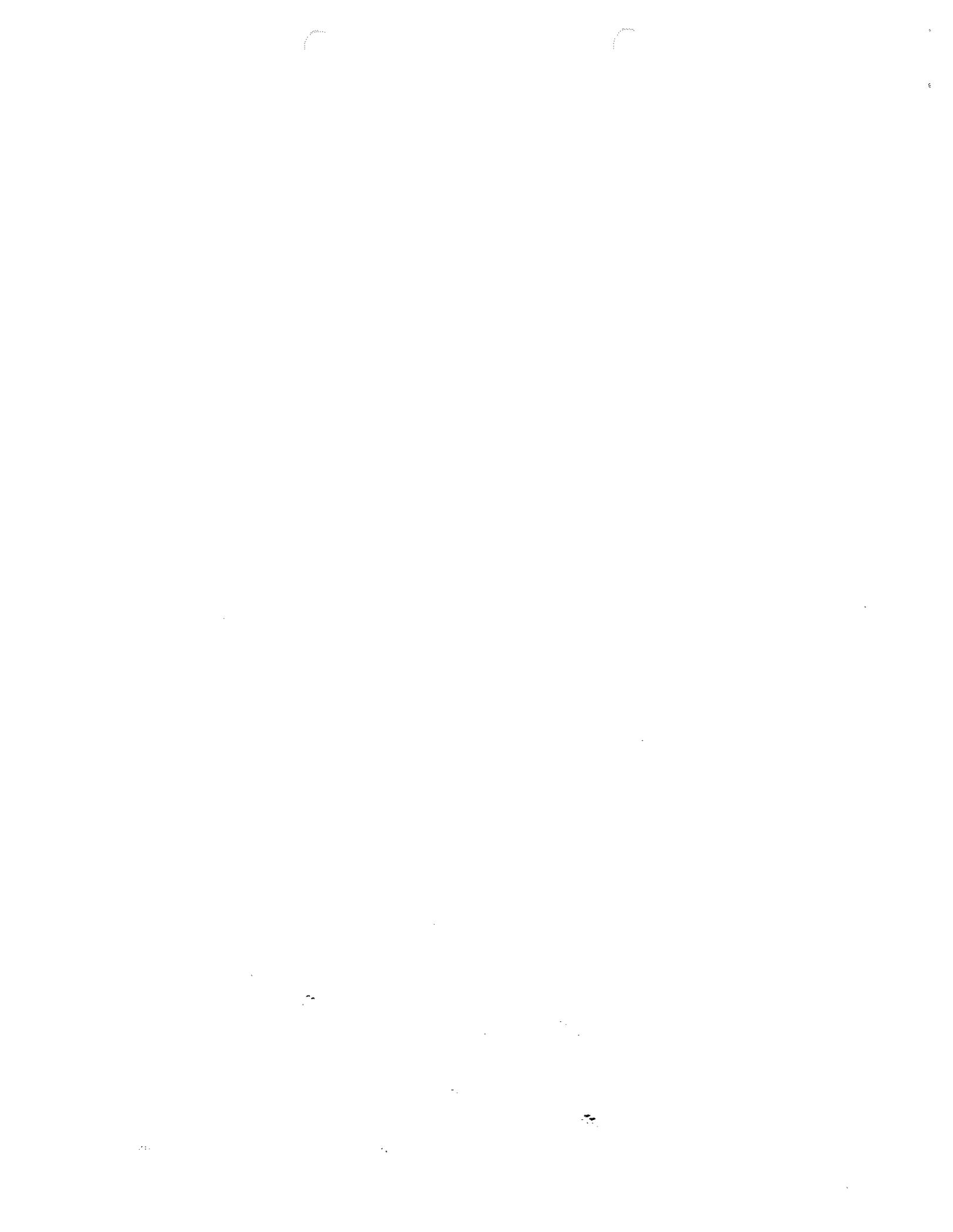
6. The Local Bonds are, by statute, exempt _____, and under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Local Bonds is excludable from the gross income of the recipients thereof for Federal income tax purposes.



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

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

Very truly yours,



WDA-5X
(March 1988)

SCHEDULE X
DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds \$ 2,801,862
Purchase Price of Local Bonds \$ 2,801,862

Interest on the Local Bonds is payable on April 1 and October 1 in each year, beginning with the first semiannual interest payment date after delivery of the Local Bonds to the Authority, until the Local Bonds are paid in full, at the rate of 8.40 % per annum. Principal of the Local Bonds is payable on October 1 in each year as set forth on Exhibit 1 attached hereto and incorporated herein by reference.

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

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

Claywood Park Public Service District
 Debt Service Schedule
 Analysis of Borrowing from Series 1989 Pool
 39 Principal Payments
 Closing Date: 10-Oct-89

Date	Coupon	Principal	Interest	Debt Service 8.40% Bonds
01-Oct-90			229,472.50	229,472.50
01-Oct-91	8.40%	10,584.97	235,356.41	245,941.38
01-Oct-92	8.40%	11,474.11	234,467.27	245,941.38
01-Oct-93	8.40%	12,437.93	233,503.45	245,941.38
01-Oct-94	8.40%	13,482.72	232,458.66	245,941.38
01-Oct-95	8.40%	14,615.27	231,325.11	245,941.38
01-Oct-96	8.40%	15,842.95	230,098.43	245,941.38
01-Oct-97	8.40%	17,173.76	228,767.62	245,941.38
01-Oct-98	8.40%	18,616.35	227,325.03	245,941.38
01-Oct-99	8.40%	20,180.13	225,761.25	245,941.38
01-Oct-2000	8.40%	21,875.26	224,066.12	245,941.38
01-Oct-2001	8.40%	23,712.78	222,228.60	245,941.38
01-Oct-2002	8.40%	25,704.65	220,236.73	245,941.38
01-Oct-2003	8.40%	27,863.84	218,077.54	245,941.38
01-Oct-2004	8.40%	30,204.40	215,736.97	245,941.38
01-Oct-2005	8.40%	32,741.57	213,199.80	245,941.38
01-Oct-2006	8.40%	35,491.87	210,449.51	245,941.38
01-Oct-2007	8.40%	38,473.18	207,468.19	245,941.38
01-Oct-2008	8.40%	41,704.93	204,236.45	245,941.38
01-Oct-2009	8.40%	45,208.14	200,733.23	245,941.38
01-Oct-2010	8.40%	49,005.63	196,935.75	245,941.38
01-Oct-2011	8.40%	53,122.10	192,819.28	245,941.38
01-Oct-2012	8.40%	57,584.36	188,357.02	245,941.38
01-Oct-2013	8.40%	62,421.44	183,519.93	245,941.38
01-Oct-2014	8.40%	67,664.84	178,276.53	245,941.38
01-Oct-2015	8.40%	73,348.69	172,592.69	245,941.38
01-Oct-2016	8.40%	79,509.98	166,431.40	245,941.38
01-Oct-2017	8.40%	86,128.82	159,752.56	245,941.38
01-Oct-2018	8.40%	93,428.68	152,512.70	245,941.38
01-Oct-2019	8.40%	101,276.69	144,664.69	245,941.38
01-Oct-2020	8.40%	109,783.93	136,157.45	245,941.38
01-Oct-2021	8.40%	119,005.78	126,935.60	245,941.38
01-Oct-2022	8.40%	129,002.27	116,939.11	245,941.38
01-Oct-2023	8.40%	139,838.46	106,102.92	245,941.38
01-Oct-2024	8.40%	151,584.89	94,356.49	245,941.38
01-Oct-2025	8.40%	164,318.02	81,623.36	245,941.38
01-Oct-2026	8.40%	178,120.73	67,820.64	245,941.38
01-Oct-2027	8.40%	193,082.87	52,858.50	245,941.38
01-Oct-2028	8.40%	209,301.84	36,639.54	245,941.38
01-Oct-2029	8.40%	226,883.19	19,058.19	245,941.38
		2,801,862.00	7,019,324.20	9,821,186.20

SCHEDULE Y
REVENUES

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

- (i) to pay Operating Expenses of the System;
- (ii) to the extent not otherwise limited by an outstanding local resolution, indenture or other act or document, as reflected on Schedule X to the Loan Agreement, and beginning seven (7) months prior to the first date of payment of interest on the Local Bonds from revenues and thirteen (13) months prior to the first date of payment of principal of the Local Bonds, respectively, to provide debt service on the Local Bonds by depositing in a sinking fund one-sixth (1/6) of the interest payment next coming due on the Local Bonds and one-twelfth (1/12) of the principal payment next coming due on the Local Bonds and, if the Reserve Account was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof (which, with an approving opinion of bond counsel to the Governmental Agency, may be with a letter of credit) in an amount equal to the Reserve Requirement, by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) (or such other amount as shall be acceptable to the Authority and as shall fund the Reserve Account over not more than 10 years) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;
- (iii) to create a renewal and replacement, or similar, fund in an amount equal to two and one-half percent (2-1/2%) of the gross revenues from the System, exclusive of any payments into the Reserve Account, for the purpose of improving or making emergency repairs or replacements to the System or eliminating any deficiencies in the Reserve Account;
- (iv) to provide debt service on and requisite reserves for any subordinate indebtedness of the Governmental Agency held or owned by the Authority; and
- (v) for other legal purposes of the System, including payment of debt service on other obligations junior, subordinate and inferior to the Local Bonds.



WDA-5Z-PSD Sewer (EPA)
(March 1988)

SCHEDULE Z

Additional and Supplemental Definitions

1. "EPA" means the United States Environmental Protection Agency and any successors to the functions thereof.

2. "Local Statute" means Chapter 16, Article 13A, of the Code of West Virginia, 1931, as amended.

3. "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 Governmental Agency, and any improvements or extensions thereto hereafter constructed or acquired from any sources whatsoever and includes the Project.

Additional Conditions and Covenants

1. The Governmental Agency agrees that it will at all times provide operation and maintenance of the System to comply with, among other State and federal standards, the water quality standards established by the West Virginia Department of Natural Resources and EPA.

2. The Governmental Agency agrees that it will permit the EPA to have access to the records of the Governmental Agency pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof.

3. As a condition precedent to the Authority's making the Loan, the Governmental Agency shall have obtained, among other permits required, permits from the EPA and the West Virginia Department of Natural Resources and approval of the "Part B" supplement to its EPA grant agreement.

4. The Local Act shall contain a covenant substantially as follows:

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

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

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

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

7. The paying agent for the Local Bonds shall be the West Virginia Municipal Bond Commission or any successor to the functions thereof.

8. As a condition precedent to the Authority's making the Loan, the Governmental Agency shall deliver to the Authority a certificate representing the following:

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

(d) The Governmental Agency does not expect to sell or otherwise dispose of the Project, in whole or in part, prior to the last maturity date of the Local Bonds.

WDA-4
(March 1988)

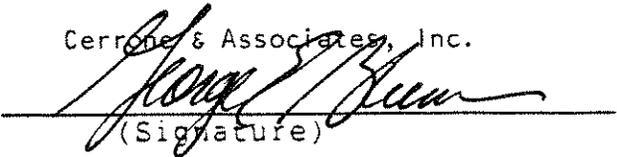
WEST VIRGINIA WATER DEVELOPMENT AUTHORITY
AMENDED APPLICATION FOR A CONSTRUCTION LOAN

1. Full legal name of Applicant: Claywood Park Public Service District
2. Date of original Application for a Construction Loan (the "Original Application") (date signed by Applicant):
March 30, 1989
3. (a) Date bids for Project were received: April 19, 1989
(b) Expiration date of bids: July 18, 1989
(c) Attach copies of apparent responsible, acceptable low bids.
4. Complete attached Amended Schedule A: "Total Cost of Project and Sources of Funds," based on bids received. If construction of the Project has begun, indicate any changes to date from the cost of an sources of funds for the Project as bid. Revise and attach (as Amended Schedule B) a complete "Cash Flow Analysis" for the Project, based on bids received.
5. Set forth any other modifications to information included in or with the Original Application. Indicate to which paragraph of or exhibit to the Original Application the modified information applies.

* * * *

The undersigned, as a duly authorized representative of the Consulting Engineer, certifies that he has completed this Amended Application, including the exhibit documents attached, and consents to the use of such information by the Authority in connection with the financing of the Project.

Cerrone & Associates, Inc.


(Signature)

Date: July 5, 1989

The undersigned officer of the Applicant hereby certifies to the West Virginia Water Development Authority that he is duly authorized to execute this Amended Application on behalf of the Applicant and that the information contained in this Amended Application and in the exhibit documents attached hereto is true, correct and complete to the best knowledge and belief of the undersigned.

Name of Applicant (Typed): Claywood Park P.S.D.

By: (Signature) 

Title: General Manager

Date: July 6, 1989

DATE: 10/6/89

AMENDED SCHEDULE A
NAME OF GOVERNMENTAL AGENCY: Claywood Park P.S.D.
TOTAL COST OF PROJECT AND SOURCES OF FUNDS

A. Cost of Project

1. Construction		\$ 5,034,004	
2. Technical Services		\$ 1,074,330	
3. Legal and Fiscal		\$ 61,500	
4. Administrative		\$ 33,000	
5. Site and Other Lands		\$ 70,000	
6. Step I and/or Step II Design or Other Loan Repayment (Specify Type: <u>See attached schedule</u>)		\$ 186,998	
7. Interim Financing Costs		\$ -0-	
8. Contingency		\$ 335,256	
9. Total of Lines 1 through 8			\$ 6,795,088

B. Sources of Funds

10. Federal Grants: ¹	EPA Grant	\$ 4,108,340	
(Specify Source)	EPA Advance	\$ 76,233	
11. State Grants: ¹		\$	
(Specify Source)		\$	
		\$	
		\$	
12. Other Grants: ¹		\$	
(Specify Source)		\$	
13. Any Other Source ²	Subscription Fees	\$ 23,840	
(Specify)		\$	
14. Total of Lines 10 through 13			\$ 4,208,413
15. Proceeds Required from Bond Issue (Line 9 less Line 14)			\$ 2,586,675

C. Cost of Financing

16. Capitalized Interest (construction period plus six months)	\$ 361,935	
17. Funded Reserve Account ³	\$ 256,592	
18. Other Costs ⁴ - Bond Counsel	\$ 12,000	
19. Total Cost of Financing		\$ 630,527
20. Size of Bond Issue (Line 15 plus Total from Line 19)		\$ 3,217,202

CLAYWOOD PARK P. S. D.
 CEDAR GROVE SEWERS
 NOTES TO SCHEDULE A
 OCTOBER 6, 1989

A) Cost of Project

1. Construction		\$5,034,004
2. Technical Services		
a) Planning	\$30,000	
b) Plan Addendum	10,000	
c) Design	390,000	
d) Eng. During Constr.	131,000	
e) Record Drawings	25,060	
f) Inspection	367,825	
g) Construction Stakeout	85,125	
h) O & M Manual	13,360	
i) Startup	21,960	

3. Legal & Rule 42		1,074,330
4. Administrative & Project Coordinator		61,500
5. Site & Other Lands		33,000
6. Other		70,000
a) Testing Services	15,000	
b) Fund Tracking	7,500	
c) Interest Prior to Construction	25,000	
d) Pre-financed Taps	22,500	
e) Start-up Expenses	10,000	
f) Electrical Service	20,000	
g) Equipment	36,998	
h) Plant Decommissioning	50,000	

7. Interim Financing Costs		186,998
8. Contingency		0
		335,256

9. Total Cost of Project		\$6,795,088

B) Sources of Funds

10. a) EPA Grant	\$4,108,340	
b) EPA Planning & Design Advance	76,233	
11. State Grant	0	
12. Other Grant	0	
13. Subscription Fees	23,840	

14. Total Sources of Funds		4,208,413
15. Net Proceeds Required from Bond Issue		\$2,586,675

C) Cost of Financing

16. Capitalized Interest	\$361,935	
17. Funded Reserve Account	256,592	
18. Other: Bond Counsel	12,000	

19. Total Cost of Financing		630,527
20. Size of Bond Issue		\$3,217,202

-
- ¹ Attach supporting documentation not previously submitted. If not yet available, state such and expectations as to availability.
 - ² For example, interest earnings during construction, if applicable. Include the proceeds of any parity or subordinate bond issue to be used for such purpose and attach supporting documentation if available (if not yet available, state such and expectations as to availability).
 - ³ Consult with bond counsel and the Authority before assuming a funded reserve.
 - ⁴ For example, fees of bond counsel for the Governmental Agency.

Additional or explanatory material may be provided on additional sheets attached to Amended Schedule A.

Claywood Park P.S.D.

APPLICANT

Cerrone & Associates, Inc.

CONSULTING ENGINEER

AMENDED SCHEDULE B

CASH FLOW ANALYSIS

(See Attached)

WDA-Supp. 5
(March 1988)

SUPPLEMENTAL LOAN AGREEMENT

THIS SUPPLEMENTAL LOAN AGREEMENT, Made and entered into in several counterparts, by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), and the governmental agency designated below (the "Governmental Agency").

CLAYWOOD PARK PUBLIC SERVICE DISTRICT
(Name of Governmental Agency)

W I T N E S S E T H:

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

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

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

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

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

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

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

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

ARTICLE I

Definitions; Loan Agreement

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

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

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

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

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

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

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

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

ARTICLE II

The Project and the System

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

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

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Governmental Agency, subject to any mortgage lien or other security interest as is provided for in the Local Statute.

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

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

2.6 The Governmental Agency agrees that it will permit the Authority and its agents to have access to the records of the Governmental Agency pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof.

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

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

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

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

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

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

ARTICLE III

Conditions to Supplemental Loan; Issuance of Supplemental Bonds

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

date established pursuant to Section 3.4 of the Loan Agreement for delivery of the Local Bonds. Said conditions precedent are as follows:

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

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

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

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

(e) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the construction of the Project and operation of the System, and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

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

(g) The Governmental Agency shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such

rates and charges is not, however, required to be effective until completion of construction of the Project), and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

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

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

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

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

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

simultaneously with the delivery of the Local Bond to the Authority.

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

3.6 Anything in this Loan Agreement notwithstanding, if the Authority is unable to pay the proceeds of the Supplemental Bonds to the Governmental Agency on the Date of Loan Closing due to the time required for processing the purchase order or requisition for such moneys with the State, the Authority may pay such proceeds as soon as received after the Date of Loan Closing; provided, that the Supplemental Bonds shall not evidence any debt to be repaid to the Authority until the proceeds thereof are received by the Governmental Agency.

ARTICLE IV

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

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

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

(b) Covenants substantially as follows:

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

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

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

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

(v) That the Governmental Agency shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Supplemental Bonds, except the Local Bonds and bonds on a parity with the Supplemental Bonds, which parity bonds shall only be issued if net revenues of

the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Supplemental Bonds and parity bonds theretofore and then being issued and on the Local Bonds and any other obligations secured by a lien on or payable from the revenues of the System prior to the Supplemental Bonds; provided, however, that additional parity Local Bonds and additional parity Supplemental Bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

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

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

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

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

(xi) That the Governmental Agency shall annually cause the records of the System to be audited by an independent certified public accountant and shall submit the report of said audit to the Authority, which report shall include a statement that the Governmental Agency is in compliance with the terms and provisions of the Local Act and this Supplemental Loan Agreement;

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

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

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

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

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

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

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

4.4 The Supplemental Loan shall not bear interest.

4.5 The Supplemental Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Governmental Agency.

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

4.7 If the schedule furnished to the Authority pursuant to Section 6.5 reflects an excess of funding for the Project, or if the Authority is otherwise advised of an excess of funding for the Project, the Authority may tender to the Governmental Agency its Supplemental Bonds for payment in an amount equal to such excess. Notwithstanding the foregoing, if the Governmental Agency has grant anticipation notes or some other interim financing outstanding upon completion of construction of the Project, it shall advise the Authority of such fact and submit a second schedule to the Authority upon payment of the interim financing, and the Authority shall not tender its Supplemental Bonds for payment until the outstanding interim financing has been paid.

ARTICLE V

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

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

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds and the Supplemental Bonds shall prove to be insufficient to produce the minimum sums set

forth in the Local Act, the Governmental Agency hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges so as to provide funds sufficient to produce the minimum sums set forth in the Local Act and as required by this Supplemental Loan Agreement.

5.3 In the event the Governmental Agency defaults in the payment of any fees due to the Authority pursuant to Section 4.6 hereof, the amount of such default shall bear interest at the rate of five percent (5%) per annum, from the date of the default until the date of the payment thereof.

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

ARTICLE VI

Other Agreements of the Governmental Agency

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

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

the Authority by the Governmental Agency in connection with the Loan or the Supplemental Loan shall be incorrect or incomplete in any material respect or (b) the Governmental Agency has violated any commitment made by it in its Application or in any supporting documentation or has violated any of the terms of the Loan Agreement or this Supplemental Loan Agreement.

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

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

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

ARTICLE VII

Miscellaneous

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

7.2 Schedule X shall be attached to this Supplemental Loan Agreement by the Authority as soon as practicable after the Date of Loan Closing is established and shall be approved by an official action of the Governmental Agency supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority.

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

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

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

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

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

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

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

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

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

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

CLAYWOOD PARK PUBLIC SERVICE DISTRICT
[Proper Name of Governmental Agency]

(SEAL)

By Charles J. Thomas
Its Chairman, Public Service Board

Attest:

Date: September 27, 1989

W. Ray Maze
Its Secretary

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

(SEAL)

By Daniel B. Zankosky
Director

Attest:

Date: October 3, 1989

Barbara B. Meadows
Secretary-Treasurer

EXHIBIT A

LOAN AGREEMENT

Date:

Principal Amount of Local Bonds:

. EXHIBIT B

[Opinion of Bond Counsel for Governmental Agency]

[To Be Dated as of Date of Loan Closing]

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

Gentlemen:

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

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement, dated _____, 19__, including all schedules and exhibits attached thereto (the "Supplemental Loan Agreement"), between the Governmental Agency and the West Virginia Water Development Authority (the "Authority"), and (ii) the issue of a series of supplemental, subordinate revenue bonds of the Governmental Agency, dated _____, 19__ (the "Supplemental Bonds"), to be purchased by the Authority in accordance with the provisions of the Supplemental Loan Agreement. The Supplemental Bonds are in the principal amount of \$_____, issued in the form of one bond registered as to principal to the Authority, without interest thereon, with principal payable in installments on October 1 in each of the years, as follows:

<u>Year</u>	<u>Installment</u>
-------------	--------------------

The Supplemental Loan Agreement is supplemental to a loan agreement dated _____, _____, also between the Governmental Agency and the Authority (the "Loan Agreement"). The Supplemental Bonds are junior, subordinate and inferior as to lien and source of and security for payment to the bonds issued pursuant to the Loan Agreement (the "Local Bonds"), which Local Bonds are issued simultaneously herewith.

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

We have also examined the applicable provisions of _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly enacted by the Governmental Agency on _____ (the "Local Act"), pursuant to a _____ under which Local Statute and Local Act the Supplemental Bonds are authorized and issued, and the Supplemental Loan Agreement that has been undertaken. The Supplemental Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Supplemental Loan Agreement.

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

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

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

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

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

5. The Supplemental Bonds are valid and legally enforceable special obligations of the Governmental Agency, payable from the [net] revenues of the System referred to in the Local Act and secured by a lien on and pledge of the [net] revenues of said System, all in accordance with the terms of the Supplemental Bonds and the Local Act, and have been duly issued and delivered to the Authority. Said lien and pledge are junior, subordinate and inferior to that created for the Local Bonds [and _____].

6. The Supplemental Bonds are, by statute, exempt

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

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

Very truly yours,

WDA-Supp. 5X
(March 1988)

SCHEDULE X
DESCRIPTION OF SUPPLEMENTAL BONDS

Principal Amount of Supplemental Bonds	\$ <u>415,340</u>
Purchase Price of Supplemental Bonds	\$ <u>415,340</u>

Principal of the Supplemental Bonds is payable on October 1 in each year as set forth on Exhibit 1 attached hereto and incorporated herein by reference. The Supplemental Bonds bear no interest.

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

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

Claywood Park Public Service District
 Debt Service Schedule
 Analysis of Borrowing from Series 1989 Pool
 39 Principal Payments
 Closing Date: 10-Oct-89

Date	Interest Free Loan
01-Oct-90	
01-Oct-91	10,649.88
01-Oct-92	10,649.74
01-Oct-93	10,649.74
01-Oct-94	10,649.74
01-Oct-95	10,649.74
01-Oct-96	10,649.74
01-Oct-97	10,649.74
01-Oct-98	10,649.74
01-Oct-99	10,649.74
01-Oct-2000	10,649.74
01-Oct-2001	10,649.74
01-Oct-2002	10,649.74
01-Oct-2003	10,649.74
01-Oct-2004	10,649.74
01-Oct-2005	10,649.74
01-Oct-2006	10,649.74
01-Oct-2007	10,649.74
01-Oct-2008	10,649.74
01-Oct-2009	10,649.74
01-Oct-2010	10,649.74
01-Oct-2011	10,649.74
01-Oct-2012	10,649.74
01-Oct-2013	10,649.74
01-Oct-2014	10,649.74
01-Oct-2015	10,649.74
01-Oct-2016	10,649.74
01-Oct-2017	10,649.74
01-Oct-2018	10,649.74
01-Oct-2019	10,649.74
01-Oct-2020	10,649.74
01-Oct-2021	10,649.74
01-Oct-2022	10,649.74
01-Oct-2023	10,649.74
01-Oct-2024	10,649.74
01-Oct-2025	10,649.74
01-Oct-2026	10,649.74
01-Oct-2027	10,649.74
01-Oct-2028	10,649.74
01-Oct-2029	10,649.74

415,340.00

SCHEDULE Y
REVENUES

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

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

(ii) as prescribed by the Loan Agreement, to the extent not otherwise limited by an outstanding local resolution, indenture or other act or document, as reflected on Schedule X to the Loan Agreement, and beginning seven (7) months prior to the first date of payment of interest on the Local Bonds from revenues and thirteen (13) months prior to the first date of payment of principal of the Local Bonds, respectively, to provide debt service on the Local Bonds by depositing in a sinking fund one-sixth (1/6) of the interest payment next coming due on the Local Bonds and one-twelfth (1/12) of the principal payment next coming due on the Local Bonds and, if the Reserve Account was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof (which, with an approving opinion of bond counsel to the Governmental Agency, may be with a letter of credit) in an amount equal to the Reserve Requirement, by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) (or such other amount as shall be acceptable to the Authority and as shall fund the Reserve Account over not more than 10 years) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

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

(iv) beginning thirteen (13) months prior to the first date of payment of principal of the Supplemental Bonds, to provide debt service on the Supplemental Bonds by

depositing in a sinking fund one-twelfth (1/12) of the principal payment next coming due on the Supplemental Bonds and, if the Supplemental Reserve Account was not funded concurrently with the issuance thereof in an amount equal to the Supplemental Reserve Requirement, by depositing in the Supplemental Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) (or such other amount as shall be acceptable to the Authority and as shall fund the Reserve Account over not more than 10 years) of the Supplemental Reserve Requirement or, if the Supplemental Reserve Account has been so funded (whether by Supplemental Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Supplemental Reserve Account at the Supplemental Reserve Requirement;

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

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

WDA-Supp. 5Z-PSD Sewer (EPA)
(March 1988)

SCHEDULE Z

Additional and Supplemental Definitions

1. "EPA" means the United States Environmental Protection Agency and any successors to the functions thereof.
2. "Local Statute" means Chapter 16, Article 13A, of the Code of West Virginia, 1931, as amended.
3. "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 Governmental Agency, and any improvements or extensions thereto hereafter constructed or acquired from any sources whatsoever and includes the Project.

Additional Conditions and Covenants

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

That the Governmental Agency will, to the full extent permitted by applicable law and the rules and regulations of the PSC, discontinue and shut off the services and facilities of the System and, in the event the Governmental Agency owns a water facility (the "Water System"), the

Water System to all users of services of the System delinquent in payment of charges for the services of the System and will not restore the services of either system until all delinquent charges for the services of the System have been fully paid.

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

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

7. The paying agent for the Supplemental Bonds shall be the West Virginia Municipal Bond Commission or any successor to the functions thereof.

CLAYWOOD PARK PUBLIC SERVICE DISTRICT

SEWERAGE SYSTEM REVENUE BOND, SERIES A and B

MINUTES ON ADOPTION OF THE BOND AUTHORIZING
RESOLUTION AND THE SUPPLEMENTAL RESOLUTION

I, WILLIAM RAY MAZE, Secretary of the Public Service Board of Claywood Park Public Service District, hereby certify that the following is a true and correct excerpt of the minutes of a special meeting of the said Public Service Board:

The Public Service Board of Claywood Park Public Service District met in special session, pursuant to notice duly given, on the 10th day of October, 1989, at Parkersburg, West Virginia, at the hour of 9:45 o'clock, a.m.

PRESENT: Charles A. Townsend
William Ray Maze
Edna F. Summers

Mr. Townsend, Chairman, presided and Mr. Maze acted as Secretary.

The Chairman announced that a quorum of members was present and that the meeting was open for any business properly before it. Thereupon, the Chairman presented a proposed Bond Resolution in writing entitled:

A RESOLUTION AUTHORIZING THE CONSTRUCTION AND ACQUISITION OF CERTAIN PUBLIC SERVICE PROPERTIES FOR THE COLLECTION, TREATMENT, PURIFICATION AND DISPOSAL OF LIQUID OR SOLID WASTES, SEWAGE AND INDUSTRIAL WASTES IN THE CLAYWOOD PARK PUBLIC SERVICE DISTRICT, WOOD COUNTY, WEST VIRGINIA, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF, THROUGH THE ISSUANCE BY THE CLAYWOOD PARK PUBLIC SERVICE DISTRICT OF NOT MORE THAN \$3,217,202 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, SERIES A AND SERIES B; AUTHORIZING THE FINANCING OF CERTAIN COSTS OF SUCH CONSTRUCTION AND ACQUISITION, PENDING RECEIPT OF CERTAIN GRANT PROCEEDS, THROUGH THE

ISSUANCE AND EXECUTION BY THE CLAYWOOD PARK PUBLIC SERVICE DISTRICT OF A CREDIT LINE NOTE OF \$750,000; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH SEWERAGE SYSTEM REVENUE BONDS AND SUCH SEWERAGE SYSTEM CREDIT LINE NOTE; AUTHORIZING THE SALE OF SUCH SEWERAGE SYSTEM REVENUE BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY BY SUPPLEMENTAL RESOLUTION; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

and caused the same to be read and there was discussion. Thereupon, on motion of Mr. Maze, seconded by Ms. Summers, it was unanimously ordered that the said Resolution be adopted and be in full force on and from the date hereof.

Thereupon, the Chairman presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY, INTEREST RATE, PRINCIPAL PREPAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE SEWERAGE SYSTEM REVENUE BONDS SERIES A AND SERIES B OF CLAYWOOD PARK PUBLIC SERVICE DISTRICT; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF THE BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; APPROVING BANK INTERIM CREDIT AGREEMENT IN AN AMOUNT NOT TO EXCEED \$750,00; APPROVING AND ADOPTING THE RATES AND CHARGES AS ESTABLISHED BY THE WEST VIRGINIA PUBLIC SERVICE COMMISSION IN THE ORDER GRANTING THE DISTRICT A CERTIFICATE OF CONVENIENCE AND NECESSITY; AND MAKING OTHER PROVISIONS AS TO THE SERIES A AND SERIES B BONDS.

and caused the same to be read and there was discussion. Thereupon, on motion of Mr. Maze, seconded by Ms. Summers, it was unanimously ordered that the said Supplemental Resolution be adopted and be in full force on and from the date hereof.

There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

Charles A. Jensen
Chairman

William Ray Mazl
Secretary

Edna J. Summers
Member

I further hereby certify that the foregoing action of said Public Service Board remains in full force and effect and has not been amended or repealed.

WITNESS my signature on this 10th day of October, 1989.

William Ray Mazl
Secretary as aforesaid

3704E

CLAYWOOD PARK PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM REVENUE BONDS
SERIES A AND SERIES B

GENERAL CERTIFICATE OF DISTRICT AND ATTORNEY

We, the undersigned CHAIRMAN and the undersigned SECRETARY of the public service board of Claywood Park Public Service District in Wood County, West Virginia (the "District"), and the undersigned ATTORNEY for the District, hereby certify in connection with the \$3,217,202 aggregate principal amount of the Claywood Park Public Service District Sewerage System Revenue Bonds, Series A and Series B (collectively, the "Bonds"), as follows:

1. All capitalized words and terms used in this General Certificate and not otherwise defined shall have the same meaning as in the Bond Resolution of the District adopted October 10, 1989, and a Supplemental Resolution adopted October 10, 1989 (collectively, the "Local Act").

2. The District has duly performed all of its obligations to be performed at or prior to the closing on the Bonds.

3. The District has authorized, by all necessary action, the execution, delivery, receipt and due performance of the Bonds, the Local Act, the Registrar's Agreement and any and all such other agreements and documents as may be required to be executed, delivered and received by the District in order to carry out, give effect to and consummate the sale and delivery of the Bonds.

4. No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Bonds, construction of the Project, operation of the System, receipt of the EPA Grant proceeds or the Gross Revenues, or in any way contesting or affecting the validity of the Bonds or the EPA Grant or any proceedings of the District taken with respect to the issuance or sale of the Bonds, the pledge or application of the Net Revenues or any other moneys or security provided for the payment of the Bonds or the existence or the powers of the District insofar as they relate to the authorization, sale and issuance of the Bonds, construction of the Project, operation of the System, receipt of the EPA Grant proceeds or such pledge or application of moneys and security or the collection of the Net Revenues or pledge thereof.

5. All applicable approvals and certificates required by law for construction of the Project, operation of the System and issuance of the Bonds have been obtained and remain in full force

and effect. Competitive bids for construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the Code of West Virginia of 1931, as amended, which bids remain in full force and effect.

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

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

Order of the County Commission of Wood County creating Claywood Park Public Service District.

Orders of the County Commission of Wood County enlarging the boundaries of Claywood Park Public Service District.

Orders of the County Commission of Wood County appointing current members to the Public Service Board of Claywood Park Public Service District.

Certified copies of the oaths of office of current members of Public Service Board of Claywood Park Public Service District.

By-Laws of the Public Service Board of Claywood Park Public Service District.

Affidavit of Publication of Notice of Borrowing and Filing of PSC Application.

Bond Resolution.

Supplemental Resolution.

Minutes of the 1989 Organizational Meeting and Minutes Adopting the Bond Resolution and the Supplemental Resolution.

Loan Agreement.

Supplemental Loan Agreement.

EPA Grant Agreement, as amended.

Public Service Commission Order entered September 8, 1989, and copy of Claywood Park Public Service District's Sewer Tariff.

8. The proper corporate title of the District is "Claywood Park Public Service District" and it is a public service district duly created by The County Commission of Wood County and presently existing under the laws of, and a political subdivision of, the State of West Virginia. The governing body of the District is its Public Service Board consisting of three (3) members whose names and dates of commencement and termination of current terms of office are as follows:

<u>Name</u>	<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Charles A. Townsend	November 1, 1988	October 31, 1994
William Ray Maze	November 1, 1984	November 1, 1990
Edna F. Summers	April 6, 1987	November 1, 1992

The names of the duly enacted, qualified and acting officers of the Public Service Board of the District for the calendar year 1989 are as follows:

Chairman	-	Charles A. Townsend
Secretary	-	William Ray Maze
Member	-	Edna F. Summers

The duly appointed and acting Counsel for the District is Davis, Bailey, Pfalzgraf & Hall of Parkersburg, West Virginia.

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

10. All actions, resolutions, orders and agreements taken by and entered into by or on behalf of the District in any way connected with the construction, acquisition, operation and financing of the Project or the System were authorized or adopted at regular or special meetings of the Public Service Board of the District duly and regularly called and held pursuant to the By-Laws of the Public Service Board (which is the governing body of the District) and all applicable statutes, including Chapter 6, Article 9A, of the Code of West Virginia of 1931, as amended, and a quorum of duly appointed, qualified and acting members of the Public Service Board of the District was present and acting at all times during all such meetings.

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

12. As of the date hereof, the EPA has committed to the District the approximate amount of \$4,108,340. Said committment of EPA is as of this date still in force and effect.

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

14. The District has received a Final Order of the Public Service Commission of West Virginia entered September 8, 1989, granting a certificate of convenience and necessity for the Project and approving rates and charges for the services of the System and has adopted a resolution prescribing such rates and charges. The time for appeal of such Final Order has expired prior to the date hereof without an appeal having been filed.

15. On the date hereof, the undersigned Chairman of the Board did officially sign all of the Bonds of the aforesaid issue, all dated October 10, 1989, by his manual signature, and the undersigned Secretary did officially cause the official seal of the District to be imprinted upon each of said Bonds and to be attested by his manual signature, and the Registrar did officially authenticate and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the Loan Agreement. Said official seal is also impressed above the signatures appearing on this certificate.

16. On the date hereof, the District received from the Authority the sum of \$2,801,862, the entire proceeds of the Series A Bond, and the sum of \$380,162, the proceeds of the Series B Bond less \$35,178, which the District expects to receive from the Authority within six weeks.

17. The District has published a notice with respect to the acquisition and construction of the Project, anticipated user rates and charges, issuance of the Bonds and filing of a formal application for a certificate of convenience and necessity with the Public Service Commission of West Virginia, in accordance with Chapter 16, Article 13A, Section 25 of the Code of West Virginia of 1931, as amended.

18. The District shall at all times take, and refrain from taking, and shall not fail to take, any and all actions necessary in order to assure the initial and continued tax-exempt status of the Bonds. Less than 10% of the proceeds of the Bonds will be used, directly or indirectly, for any private business use, and less than 10% of the payment of principal of, or the interest on, such issue, under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by any interest in property used or to be used for a private business use, payments in respect of such property, or to be derived from payments (whether or not to the District) in respect of property, or borrowed money, used or to be used for a private business use. None of the proceeds of the Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Bonds, including the disproportionate related business use of the proceeds of the Bonds, and none of the payment of principal on, or the interest on, such issue, under the terms of any underlying arrangement, is, directly or indirectly, secured by any interest in property used, or to be used for a private business use, payments in respect of such property or to be derived from payments (whether or not to the District) in respect of property, or borrowed money, used or to be used for a private business use with respect to such private business use, which is not related to any government use of

such proceeds, including the disproportionate business use of the issue of the Bonds. None of the proceeds of the issue of the Bonds will be used, directly or indirectly, to make or finance loans to persons other than governmental units. For purposes of this paragraph, private business use means use, directly or indirectly, in a trade or business carried on by any person other than a governmental unit, other than use as a member of the general public, all within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended.

19. On the date hereof, the undersigned Chairman did officially sign a properly completed IRS Form 8038-G and will cause such executed Form to be delivered in a timely manner to the Internal Revenue Service Center, Philadelphia, Pennsylvania.

20. Delivered concurrently herewith are true and accurate specimens of the Bonds.

21. Neither of the undersigned, nor, to the best knowledge of the undersigned, any member of the Public Service Board of the District, has any substantial financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any of the transactions contemplated by the Local Act or in any contract pertaining thereto.

IN WITNESS WHEREOF, we hereunto have set our respective signatures as such officials and have caused to be affixed the seal of the Claywood Park Public Service District on the 10th day of October, 1989.

CLAYWOOD PARK PUBLIC SERVICE
DISTRICT

[SEAL]

By: Charles A. Townsend
Charles A. Townsend, Chairman

And: William Ray Maze
William Ray Maze, Secretary

William R. Pfalzgraf
William R. Pfalzgraf, Counsel
to District

3705E

REGISTRAR'S AGREEMENT

This Agreement, made this 10th day of October, 1989, between Claywood Park Public Service District, a public service district organized and existing under the laws of the State of West Virginia, (the "District"), and Commercial Banking & Trust Company, a state banking corporation located at Parkersburg, West Virginia (the "Bank"), hereby witness that:

WHEREAS, pursuant to its Bond Resolution and Supplemental Resolution adopted October 10, 1989 (collectively, the "Local Act"), the District contemplates the issuance of a its Sewerage System Revenue Bonds, Series A and Series B (the "Bonds") contemporaneously with the execution of this agreement and desires to appoint the Bank as its Registrar for the purpose of maintaining a register of registered holders of the Bonds providing for the transfer of the Bonds and paying principal of and interest on such obligations as the District shall direct; and

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Local Act, a copy of which is attached as Exhibit B hereto and incorporated herein by reference; and

WHEREAS, the Local Act provides for an appointment by the District of a Registrar for the Bonds; and

WHEREAS, the Bank desires to act as Registrar for the District, and to take certain other actions hereinafter set forth;

NOW, THEREFORE, the parties hereto agree as follows:

1. The District hereby appoints the Bank to be its Registrar for the maintenance of a register of registered holders of its registered Sewerage System Revenue Bonds, Series A and Series B.

2. The Bank represents that it has the corporate power to act as the Registrar, and does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Local Act, such duties including, among other things, the duties to authenticate, register and deliver the Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exemption of interest on the Bonds from federal income taxation, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the District advises it of and with generally accepted industry standards.

3. As long as any of the Bonds shall remain outstanding, the Bank as Registrar shall cause books and records to be maintained at its offices for the registration and transfer of the Bonds and, upon presentation thereof for such purpose at such office, the Registrar shall register or cause to be registered therein and permit to be transferred thereon, any Bonds entitled to registration or to transfer. As long as any of the Bonds remain outstanding, the Registrar shall make all necessary provisions to permit the exchange or registration or transfer of the Bonds at its office.

4. The Bank may treat the registered holder of any Bonds as the absolute owner thereof, whether the Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal or interest, as may be the case, and for all other purposes, and all such payments made to the registered holder or upon his or her order shall be valid and effectual to satisfy and discharge its obligations hereunder to the extent of the sum or sums so paid, and the Bank shall not be affected by any notice to the contrary.

5. All Bonds shall be transferable upon their surrender to the Bank when duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Bank duly executed by the registered holder, or his or her attorney in fact duly authorized in writing, with signature thereupon duly guaranteed by a commercial bank or trust company or member firm of the New York Stock Exchange. The Bond(s) resulting from such transfer shall be of the same Series, interest rate, if any, and maturity as the transferred Bond, and shall be of an aggregate principal amount equal to the unpaid balance of the transferred Bond. The Bank shall execute the Certificate of Authentication on each new Bond prior to its issuance, and shall date said Certificate as of the date of authentication.

6. The Bank shall cancel all Bonds surrendered to it for payment, redemption, registration, transfer or exchange, as the case may be, and all such cancelled Bonds shall be held pending written instructions from the District.

7. Upon payment of any Bonds the Bank shall immediately cancel the same by perforation and shall hold the cancelled Bonds in safekeeping until such time as they are released to the District.

8. In the event the District shall call any Bonds for redemption prior to their stated maturity, the responsibility for notifying the affected holders shall rest solely with the District and the Bank shall not independently undertake any responsibility or assume any obligation to notify bondholders

of any such call for redemption; provided, that the Bank shall at the request of the District select the Bonds to be redeemed upon partial redemption and shall at the expense of the District mail to the affected bondholders, at the addresses of record appearing on the records of the Bank as the Registrar, such notice of redemption as shall be furnished to it by the District.

9. For services as provided herein the Bank shall be compensated as per the attached Fee Schedule. The District shall reimburse the Bank for all reasonable expenses incurred in the performance of its duties as provided by this agreement, such expenses to include, but not be limited to, legal fees of outside counsel if required.

10. If any Bond is mutilated, lost, stolen or destroyed, the District may execute and the Bank may authenticate and deliver a new Bond of the same maturity and interest rate and, with respect to Bonds, in the same aggregate principal amount, in lieu of the Bond mutilated, lost, stolen or destroyed, provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Bank, and, in the case of any lost, stolen or destroyed Bond, there shall first be furnished to the Bank evidence satisfactory to it of the ownership of such Bond and of such loss, theft or destruction, together with indemnity to it and the District. If any such Bond shall have matured or a redemption date pertaining thereto shall have passed and shall have become due, instead of issuing a new Bond for such Bond, the Paying Agent may pay same. The Bank may charge, at the District's direction, the holder of such Bond its reasonable fees and expenses in this connection.

11. This Agreement shall not prohibit the Bank from bidding for, purchasing, acquiring, holding, selling or disposing of the Bonds for which it acts as agent as provided herein or from entering into other service contracts with the issuer or others.

12. The Bank shall not assign or transfer any interest in this Agreement or assign any claims for money due, or to become due under this Agreement, without the prior written consent of the District, which consent shall not be unreasonably withheld or delayed.

13. The Bank shall be entitled to rely upon any instruction or direction furnished to it in writing by the Chairman or other designated officer of the District, whether such instruction or direction shall be in conformity with this agreement or constitute a modification hereof or a supplement

hereto and the Bank may consult with counsel of its choice (including its in-house counsel and counsel for the District) and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Bank hereunder in good faith and in accordance with the opinion of such counsel. The Bank shall be entitled to treat as genuine, and as the document it purports to be, any letter, paper or other document so furnished to it by any such officer of the District as provided in this Agreement.

14. The Bank shall have no responsibility or liability for any action taken by it at the specific direction of the District.

15. When the Bank receives instructions to mail any Bonds, such Bonds shall be mailed first class (registered air mail outside the United States, Puerto Rico and Canada), under its blanket security bond protecting the District and the Bank as the case may be, from loss or liability arising out of the nonreceipt or nondelivery of the Bonds or arising out of the replacement thereof.

16. All notices and communications required or permitted hereunder, except as otherwise expressly agreed in writing, shall be in writing and shall be delivered by hand or sent by mail or sent by telex, telecopies, or telegraph, addressed as follows:

If to the District: Claywood Park Public Service District
Route 5, Box 39
Parkersburg, West Virginia 26101
Attention: General Manager

If to the Bank: Commercial Banking & Trust Company
415 Market Street
Parkersburg, West Virginia 26101

17. The District may terminate this Agreement with respect to the Bank upon sixty (60) days written notice pursuant to paragraph 16 above. The Bank may terminate this Agreement with the District upon sixty (60) days written notice pursuant to paragraph 16 above. Upon any such termination, the Bank shall pay sums held by it to the District or a successor agent and shall furnish to the issuer a detailed accounting of all funds received by it as well as any unissued and cancelled Bonds held. Such accounting shall be submitted within ninety (90) days of such termination.

18. The terms of this Agreement shall be subject to change, modification or renegotiation as may be necessary to comply with subsequent statutory and/or regulatory rulings by governing agencies, provided, however, that any changes, modifications or amendments are first approved in writing by the parties affected thereby.

19. This Agreement, including the Fee Schedule attached as Exhibit A hereto and the Local Act, incorporates all the agreements, covenants and understandings between the District and the Bank concerning the subject matter hereof, and all such covenants, agreements and understandings are hereby merged into this Agreement. No prior agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement. In case there shall be any conflict between the terms and conditions of this Agreement and the Resolution, the Resolution shall govern.

20. This Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia.

IN WITNESS WHEREOF, the District and the Bank have executed and delivered this Agreement in each of their respective names.

CLAYWOOD PARK PUBLIC SERVICE DISTRICT

By Charles A. Townsend
Charles A. Townsend, Chairman

COMMERCIAL BANKING & TRUST COMPANY

By C. Randall Law
C. Randall Law, Vice President
and Senior Trust Officer

3697E

EXHIBIT A

LOCAL ACT

See Transcript Items #7 and #8

415 Market Street
Parkersburg, West Virginia 26101
(304) 424-0300

COMMERCIAL BANK
COMMERCIAL BANKING & TRUST CO.



CLAYWOOD PARK PUBLIC SERVICE DISTRICT SEWER PROJECT
COMMERCIAL BANKING AND TRUST COMPANY
TRUSTEE FEE SCHEDULE

I. Acceptance Fee				\$1,000.00
II. Annual Administration				300.00
	This Fee is to be charged only if we are required to perform services beyond the construction phase.			
III. Construction Requisitions				
Per Check	\$2.50	minimum		\$50.00
IV. Bond Transfers or Denomination Exchanges				
Per Bond				\$12.50
V. Bondholder List preparation				\$10.00
VI. Client will reimburse the Bank for all reasonable expenses and legal fees incurred in the performance of Bank's duties.				

EXHIBIT B

CLAYWOOD PARK PUBLIC SERVICE DISTRICT
(WEST VIRGINIA)

\$3,217,202 Sewerage System Revenue Bonds
Series A and Series B

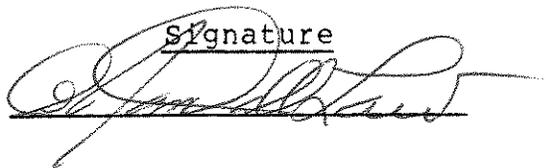
REGISTRAR'S CERTIFICATE

The undersigned, C. Randall Law, Vice President and Senior Trust Officer, of COMMERCIAL BANKING & TRUST COMPANY, Parkersburg, West Virginia, a state banking association (the "Bank"), hereby certifies as follows with respect to the above-captioned Bonds (the "Bonds").

1. The Bank has full power and authority to enter into and carry out the provisions of the Registrar's Agreement, dated as of October 10, 1989, between the Claywood Park Public Service District (the "District"), and the Bank (the "Registrar's Agreement").

2. The person whose title, name and signature is set forth below holds the position shown opposite his name, and has been named and designated as an authorized officer of the Bank to authenticate and register the Bonds, to deliver certificates on behalf of the Bank in connection with the closing of the sale of the Bonds and to take any other actions required by the Registrar's Agreement.

<u>Title</u>	<u>Name</u>
Vice President & Senior Trust Officer	C. Randall Law

Signature


3. The above-signed C. Randall Law was duly authorized to, and did on or prior to the date hereof, execute and deliver the Registrar's Agreement to the District on behalf of the Bank.

4. Pursuant to the Supplemental Resolution, the undersigned has received prior to the date hereof a request and authorization to the Bank on behalf of the District, signed by an authorized member of the Public Service Board of the District, to authenticate and deliver the Bonds to the Purchaser.

5. The Bank has received from the District on the date hereof the Bonds, in the respective numbers and denominations, maturing on October 1 of such years, and bearing interest at such rates, all as set forth in Exhibit A attached hereto and incorporated herein by reference. At the time of such receipt, each of the Bonds had been executed by the manual signature of the Chairman of the Public Service Board of the District, imprinted with the seal of the District, and attested by the manual signature of the Secretary of the Public Service Board of the District.

6. The Bank has duly authenticated the Bonds originally issued on October 10, 1989, and described in Exhibit A hereto, by manually executing on each of such Bonds a certificate in substantially the following form:

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

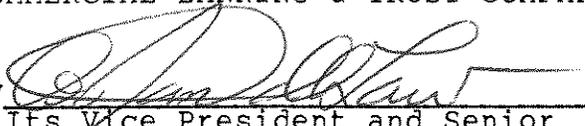
This Bond is one of the Bonds described in the within-mentioned Resolution and has been duly registered in the name set forth above on the date set forth below.

COMMERCIAL BANKING & TRUST COMPANY
As Registrar

Date: _____

By _____
Its Authorized Officer

WITNESS the following signature this 10th day of October, 1989:

COMMERCIAL BANKING & TRUST COMPANY
BY 
Its Vice President and Senior
Trust Officer

3744E

EXHIBIT A TO REGISTRAR'S CERTIFICATE

CLAYWOOD PARK PUBLIC SERVICE DISTRICT

\$3,217,202 Sewerage System Revenue Bonds
Series A and Series B

TERMS OF THE SERIES A AND SERIES B BONDS

a. The Series A Bond designated R-1 shall be issued in the form of a single bond in typewritten form fully registered to the West Virginia Water Development Authority, in the denomination of \$2,801,862.00, with interest thereon at the rate of 8.40% per annum payable semi-annually on October 1 and April 1, first interest payable on April 1, 1990, representing the aggregate principal amount of the Series A Bond issue and shall mature in principal installment on October 1 of each year as follows:

<u>Year</u>	<u>Installment</u>	<u>Interest Rate</u>
1991	\$ 10,584.97	8.40%
1992	11,474.11	8.40%
1993	12,437.93	8.40%
1994	13,482.72	8.40%
1995	14,615.27	8.40%
1996	15,842.95	8.40%
1997	17,173.76	8.40%
1998	18,616.35	8.40%
1999	20,180.13	8.40%
2000	21,875.26	8.40%
2001	23,712.78	8.40%
2002	25,704.65	8.40%
2003	27,863.84	8.40%
2004	30,204.40	8.40%
2005	32,741.57	8.40%
2006	35,491.87	8.40%
2007	38,473.18	8.40%
2008	41,704.93	8.40%
2009	45,208.14	8.40%
2010	49,005.63	8.40%
2011	53,122.10	8.40%
2012	57,584.36	8.40%
2013	62,421.44	8.40%
2014	67,664.84	8.40%
2015	73,348.69	8.40%
2016	79,509.98	8.40%
2017	86,188.82	8.40%
2018	93,428.68	8.40%
2019	101,276.69	8.40%

<u>Year</u>	<u>Installment</u>	<u>Interest Rate</u>
2020	109,783.93	8.40%
2021	119,005.78	8.40%
2022	129,002.27	8.40%
2023	139,838.46	8.40%
2024	151,584.89	8.40%
2025	164,318.02	8.40%
2026	178,120.73	8.40%
2027	193,082.87	8.40%
2028	209,301.84	8.40%
2029	226,883.19	8.40%

b. The Series B Bond designated R-1 shall be issued in the form of single Bond in typewritten form, fully registered to the West Virginia Water Development Authority, in the denomination of \$415,340.00, without interest, representing the aggregate principal amount of the Series B Bond issue, and shall mature in principal installments on October 1, of each year after date as follows:

<u>Year</u>	<u>Installment</u>
1991	10,649.88
1992	10,649.74
1993	10,649.74
1994	10,649.74
1995	10,649.74
1996	10,649.74
1997	10,649.74
1998	10,649.74
1999	10,649.74
2000	10,649.74
2001	10,649.74
2002	10,649.74
2003	10,649.74
2004	10,649.74
2005	10,649.74
2006	10,649.74
2007	10,649.74
2008	10,649.74
2009	10,649.74
2010	10,649.74
2011	10,649.74
2012	10,649.74
2013	10,649.74
2014	10,649.74
2015	10,649.74
2016	10,649.74
2017	10,649.74
2018	10,649.74
2019	10,649.74

<u>Year</u>	<u>Installment</u>
2020	10,649.74
2021	10,649.74
2022	10,649.74
2023	10,649.74
2024	10,649.74
2025	10,649.74
2026	10,649.74
2027	10,649.74
2028	10,649.74
2029	10,649.74

3744E

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: September 8, 1989

CASE NO. 88-655-S-CN

CLAYWOOD PARK PUBLIC SERVICE DISTRICT,
a public utility, Parkersburg, Wood
County.

Application for a certificate of convenience
and necessity to construct sewage treatment
and collection facilities in areas of Wood
County.

FINAL ORDER

On December 16, 1988, Claywood Park Public Service District (Claywood Park or District), a public utility, Parkersburg, Wood County, filed an application, duly verified, for a certificate of convenience and necessity to construct, operate and maintain a sewage treatment and collection facility in the Stewart, Dry Run Road, Cedar Grove, Happy Valley, Nicolette, Davisville, Dutch Ridge Road and Meadville Road areas of Parkersburg and Clay Magisterial District, in Wood County. The District estimated that the project would cost approximately \$8.5 million. The District stated that it would receive a grant from the United State Environmental Protection Agency (EPA) in an amount not to exceed \$5,276,160, would issue sewage system revenue bonds in an aggregate principal amount not to exceed \$3,200,000, at an interest rate not to exceed 8.50%, over a 38 year period, with 10% reserve, and would apply subscription fees of approximately \$23,840, all in order to finance the project. Claywood Park also proposed certain rates and charges for sewage services. The minimum bill for customers not on a public water system would be \$28.30 per month, based on consumption of 4,500 gallons per month.

Along with the application, the District filed a final engineering report, specifications and plans, prepared by Cerrone & Associates, Consulting Engineers; a copy of the letter awarding the Step II/III federal grant on the project from the EPA; and audited financial statements for the District's fiscal year ended June 30, 1988, prepared by the District's certified public accountants. As a result of the final engineering report and the audited financial statements, the District requested that the Commission waive the requirement that the District file a separate Rule 42 Exhibit as part of its application. Additionally, since the District had complied with the prefiling publications required by West Virginia Code §16-13A-25, the District requested that the Commission determine that the West Virginia Code §24-2-11 publication had been satisfied by the prefiling publication.

On January 18, 1989, Administrative Law Judge Mark T. Aliff entered a Procedural Order denying Claywood Park's motion requesting that the Commission determine that the prefiling publication had satisfied the publication requirements of West Virginia Code §24-2-11. The Procedural Order of January 18, 1989, directed the Executive Secretary of the Commission to prepare an appropriate Notice of Filing Order pursuant to West Virginia Code §24-2-11 and directed Claywood Park Public Service District to publish the same.

On January 19, 1989, the Commission entered its Notice of Filing Order, requiring Claywood Park Public Service District to give notice of the filing of the application by publishing a copy of that Notice of Filing Order once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Wood County, making due return to the Commission of proper certification of publication immediately thereafter. Anyone desiring to make objection to the application was ordered to file written objection within thirty days after the publication of the notice. The Order further provided that, if no protests were received within the 30-day period, the Commission could waive formal hearing and grant the application of Claywood Park Public Service District, based on the evidence submitted with the application and the Commission's review thereof. On February 8, 1989, Claywood Park filed an Affidavit of Publication from the Parkersburg News, a newspaper published and of general circulation in Wood County, indicating that the Commission's Notice of Filing Order was published as directed on January 27, 1989. The 30-day period in which to file written protest in response to that Notice of Filing Order expired on February 26, 1989, with no protests being filed in response to that Notice of Filing publication.

While no protests were received by the Public Service Commission following publication of the Notice of Filing Order as required by West Virginia Code §24-2-11, it should be noted that the Commission had received three letters of protest in October 1988 in response to the District's prefiling publication pursuant to West Virginia Code §16-13A-25, providing notice to the public that Claywood Park Public Service District intended to file an application for a certificate of convenience and necessity. This publication occurred in October of 1988. In November of 1988 and January of 1989, the Public Service Commission received letters from two of the individuals who filed letters of protest, withdrawing their protests and stating that they had filed those protests based upon misrepresentations made by another individual.

The third letter of protest was filed by a Margie L. Cunningham, Route 1, Box 116-A, Elizabeth, West Virginia. Although Ms. Cunningham did not file a letter withdrawing her protest, she did not file a protest in response to the Notice of Filing Order, which would have triggered a requirement for public hearing in this matter. Ms. Cunningham also filed a protest letter in another Claywood Park Public Service District certificate application, designated as Case No. 88-473-W-CN, dealing with the proposed water project of the District. In that proceeding, on May 31, 1989, Claywood Park Public Service District filed a letter discussing the protests of Ms. Cunningham. The District pointed out that the return address on the protest letters from Ms. Cunningham is at a geographical location outside the boundaries of Claywood Park Public Service District

and any service area of the District and is in a different county of the State of West Virginia. The District further stated that its billing files do not contain the name Margie L. Cunningham at the return address or any other address. The District asserted that there was no other basis for standing on the part of Ms. Cunningham to protest any application filed by Claywood Park Public Service District.

The Administrative Law Judge is determining that this matter is an unprotested certificate proceeding for two reasons. First, technically, under the terms of the West Virginia Code, the Public Service Commission is required to hold a hearing on a certificate application only if protest is received following the publication pursuant to West Virginia Code §24-2-11. Ms. Cunningham did not file her letter pursuant to that notice, but filed it several months prior to the publication of the Notice of Filing Order. The Public Service Commission cannot assume that individuals who protested a proceeding for one reason or another following a prefiling publication still intend to protest a project following the notice of filing of the actual application. Secondly, even if Ms. Cunningham had filed her letter of protest in response to the Notice of Filing publication, Ms. Cunningham failed to demonstrate that she has standing to protest this proceeding. Although she asserts in her letter of protest that she owns property in the affected area, the return address on her letter is not within the service territory of Claywood Park Public Service District and Claywood Park Public Service District has no record of her being a customer of its water or sewer systems. Therefore, Ms. Cunningham's protest to this project could not be permitted, without a further demonstration from her that she did, in fact, have standing to protest this project. Therefore, the Administrative Law Judge is of the opinion that this is an unprotested certificate application.

On February 8, 1989, in addition to the Affidavit of Publication previously referenced, Claywood Park Public Service District filed a Rule 42 Exhibit for its project, prepared by Cerrone & Associates, the consulting engineers for the project. On May 8, 1989, the District filed a revised Rule 42 Exhibit for the project, also prepared by Cerrone & Associates. On June 2, 1989, the District filed a further revised Rule 42 Exhibit, as well as a revised project budget and the certified bid tabulations. The revised project budget indicated a total project cost of \$7,342,126, with an EPA grant in the amount of \$4,024,051, an EPA advance of \$76,233, user contributions of \$23,840, and a Water Development Authority (WDA) bond issue in the amount of \$3,217,202. The District's revised project budget was based upon the low bids for each of the construction contracts.

On August 7, 1989, General Counsel Richard E. Hitt, on behalf of Staff Attorney Ronald Robertson, submitted a Joint Staff Memorandum in this proceeding. Attached to the Joint Staff Memorandum were two Internal Memoranda, from Jane W. Haley, Utility Financial Analyst, Public Service District Division, and Robert L. Skiles, Jr., Chief Utilities Manager, Public Service District Division, setting forth the Staff recommendations in this proceeding. Mr. Skiles, a professional engineer, reviewed the project as to adequacy, technical feasibility and need, among other things, while Ms. Haley made the Staff recommendations regarding the

adequacy of the financing, the economic feasibility of the project, the accuracy of the project costs and the necessary rates and charges.

Mr. Skiles stated that the District is proposing to construct wastewater collection and treatment facilities consisting of approximately 8.0 miles of vacuum sewers, 11.8 miles of pressure sewers, 0.7 miles of gravity sewers, 3.0 miles of force main, a vacuum station, 2 lift stations, and a 0.25 MGD Sequencing Batch Reactor (SBR) treatment plant. Additionally, the District is proposing to construct and install 166 vacuum valves, 4 dual vacuum valves and 227 grinder pumps. Upon completion, this wastewater system will serve 906 customers in the affected areas. Two hundred eighteen of these customers will be served by a vacuum system, 346 customers will be served by a pressure system and 4 will be served by gravity flow. The remaining 338 customers are served by existing gravity collection systems and package treatment plants. Those existing treatment plants will be abandoned and the flows from the 338 customers will be conveyed into the new collection system.

According to Mr. Skiles, the original estimate for the contracts which were bid was \$5,354,686, while the low bids for these contracts totaled \$4,959,140. The original estimate of the project cost was \$7,875,400, while the revised project cost was \$7,342,126. According to Mr. Skiles, the revised total project cost translates to a per customer cost of approximately \$7,648 per customer, based upon 906 customers. While this is a moderately high per customer investment, Commission Staff believes this is acceptable in light of current economic conditions and rising construction costs. Mr. Skiles indicated that the per customer collection system construction costs were also acceptable. Overall project density is approximately 38.6 customers per mile of main, based upon 906 customers and 23.5 miles of sewer main. Staff believes that this is a very acceptable customer density figure.

Mr. Skiles' Memorandum also described the existing facilities within the District's service territory and the way those facilities will be affected by the proposed project. The project budget allows \$50,000 for decommissioning of existing facilities. According to Mr. Skiles, Commission Staff has no basis upon which to determine whether or not the decommissioning costs, as estimated, are reasonable or accurate. Based upon past experience with other districts, Staff does not believe that the cost estimates are excessive and Staff does not object to their inclusion in the project costs. Staff did note that the costs could be higher, depending upon individual private owner demands upon the District.

With regard to the need for the project, Commission Staff believes that need has been adequately demonstrated for various reasons. The West Virginia Department of Natural Resources inspected three package treatment plants at the Community Acres area of the District's existing system which revealed violations of the NPDES permit which was issued for the plants. These violations necessitated the development of a municipal compliance plan by the District and resulted in an Order for Compliance by the Department of Natural Resources on March 18, 1985. A community survey in the affected area indicated a failure rate of 44% for existing on-site sewage disposal systems. A water quality analysis conducted at 17 points in the District's planning area indicated the presence of pollution in

roadside ditches and streams, while site limitations, such as small lot sizes, poor soil, steep slopes and shallow depths to groundwater or bedrock are not conducive to on-site sewage disposal. Finally, petitions from area residents were in favor of obtaining public sewer service.

Mr. Skiles also addressed the staffing levels for the District. Mr. Skiles is of the opinion that staffing level proposed by the District, including the hiring of a full-time plant operator and a part-time field person, plus a part-time clerical employee, was the minimum necessary to operate and maintain the system. Mr. Skiles believes the proposed staffing level is acceptable for the first year or two of operation, when maintenance should be minimal, but may not be adequate as the system expands and ages.

According to Mr. Skiles, total operation and maintenance expenses are estimated by the District to be \$85,250 annually for the proposed system, including salaries, utilities, maintenance, professional services, board member expenses, insurance, customer records and collections, among other things. This operation and maintenance figure is a revised estimate, based upon consultation with Commission Staff. Mr. Skiles, along with Ms. Haley, pointed out a problem regarding the interpretation of West Virginia Code §16-13A-4, regarding compensation of board members of public service districts which operate both water and sewer systems. This question will be addressed subsequently in the decision. Mr. Skiles noted that the District's proposed renewal and replacement reserve includes an amount of \$3,600 for annual replacement of 72 ultraviolet (UV) disinfection unit bulbs at \$50 each. Staff believes this should be an annual operation and maintenance expense item rather than a renewal and replacement reserve item. This is also discussed subsequently in Ms. Haley's Memorandum. Commission Staff is of the opinion that the District's proposed expenses have been understated and recommended a higher operation and maintenance expense level, which is set forth in Ms. Haley's Memorandum.

Commission Staff also addressed the issue of grinder pump electrical service. Mr. Skiles pointed out that, in past sewer projects involving innovative and/or alternative (I/A) technologies, such as the instant project, and particularly involving grinder pump/pressure sewer system technology, the issue of electrical service to the customer grinder pumps usually presents problems. Staff is of the opinion that the normal issues have been rendered moot by the means chosen by the District to provide grinder pump electrical service. The District's consulting engineers have designed the grinder pump electrical service so that the pumps will be powered by an electrical system constructed as part of the project and owned and maintained by the District. According to Mr. Skiles, with this system, a power drop with a meter is provided for groups of pumps located in the same central area. Electrical wire is pulled through a conduit which is placed in the same trench as the sewer line. The wiring then branches to each individual pump through a tap-off box, which is simply an underground junction box, and wire then extends to the grinder pumps themselves and to control panels located near the pumps. Each service drop provides power for 6 to 12 pumps depending on wire length and other factors. The District pays for the electricity used, as well as the minimum charge for each meter. Staff believes this method of providing electrical service to the customer grinder pumps is acceptable.

Mr. Skiles also addressed the issue of grinder pump/vacuum spare parts. According to Mr. Skiles, since these systems are mechanical in nature, adequate inventory of spare parts should be available so that problems or failures can be corrected. Mr. Skiles reviewed the project specifications and found that adequate spare parts are provided for in the project specifications for both the vacuum and grinder pump/pressure portions of the system. The vacuum station at the treatment plant has a shop area where spare parts can be stored and maintenance work can be performed.

Another issue discussed by Mr. Skiles is the renewal/replacement reserve, which is also an issue frequently raised in I/A technology sewer projects. Commission Staff, in past cases, has recommended that such a reserve be included rates, in order to accrue funds to accommodate the replacement costs associated with shorter than usual service lives. According to Staff, the grinder pumps used for the individual household and commercial services usually have a service life of 7 to 10 years and the renewal and replacement reserve is a means of preventing financial harm to the utility when the pumps fail in large numbers at the same time. In this case, the District has proposed a renewal and replacement reserve which not only accounts for its repair and replacement of grinder pumps and vacuum valve controllers, but also major system mechanical equipment, such as vacuum pumps, vacuum station transfer pumps, lift station pumps, blowers, sludge pumps, jet aerators, and a polymer feed pump. As noted above, the District also included an annual replacement amount for lamps for the UV disinfection unit. Upon review of the renewal and replacement reserve proposed by the District, Mr. Skiles recommended that the amount of \$10,055 annually should be included in the District's rate structure for the repair and replacement of grinder pumps and vacuum valves only. The District's proposed inclusion of \$3,600 annually for the UV lights should be included in operation and maintenance expenses instead of the renewal and replacement reserve. The remaining items which the District proposes to include in the special renewal and replacement reserve should be funded through the other renewal and replacement reserve fund, required by the Bond and Note Resolution.

Mr. Skiles also addressed the issue of a future connection reserve. In grinder pump/pressure and/or vacuum sewer systems, Staff is concerned with the high cost of future connections to the system. A grinder pump service can cost from \$3,000 to \$4,000 to install and vacuum service connections range from \$1,300 to \$2,000. When a sewer utility is only allowed a tap fee in the range of \$200 to \$250 per customer, financial difficulties can quickly occur, since the utility bears the majority of the costs when new customers are added to the system. In order to lessen the cost burden of adding new customers, Staff has traditionally advocated a special reserve for future service connections. This reserve is based upon an estimate of future growth, combined with the cost, minus the tap fee, of the service connection. The utility can accrue funds with which to connect a fixed number of customers per year and, therefore, receives financial assistance with the high cost of these new service connections. Upon review of the District's proposed reserve for future connections, Staff discovered an error in the calculation of the number of future grinder pump service connections. A correction of the error resulted in a Staff recommended future connection reserve of \$9,885 annually, compared

to the \$10,220 proposed by the District. The Staff recommended future connection reserve provides for 52 grinder pump connections to serve 87 new customers over a 20-year period, which translates to 1.6 pumps and 4.3 customers per year, on the average. Forty-one vacuum valve connections to serve 55 customers over a 20-year period, translating to 2.1 valves and 2.8 customers per year, on average, are also included. Overall, the future connection reserve provides for 93 service connections to serve 142 new customers over a 20-year period.

Mr. Skiles also addressed the water and wastewater flows for the proposed project area. According to Mr. Skiles, the majority of the customers in the project area obtain their water from Claywood Park Public Service District, with the remainder using wells. Approximately 823 customers obtain their water from Claywood Park Public Service District, with 83 residential customers obtaining their water from wells. The average residential water use of those customers served by public water was found to be approximately 4,500 gallons per month. The design flow of the wastewater plant was derived using a per capita flow of 70 GPCD for areas where new collector systems are to be constructed. This per capita flow includes an allowance for infiltration and inflow. For areas with existing collector systems, the per capita flow rates determined in the facilities plan will be used and these also include infiltration and inflow. The resulting calculations indicate that the treatment plant should receive flows of 240,000 gallons per day. Mr. Skiles believes that the proposed wastewater flows have been reasonably estimated in accordance with acceptable practices. The projected wastewater flows at 87,600,000 gallons per year are higher than the annual water consumption of 66,665,000 per year, which allows for the infiltration and inflow into the system.

Mr. Skiles stated that he had reviewed the plans and specifications for the project and a review of those documents revealed no apparent issues of concern which needed to be addressed or resolved by the Commission. Mr. Skiles noted that the plans and specifications have been approved by the West Virginia Department of Natural Resources, which has primary responsibility for the engineering and design aspects of sewer projects. Staff accepted the DNR's approval as evidence that the design had been accomplished in conformity with acceptable engineering practices. The Department of Natural Resources has also issued an NPDES permit letter of addendum, which incorporates the proposed construction as part of the District's existing permit.

Mr. Skiles also addressed the public participation in this project. According to Mr. Skiles, in new construction projects, particularly those where existing rates will increase substantially, Staff examines project documentation to see if the affected public has been involved in the project development. According to Mr. Skiles, three public meetings were held to present the facilities plan for this project to area residents in 1984, with a total attendance at those meetings of 133 customers. The project presented to the public in 1984 was quite different from that before the Commission now. Another public meeting was held to discuss the revised project in 1987. The meeting was attended by 30 persons, all of whom were in favor of the project. Based upon the above, as well as the lack of protest to this project, Staff is of the opinion that the public

has been kept adequately informed of the project as it developed, and that the public is in favor of it.

Finally, Mr. Skiles raised two miscellaneous issues. The first involved the fact that the customers served by either a grinder pump or vacuum valve may not be aware of the operational characteristics of these equipment items. Therefore, Staff recommends that these customers be notified by leaflet, at the time of connection to the system, of the type of connection the customer has, its operating features, information to avoid equipment failure and a telephone number to call in the event of emergencies.

The second issue raised by Staff concerns the adequacy of public notice in this matter. Mr. Skiles noted that neither the pre-filing nor the certificate publication showed the District's proposed tap fee. Mr. Skiles stated that a ruling was needed from an Administrative Law Judge regarding this issue, to determine whether or not the failure to publish the tap fee constituted inadequate notice and how both the District and Staff should proceed with the filing.

In summary, Mr. Skiles recommended that the certificate application be granted, without formal hearing; that the Commission adopt the Staff recommended estimate for annual operation and maintenance expenses associated with the project; that the Commission adopt the Staff recommended special I/A renewal and replacement reserve amount of \$10,555 annually, with certain requirements imposed on that fund; that the Commission adopt the Staff recommended future connection reserve amount of \$9,885 annually, with certain requirements imposed on that fund; that the Commission adopt the Staff proposed tariff, operating revenue levels, debt service levels, etc., as recommended by Staff Utility Financial Analyst Jane Haley; that the Commission require the District to notify each of its customers, utilizing either a grinder pump or a vacuum valve service connection, of the type of service connection the customer has, the general operating features, information to avoid equipment failures and a telephone number to call in the case of emergencies; and, finally, that the Commission determine whether or not adequate notice of the tap fee has been given to the District's customers. Attached to Mr. Skiles' Memorandum, as separate exhibits, were discussions of the four primary construction contracts, a table on the decommissioning expenses of existing facilities, an excerpt from the final engineering report regarding the need for the project in the area, and a summary of the special reserve accounts recommended by Commission Staff.

Utility Financial Analyst Jane W. Haley prepared the Staff recommendation regarding rates and charges, revenue requirements, operating and maintenance expenses and adequacy of the financing of the Claywood Park project. According to Ms. Haley, initially, an EPA grant in the amount of \$4,877,100, and a bond issuance in the amount of \$3,200,000 were anticipated to fund and finance the project. Due to changes in eligibility costs, the grant was reduced and the WDA was approached for a larger loan. The project funding and financing now reflect an EPA grant in the amount of \$4,030,740, an EPA advance in the amount of \$76,233, a WDA bond issuance in the amount of \$3,217,202 and connection fees in the amount of \$23,840. According to Ms. Haley, the EPA grant has been

confirmed by a representative of the State Department of Natural Resources and the advance has been awarded and was used to fund portions of the design and planning costs. The WDA has confirmed that it would assist the District in the form of a bond issuance in the amount of approximately \$3,217,202. Interest would accrue at a rate of 8.4% on 87% of the bond issuance and zero percent on the remainder. Annual debt service payments would be calculated using an interest rate of 8% for an annual payment of \$257,801. These proceeds as accumulated will be deposited into a sinking fund at the Municipal Bond Commission and distributed as payments mature.

The District has submitted a copy of the Bond and Note Resolution for Staff's review. The Resolution requires the District to establish and fund a debt service reserve, which would equal one annual debt service payment when fully funded. Additionally, the District must maintain a debt service coverage of 115% until the debt service reserve is completely funded, at which time the coverage requirement decreases to 110%. The District has chosen to prefund the reserve through the bond proceeds, thus reducing its required debt service coverage to 110%. The debt service payments would be secured by a first lien on and pledge of the net revenues. Additionally, the funds on deposit in various reserves, as established in the resolution, and unexpended grant proceeds would also be pledged as collateral.

The funding from the connection fees was calculated using a total number of 906 customers, minus the 376 current customers, for a total of 530 customers who would be required to pay connection fees. Staff assumed a 90% collection rate, resulting in 477 customers paying \$50 prior to construction.

Provided within the bond resolution, and in order to pay certain portions of the cost of the project pending receipt of the grant proceeds, the District may use interim financing. The District is proposing to finance the construction cash flow through a credit agreement with the Commercial Banking and Trust Company. The Bank has agreed to loan the District an amount not to exceed \$750,000 in construction advances, with interest to accrue at the Chase Manhattan prime rate per annum upon the amounts advanced, for a term not to exceed the construction period. The cash drawdown estimate indicates a cash underrun, through the 15th through the 18th construction months, of approximately \$372,000. The Credit Supervisor of Commercial Banking and Trust Company has submitted a letter of confirmation on the interim financing, which is attached to Ms. Haley's Memorandum, along with a copy of the cash draw schedule.

According to Ms. Haley, the District's projected customer list and bill analysis appear to be reasonable. For Staff's analysis, the projected annual billable water usage is 66,667,000 gallons for 906 customers. As noted in Mr. Skiles' Memorandum, Commission Staff believes the District's projected annual operation and maintenance expenses of \$85,250, excluding debt service and reserves, is understated. Commission Staff's estimate differs from the District's projections in three areas: board member fees, administrative salaries and maintenance expense. According to Ms. Haley, the District originally excluded revenues allocated for board member fees and administrative salaries from expenses, anticipating that those categories of expenses would be funded by the

water operation. Staff does not recommend that the water utility subsidize the sewer utility's expenses and, after discussions with Staff, the District revised its estimates by including \$750 for board member fees and \$4,000 for administrative salaries. However, the board member fees included by the District were based on anticipated special meetings and did not include the sewer utility's portion of the regular meetings scheduled by the board. Staff calculated board member fees of \$4,350, from which Staff allocated \$1,005 to the sewer utility operations, based upon one regular meeting per month and up to five special meetings during a year. The Staff allocation of board member fees was based upon the percentage of sewer customers compared to water customers. According to Ms. Haley, the District also had arbitrarily allocated \$4,000 of the manager's salary to the sewer utility. Based upon an allocation methodology approved in prior cases, Commission Staff allocated \$7,500 of the manager's salary to the sewer utility, based upon the same allocation factor used to allocate the board member fees. With regard to the maintenance expense difference, Staff recommended increasing the maintenance expense by the amount of \$3,600, representing the annual cost for the UV lamps. As noted in Mr. Skiles' Memorandum, the District had initially included this expense in the renewal and replacement reserve. Staff believes this is an annual expense and should be treated as such. Thus, the Staff revised level of operation and maintenance expense is \$92,605.

Ms. Haley also discussed the I/A renewal and replacement reserve addressed by Mr. Skiles. As noted by Mr. Skiles, Staff is providing an amount of \$10,555 annually to be placed in a renewal and replacement reserve for the replacement and repair of grinder pumps and vacuum valves, exclusively. Any remaining renewal and replacement costs requested by the District would be funded by the supplemental renewal and replacement reserve required by the District's Bond and Note Resolution, representing an amount equal to 2-1/2% of gross revenues.

Ms. Haley also addressed the I/A future connection reserve discussed by Mr. Skiles. Ms. Haley noted that the District has proposed a tap fee of \$200, with remaining installation costs for new connections to come from the I/A future connection reserve. The District utilized a projected growth rate of 25% over a 20-year period to calculate the future connection reserve. Based on the differential costs associated with each type of connection, the District determined the total expense to be \$226,860, or \$11,343 annually. In order to have funds available for new service installations following construction, the District proposes to set aside the amount of \$22,500 from project funds, or the equivalent of five connections. The remaining \$205,360 would be amortized over 20 years, in the amount of \$9,885 annually.

As a result of the Staff revised operation and maintenance expenses, the WDA debt service requirements and the three reserve funds discussed by Ms. Haley, the annual revenue requirements for the District's proposed construction and operations, minus cash surplus, is \$380,491. The District's Rule 42 Exhibit reflected proposed revenues of \$358,305. Operation and maintenance expenses were allocated into fixed and variable categories, with the fixed costs divided by the number of annual bills to achieve the monthly charge and the variable costs divided by the annual

usage to derive the commodity charge. The customer charge was estimated at \$8.00 per customer per month and the commodity charge was estimated to be \$4.07 per 1,000 gallons of water used. The District's proposed cash flow analysis for the first year of operations, based on the District's proposed rates and adjusted for the various items discussed previously in Ms. Haley's Memorandum, resulted in total cash available of \$381,743, O&M requirements of \$92,605, WDA principal and interest payments of \$257,801, total reserve requirements of \$29,398 and remaining cash surplus of \$1,939, for a debt service coverage of 112%. Ms. Haley indicated that a district the size of Claywood Park Public Service District could possibly require as much as \$25,000 in annual cash surplus, indicating that the remaining cash surplus generated by the District's proposed rates would be inadequate.

The District's published rates included a customer charge of \$8.50 per month and a commodity charge of \$4.40, which would generate \$385,747 in operating revenues as compared to the \$358,305 stated in the Rule 42 Exhibit. Staff revised the allocation methods used by the District in its rate calculations and came up with total revenues generated of \$386,279. The Staff recommended tariff contains a customer charge of \$7.20 per month, with a commodity charge of \$4.62 per 1,000 gallons, for customers with metered water supply, and a monthly rate of \$28.00 per month for customers with a non-metered water supply. Staff also revised the delayed payment penalty wording requested by the District and included a multiple occupancy charge for an unmetered trailer park, pursuant to the District's request. The revenues generated by the Staff-recommended rates would provide the District with an estimated cash surplus of \$29,226 and debt service coverage of 123%. The other income of \$23,438, shown in the District's cash flow analysis and the Staff cash flow analysis, is based on the average rate of interest which the District is earning. The District has also estimated that the debt service reserve, which would be capitalized as part of the initial bond issue, will also earn interest at the same rate. Staff believes that these estimates are reasonable.

Staff pointed out that there was currently no existing tariff on file with the Commission for Claywood Park Public Service District's sewer operations, in violation of West Virginia Code §24-3-5. This violation was discovered during the review of the instant proceeding. In order to comply with the requirements of the West Virginia Code, the District has submitted a request for a Rule 19-A rate proceeding for Staff's review and recommendation, which has been designated as Case No. 89-317-PWD-19A. The rates to be designed in that proceeding will temporarily authorize the charging of rates for the 376 existing customers who will eventually be served by the new project.

In summary, Ms. Haley is recommending that the District's application for a certificate of convenience and necessity be granted; that the proposed permanent and interim financing be approved; that the Staff recommended operation and maintenance expense level of \$92,605 be approved; that the Staff-recommended tariff and cash flow discussed in Ms. Haley's Memorandum and attached to her Memorandum be approved; that the District be required to submit a monthly summary that describes the status of the project cash flow and the interim financing by the 15th of the following month from the closing of the interim financing to maturity of

final payment of the interim financing note; that the I/A renewal and replacement reserves be approved; that the I/A future connection reserve be approved; and that the District be required to inform the Commission of the commencement of operations under the new project.

On August 9, 1989, by facsimile machine, and on August 10, 1989, by hard copy, Claywood Park Public Service District indicated that it had received the Joint Staff Memorandum and attached Internal Memoranda in this proceeding, had reviewed the same and concurred with the recommendations of Commission Staff contained in those various Memoranda.

On September 5, 1989, Staff Attorney Ronald Robertson submitted a further Joint Staff Memorandum in this proceeding, containing corrections to Attachments JWH-6 and JWH-7 of Ms. Haley's Internal Memorandum, due to typographical errors. The changes reflect a one cent per month error in the commodity charge for customers with metered rates, revising that charge from \$4.61 per 1,000 gallons to \$4.62 per 1,000 gallons. The correction also reduces the Staff-recommended flat rate per month for customers with a non-metered water supply from \$28.30 per month to \$28.00 per month.

Upon consideration of all of the above, the Administrative Law Judge (ALJ) is of the opinion that a certificate of convenience and necessity should be granted to Claywood Park Public Service District, as recommended by Commission Staff, and that the Staff-recommended operation and maintenance expense and reserve requirements, and rates and charges should be approved for all service rendered by Claywood Park Public Service District on and after the date that the proposed system becomes operational. The need for the project was adequately demonstrated and set forth in the Internal Memorandum prepared by Chief Utilities Manager Skiles and the final engineering report, a portion of which was attached to Mr. Skiles' Memorandum. The existing facilities of Claywood Park Public Service District are not in compliance with the requirements of the State Department of Natural Resources and the NPDES permit issued to the District; private on-site sewage treatment facilities are failing, as indicated by the pollution found in different areas of the District, as well as the failure rate for those systems discussed in Mr. Skiles' Memorandum; and the public is in support of the project, as evidenced by the lack of protest to the proposed project. The project is economically feasible, based upon the committed grant and loan funding for the project, both on an interim and permanent basis, and is economically feasible for the District's customers, based upon the Staff-recommended rates and charges, which are similar to those published by the District, with the commodity charge being slightly higher and the monthly customer charge being lower than the rates which were published by the District.

The Staff-recommended rates and charges will provide the District with adequate revenues to cover all of its cash requirements, including debt service and all of the reserve funds required by the District's Bond and Note Resolution and the Staff recommendations; will provide an adequate cash surplus for the District, based upon Ms. Haley's description of the needs of a district the size of Claywood Park Public Service District; and will more than fulfill the debt service coverage requirements of the Bond and Note Resolution for the District. The

project is technically feasible, based upon the discussion of Mr. Skiles in his Internal Memorandum, and is similar in nature to projects previously approved by the Public Service Commission. Further, the State DNR has approved the District's plans and specifications for the project and has amended the District's existing NPDES permit to accommodate the proposed construction, indicating that the project has been designed in accordance with sound engineering practices. Therefore, since the project is fully funded by committed grant and loan funding, is economically feasible, in terms of both project costs and rates to the customers, and is technically feasible, and in light of the lack of public protest to this project, it is reasonable to grant the requested certificate of convenience and necessity to Claywood Park Public Service District and to adopt the various Staff recommendations made in this proceeding, with regard to the appropriate levels of operation and maintenance expenses, allocation of expenses between the water and sewer utility functions of Claywood Park Public Service District and the various reserve funds.

With regard to the issue raised by Commission Staff dealing with the appropriate level of compensation for board members of public service districts which provide both water and sewer services, the Administrative Law Judge is of the opinion that, for the purpose of determining compensation for the board members, it is appropriate to utilize the combined customer total for all operations provided by the particular public service district. Therefore, if the total number of water and sewer customers served by a public service district is in excess of 2,000 customers, each board member is entitled to a salary not to exceed \$3,000 per annum, based upon \$100 per attendance at regular monthly meetings and \$50 per attendance at additional special meetings. In terms of the certification of the number of customers required pursuant to West Virginia Code §16-13A-4, such district must still provide a breakdown of the total number of customers served by the water operations and the total number of customers served by the sewer operations, as well as the total number of customers served by the district for any of its operations. However, since public service districts may provide both water and sewer functions, and since West Virginia Code §16-13A-4 does not prohibit the use of a combined customer total for determining members' compensation, the Administrative Law Judge is of the opinion that the most reasonable interpretation of that Code section is to determine board members' compensation on the basis of the combined total number of customers served by a public service district, for all of its operations, including water services, sewage services, and any other services authorized by Article 13A of Chapter 16 of the West Virginia Code.

FINDINGS OF FACT

1. Some of the existing facilities of the Claywood Park Public Service District's sewer system are in violation of the NPDES permit issued to the District by the West Virginia Department of Natural Resources. (Internal Memorandum of Robert L. Skiles, filed August 7, 1989).

2. There is a high failure rate for private on-site sewage treatment facilities in the area served by Claywood Park Public Service District and sewage pollution has been found in roadside ditches and

waterways in the areas served by Claywood Park Public Service District. (Internal Memorandum prepared by Robert L. Skiles, filed August 7, 1989).

3. The State Department of Natural Resources has reviewed the plans and specifications for the proposed sewage construction project of Claywood Park Public Service District and has amended the District's existing NPDES permit to include and incorporate the proposed construction. (Staff Internal Memorandum prepared by Robert L. Skiles, filed on August 7, 1989).

4. The wastewater treatment project proposed by Claywood Park Public Service District in this proceeding has been fully funded through committed grant and loan funding from the Environmental Protection Agency and the Water Development Authority, as well as through customer contributions in the form of tap fees. (Staff Internal Memorandum prepared by Jane W. Haley, filed August 7, 1989).

5. The Staff-recommended rates and charges would provide Claywood Park Public Service District with operating revenues sufficient to cover all of its operation and maintenance expenses as revised by Commission Staff; all of its WDA debt service requirements; all three reserve funds recommended by Commission Staff; in excess of \$29,000 in cash surplus; and a debt service coverage which fulfills the Bond and Note Resolution of the District. (Staff Internal Memorandum prepared by Jane W. Haley, filed August 7, 1989).

6. No letters of protest were filed in response to the Notice of Filing Order published by Claywood Park Public Service District on January 27, 1989, and only three letters of protest were filed in response to the prefiling publication, two of which were subsequently withdrawn, and the last of which was filed by an individual who does not reside within the service territory of Claywood Park Public Service District, is not a customer of Claywood Park Public Service District and who indicated no other basis for standing to protest the project. (Affidavit of Publication filed February 8, 1989; letters of protest filed October 27, October 28 and November 6, 1988; letters withdrawing protest filed November 18, 1988, and January 24, 1989; letter filed by Claywood Park Public Service District on May 31, 1989, in Case No. 88-473-W-CN).

7. Claywood Park Public Service District has reviewed all of the Staff recommendations set forth in the various Internal Memoranda filed herein on August 7, 1989, and concurs with all of the recommendations of Commission Staff. (Response filed August 9 and August 10, 1989, by Claywood Park Public Service District).

CONCLUSIONS OF LAW

1. The proposed wastewater treatment and collection project of Claywood Park Public Service District, which is the subject of the proceeding herein, has been designed in accordance with reasonable and acceptable engineering standards and is consistent with projects approved by the Public Service Commission in the past; therefore, the project proposed by Claywood Park Public Service District in this proceeding is technically feasible.

2. The project proposed by Claywood Park Public Service District in this proceeding is economically feasible, since it is fully funded by committed grant and loan fundings, and since the Staff-recommended rates and charges, which are similar to those published by Claywood Park Public Service District, provide more than enough operating revenues to fully cover all of the District's operation and maintenance expenses, WDA debt service requirements, the Staff-recommended reserve funds, a reasonable cash surplus and an adequate debt service coverage.

3. Since the only letter of protest remaining with regard to this project was filed several months prior to the Notice of Filing publication and was filed by an individual whose address is outside of the service territory and geographic boundaries of Claywood Park Public Service District, it is reasonable to determine that this proceeding is unopposed.

4. The public convenience and necessity require the issuance of a certificate to Claywood Park Public Service District for the construction of the wastewater treatment and collection system described in its application and as described in the Staff Internal Memoranda, based upon the actual bids received.

5. The Staff-recommended tariff, attached hereto as Appendix A, is reasonable and should be adopted for all service rendered by Claywood Park Public Service District for the provision of sewer service in its service territory on and after the date that the project which is certificated herein becomes operational.

6. It is reasonable to waive the notice and publication requirements of West Virginia Code §24-2-4a, regarding the collection of a tap fee by Claywood Park Public Service District, since the Public Service Commission routinely permits public service districts to collect a tap fee from customers, in order to partially offset the cost of making connections to their systems, and since the tap fee proposed herein is lower than tap fees recently approved by the Public Service Commission.

7. In calculating the statutory compensation for public service district board members, it is reasonable to base the compensation upon the combined total number of customers served by a public service district for all of the services provided by that district, including water and sewer services and any other services authorized by Article 13A, Chapter 16 of the West Virginia Code.

ORDER

IT IS, THEREFORE, ORDERED that:

1. A certificate of convenience and necessity be, and it hereby is, granted to Claywood Park Public Service District for the construction of the wastewater treatment and collection project filed herein, and as described in the Internal Memoranda filed by Commission Staff on August 7, 1989;

2. The Staff-recommended rates and charges, attached hereto as Appendix A, be, and they hereby are, approved for all service rendered by Claywood Park Public Service District for the provision of sewer service to its customers on and after the date that the system certificated herein becomes operational;

3. Claywood Park Public Service District shall file an appropriate tariff with the Public Service Commission setting forth the rates and charges approved herein, as well as the actual in-service date for the project described herein;

4. The proposed financing, including the EPA grant and advance and the Water Development Authority loan, and the interim financing consisting of the line of credit from the Commercial Banking and Trust Company, be, and they hereby are, approved, as described in the Internal Memorandum of Jane W. Haley filed herein on August 7, 1989;

5. Claywood Park Public Service District shall establish an I/A renewal and replacement fund, in accordance with the requirements established in the Internal Memoranda filed by Robert L. Skiles and Jane W. Haley herein on August 7, 1989, in addition to the renewal and replacement fund required by the District's Bond and Note Resolution;

6. Claywood Park Public Service District shall establish a future connection reserve fund in accordance with the requirements set forth in the Internal Memoranda filed by Robert L. Skiles and Jane W. Haley herein on August 7, 1989;

7. This matter be deemed an unprotested case, in light of the failure of the one Protestant to demonstrate standing to protest the certificate application filed herein;

8. Notice and hearing on the proposed tap fee of Claywood Park Public Service District be waived, for the reasons set forth previously in this order;

9. The Staff recommended cash flow and allocations of operation and maintenance expenses, as set forth in the Internal Memoranda filed by Robert L. Skiles and Jane W. Haley herein on August 7, 1989, be, and they hereby are, approved; and

10. Claywood Park Public Service District shall submit a monthly summary that describes the status of the project cash flow and the interim financing by the 15th of each following month from the closing of the interim financing to the maturity or final payment of the interim financing notes.

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

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

Leave is hereby granted to the parties to file a petition for further hearing, reopening, or rehearing pursuant to Rule 19 of the Commission's Rules of Practice and Procedure with the Executive Secretary of the Commission within ten (10) days after the date this order is mailed.



Melissa K. Marland
Chief Administrative Law Judge

MKM:cjf

ATTACHMENT JWH-7

CLAYWOOD PARK PUBLIC SERVICE DISTRICT
CASE NO. 88-655-S-CNStaff Recommended TariffApplicability

Applicable within entire territory served.

Availability

Available for general domestic and commercial.

Rates

Customers with metered water supply:

Customer charge of \$7.20 per month plus \$4.62 per 1,000 gallons.

Customers with non-metered water supply:

\$28.00 per month equivalent to 4,500 gallons usage.

Minimum Charge

No bill will be rendered for metered service for less than \$7.20 per month.

Multiple Occupancy

For an unmetered trailer parks the monthly charge for services shall be equal to the number of units multiplied by the unmetered charge provided above.

Delayed Payment Penalty

The above tariff is net. On all current usage billings not paid in full within twenty (20) days, ten percent (10%) will be added to the net amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

Connection Fee

Prior to completion of construction adjacent to customer's property -
\$50.00

After completion of construction adjacent to customer's property -
\$200.00

P. S. C. W. Va. No. 1
Cancels P. S. C. W. Va. No.

CLAYWOOD PARK PUBLIC SERVICE DISTRICT, a public utility

OF

Parkersburg, West Virginia

Rates, Rules and Regulations for Furnishing

SEWERAGE AND SEWAGE SERVICE DISPOSAL

~~XXXX~~

In the Stewart, Dry Run Road, Cedar Grove, Happy Valley, Nicolette,
Davisville, Dutch Ridge Road and Meadville Road areas of Parkersburg
and Clay Magisterial District, in Wood County, West Virginia.

Filed with THE PUBLIC SERVICE COMMISSION
OF
WEST VIRGINIA

Issued September 8, 19 89

For service rendered on and after
Effective, 19

Issued by authority of an Order
of the Public Service Commission
of West Virginia in Case No. 88-655-S-CN,
dated September 8, 1989.

Issued by CLAYWOOD PARK PUBLIC SERVICE DISTRICT
(Name of Utility)

By Charles A. Thomas
Chairman

RULES AND REGULATIONS

- I. Rules and Regulations for the Government of Sewerage 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.

Applicability

Applicable within entire territory served.

Availability

Available for general domestic and commercial.

Rates

Customers with metered water supply:

Customer charge of \$7.20 per month plus \$4.62 per 1,000 gallons.

Customers with non-metered water supply:

\$28.00 per month equivalent to 4,500 gallons usage.

Minimum Charge

No bill will be rendered for metered service for less than \$7.20 per month.

Multiple Occupancy

For an unmetered trailer parks the monthly charge for services shall be equal to the number of units multiplied by the unmetered charge provided above.

Delayed Payment Penalty

The above tariff is net. On all current usage billings not paid in full within twenty (20) days, ten percent (10%) will be added to the net amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

Connection Fee

Prior to completion of construction adjacent to customer's property -
\$50.00

After completion of construction adjacent to customer's property -
\$200.00



STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RESOURCES

1201 Greenbrier Street
Charleston, West Virginia 25311

GASTON CAPERTON
Governor

J. EDWARD HAMRICK III
Director

LARRY W. GEORGE
Deputy Director

September 27, 1989

Mr. Neil R. Bee
Claywood Park PSD
Route No. 5, Box 39
Parkersburg, WV 26101

Re: WV/NPDES Permit No. WV0043991
Sewage Facilities for Community
Acres Subdivision

Dear Mr. Bee:

This letter will serve as an extension of WV/NPDES Permit No. WV0043991 until December 5, 1989. By this time, the review of Application No. WV0043991 should be completed and a new WV/NPDES Water Pollution Control Permit issued.

This action is necessary to maintain permit status while the review of Application No. WV0043991 is being completed.

Be advised that the existing terms and conditions shall remain applicable throughout the extension period.

Sincerely,

A handwritten signature in cursive script that reads "Laidley Eli McCoy".

Laidley Eli McCoy, Ph. D.
Chief

LEM:rml

cc: Mike Uhl, Construction Grants Branch
Greg Henger, District Supervisor
Cindy Musser, District Inspector



STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RESOURCES

1201 Greenbrier Street
Charleston, West Virginia 25311

GASTON CAPERTON
Governor

J. EDWARD HAMRICK III
Director

September 22, 1989

LARRY W. GEORGE
Deputy Director

Mr. R. Neil Bee, General Manager
Claywood Park Public Service District
Route No. 5, Box 39
Parkersburg, WV 26101

Re: Sewage Facilities

Dear Mr. Bee:

Your forms for Permit Application No. WV0043991 for a WV/NPDES Water Pollution Control Permit have been found to be complete.

For your information, the public notice period prescribed in Series II, Section 12.1.b of the West Virginia Legislative Rules issued pursuant to Chapter 20, Article 5A commences on the 30th day of September 1989 in the Parkersburg News.

Within twenty (20) days after publication of the public notice, you are required to send to the Division a certificate of publication. This should be sent to:

Chief, Division of Water Resources, DNR
1201 Greenbrier Street
Charleston, West Virginia 25311
Attention: James Waycaster,
Information Representative

Enclosed are copies of your draft permit, any required fact sheet and the public notice. If you have any questions, please do not hesitate to call us at (304) 348-4086 or our Public Information Office at (304) 348-0375.

Sincerely,

MUNICIPAL WASTE SECTION

Randall E. Moore
Randall E. Moore
Engineer
Permits Branch

Enclosures

cc: Greg Henger, District Supervisor
Cindy Musser, District Inspector

PUBLIC NOTICE

WEST VIRGINIA DEPARTMENT OF NATURAL RESOURCES, PUBLIC INFORMATION OFFICE
1201 GREENBRIER STREET, CHARLESTON, WEST VIRGINIA 25311 TELEPHONE: (304)
348-0375

APPLICATION FOR WEST VIRGINIA/NATIONAL POLLUTANT DISCHARGE ELIMINATION
SYSTEM WATER POLLUTION CONTROL PERMIT

PUBLIC NOTICE NO.: S-133-89 PUBLIC NOTICE DATE: September 30, 1989
PAPER: Parkersburg News
519 Juliana Street
Parkersburg, WV 26101

The following has applied for a WV/NPDES water pollution control permit
for this facility or activity.

APPL. NO.: WV0043991
APPLICANT: Claywood Park PSD
Route No. 5, Box 39
Parkersburg, WV 26101

LOCATION: Davisville, WV, Wood County - - 3 Package Plants Latitude:
39° 11' 52" N Longitude: 81° 29' 37" W - - New SBR Plant Latitude: 39 13'
56" N Longitude: 81 31' 05" W
RECEIVING STREAM: Little Kanawha River
BUSINESS: Public Service District
ACTIVITY: To operate and maintain three(3) existing package plants -
construct, operate and maintain 0.25 million-gallons-per-day sewage
disposal system for Claywood Park PSD and discharge the treated waste-
water - Outlet No. 001.

On the basis of review of the application, the "Water Pollution
Control Act (Chapter 20, Article 5A-5(a))," and the "West Virginia
Legislative Rules," the State of West Virginia will act on the above
application.

Any interested person may submit written comments on the draft
permit and may request a public hearing by addressing such to the Chief
of the Division of Water Resources within 30 days of the date of the
public notice. Such comments or requests should be addressed to:

Chief, Division of Water Resources, DNR
ATTN: Jim Waycaster, Information Representative
1201 Greenbrier Street
Charleston, WV 25311

Comments received within this period will be considered prior to
acting on the permit application. Correspondence should include the
name, address and the telephone number of the writer and a concise
statement of the nature of the issues raised. A public hearing may be
held if the Chief considers a significant degree of public interest on
issues relevant to the draft permit. Interested persons may contact the
public information office to obtain further information.

The application, draft permit and any required fact sheet may be
inspected, by appointment, at the Division of Water Resources Public
Information Office, at 1201 Greenbrier Street, Charleston, WV, between
8:30 a.m. and 4:30 p.m. on business days. Copies of the documents may
be obtained from the Division at a nominal cost.



WRD 1A-82
Revised 5-89

STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RESOURCES
1201 Greenbrier Street
Charleston, West Virginia 25311

Drawn

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

WATER POLLUTION CONTROL PERMIT

Permit No. WV0043991

Issue Date:

Subject: Sewage Facilities

Effective Date:

Expiration Date:

Supersedes: WV/NPDES Permit No. WV0043991
Issue Date October 5, 1984

Location:	Davisville	Wood	Little Kanawha
	(City)	(County)	(Drainage Basin)
	3 Package Plants		New SBR Plant
Outlet	Latitude: 39° 0' 11" N	52 " N	39° 13' 56" N
Sites:	Longitude: 81° 0' 29" W	37 " W	81° 31' 05" W

To whom it may concern:

This is to certify that

Claywood Park Public Service District, Route No. 5,
Box 39, Parkersburg, WV 26101

is hereby granted a NPDES Water Pollution Control Permit to operate and maintain three(3) existing extended aeration sewage treatment plants (40,000 GPD, 50,000 GPD and 36,000 GPD), existing collection system and all necessary appurtenances. Facilities are designed to serve Community Acres Subdivision and discharge the treated wastewater to the Little Kanawha River (7.6 miles from its mouth) of the Ohio River.

Construct, operate and maintain 4,085 linear feet of three(3) inch vacuum sewer line, 22,435 linear feet of four(4) inch vacuum sewer lines, 13,300 linear feet of six(6) inch vacuum sewer line, 2,560 linear feet of eight(8) inch vacuum sewer line, 2,255 linear feet of eight(8) inch gravity sewer line, 10,570 linear feet of one and one quarter (1 1/4) inch pressure sewer line, 24,992 linear feet of two(2) inch pressure sewer line, 23,097 linear feet of three(3) inch pressure sewer line, 3,875 linear feet of four(4) inch pressure sewer line, 10 manholes, 170 vacuum valves, 266 grinder pumps, two (2) lift stations, 13,560 linear feet of four(4) inch force main, 2,050 linear feet of eight(8) inch force main, one(1) 0.24 MGD Sequencing Batch Reactor (SBR) sewage treatment plant - two(2) tanks at 28' x 56' x 15', ultraviolet disinfection unit, two(2) sludge drying beds 30' x 20' each, and all necessary appurtenances.

Facilities are designed to serve Claywood Public Service District and discharge the treated wastewater to the Little Kanawha River (4.6 miles from its mouth) of the Ohio River.

This permit is subject to the following terms and conditions:

Department of Health Certificates of Approval Nos. 5512, 5939 and 7318.

The information submitted on and with Permit Application No. WV0043991 dated the 2nd day of June 1989, and the information submitted with Permit Application No. WV0043991-A dated the 10th day of January 1989 is all hereby made terms and conditions of this Permit with like effect as if all such permit application information was set forth herein.

SEWAGE TREATMENT FACILITIES CONSTRUCTED IN ACCORDANCE WITH:

Plans and Specifications:

Date Approved: March 27, 1989

Prepared By: Cerrone & Associates, Consulting Engineers.

Title: Claywood Park Public Service District, Specifications for Cedar Grove Wastewater Facilities - - Contracts 1, 2, 3, 4 - - EPA Project No. C-540353-01.

Three (3) Package Plants
A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning _____ and lasting through _____ start-up of new treatment facilities the permittee is authorized to discharge from outlet number(s) 001-Discharge from sewage treatment facilities (Combined Discharge)

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

Effluent Characteristic	Discharge Limitations			Monitoring Requirements		
	(Quantity)_lbs/day Avg. Monthly	Max. Daily	Other Units (Specify) Avg. Monthly	Max. Daily	Measurement Frequency	Sample Type
Flow			0.126 MGD		1/Month	Measured
Biochemical Oxygen Demand (5-Day)	31.5	63.0	30 mg/l	60 mg/l	1/Month	8 hr. composite
Total Suspended Solids	31.5	63.0	30 mg/l	60 mg/l	1/Month	8 hr. composite
Total Kjeldahl Nitrogen (TKN)	19.0	38.0	18 mg/l	36 mg/l	1/Month	8 hr. composite
Fecal Coliform			200 $\frac{\text{counts}}{100 \text{ ml}}$	400 $\frac{\text{counts}}{100 \text{ ml}}$	1/Month	Grab

The ph shall not be less than 6.0 standard units and not greater than 9.0 standards units and shall be monitored monthly by grab sampling.

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

This discharge shall not cause violation of Series I, Section 3 of the West Virginia Legislative Rules issued pursuant to Chapter 20, Article 5A.

**NEW PLANT (SBR)
A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

During the period beginning start-up of new treatment facilities and lasting through midnight, the permittee is authorized to discharge from outlet number(s) 001-Discharge from sewage treatment facilities

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

Effluent Characteristic	Discharge Limitations			Monitoring Requirements	
	Avg. Monthly (Quantity) lbs./day	Max. Daily	Other Units (Specify)	Measurement Frequency	Sample Type
Flow			0.24 MGD	Continuous	Measured
Biochemical Oxygen Demand (5-Day)	60.05	120.1	30 mg/l	1/Month	8 hr. composite
Total Suspended Solids	60.05	120.1	30 mg/l	1/Month	8 hr. composite
Total Kjeldahl Nitrogen (TKN)	36.03	72.06	18 mg/l	1/Month	8 hr. composite
Fecal Coliform			counts 200 / 100 ml	1/Month	Grab
			counts 400 / 100 ml		

The ph shall not be less than 6.0 standard units and not greater than 9.0 standards units and shall be monitored monthly by grab sampling.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): Effluent BOD5 samples shall be collected at a location immediately preceding disinfection. Other effluent samples shall be collected at or as near as possible to the point of discharge.
This discharge shall not cause violation of Series I, Section 3 of the West Virginia Legislative Rules issued pursuant to Chapter 20, Article 5A.

B. SCHEDULE OF COMPLIANCE

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

Effective date of permit.

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

N/A

C. MANAGEMENT CONDITIONS

1. Duty to Comply

- (a) The permittee must comply with all conditions of this permit. Permit noncompliance constitutes a violation of the CWA and State Act and is grounds for enforcement action; for permit modification, revocation and reissuance, suspension or revocation; or for denial of a permit renewal application.
- (b) The permittee shall comply with all effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

2. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for a new permit at least 180 days prior to expiration of the permit.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment.

4. Permit Actions

This permit may be modified, revoked and reissued, suspended, or revoked for cause. The filing of a request by the permittee for permit modification, revocation and reissuance, or revocation, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

5. Property Rights

This permit does not convey any property rights of any sort or any exclusive privilege.

6. Signatory Requirements

All applications, reports, or information submitted to the Chief shall be signed and certified as required in Series II, Section 4.6 of the West Virginia Legislative Rules of the State Water Resources Board.

7. Transfers

This permit is not transferable to any person, except after notice to the Chief. The Chief may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

8. Duty to Provide Information

The permittee shall furnish to the Chief, within a reasonable specified time, any information which the Chief may request to determine whether cause exists for modifying, revoking and reissuing, suspending, or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the Chief, upon request, copies of records required to be kept by this permit.

9. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Chief, it shall promptly submit such facts or information.

10. Inspection and Entry

The permittee shall allow the Chief, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- a) Enter upon the permittee's premises in which an effluent source or activity is located, or where records must be kept under the conditions of this permit;
- b) Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;
- c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the State Act, any substances or parameters at any locations.

11. Permit Modification

This permit may be modified, suspended, or revoked in whole or in part during its term in accordance with the provisions of Chapter 20-5A-8 of the Code of West Virginia.

12. Water Quality

The effluent or effluents covered by this permit are to be of such quality so as not to cause violation of applicable water quality standards adopted by the State Water Resources Board.

13. Outlet Markers

A permanent marker at the establishment shall be posted in accordance with Series III, Section 9 of the West Virginia Legislative Rules promulgated pursuant to Chapter 20, Article 5A.

14. Liabilities

- a) Any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318 or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Clean Water Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.
- b) Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
- c) Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
- d) Nothing in C. 14. a), b) and c) shall be construed to limit or prohibit any other authority the Chief may have under the State Water Pollution Control Act, Chapter 20, Article 5A.

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. Unless otherwise required by Federal or State law, this provision requires the operation of back-up auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit. For domestic waste treatment facilities, waste treatment operators as classified by State Health Department Regulations authorized under Chapter 16, Article I, Public Health Laws, Code of West Virginia, will be required except that in circumstances where the domestic waste treatment facility is receiving any type of industrial waste, the Chief may require a more highly skilled operator.

2. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. Bypass

a) Definitions

- (1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility; and
- (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of D.3 c) and D.3 d) of this permit.

- c) (1) If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass;
- (2) If the permittee does not know in advance of the need for bypass, notice shall be submitted as required in F.2. b) of this permit.

d) Prohibition of bypass

- (1) Bypass is permitted only under the following conditions, and the Chief may take enforcement action against a permittee for bypass, unless:
 - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - (C) The permittee submitted notices as required under D.3. c) of this permit.
- (2) The Chief may approve an anticipated bypass, after considering its adverse effects, if the Chief determines that it will meet the three conditions listed in D.3. d) (1) of this permit.

4. Upset

a) Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of D.4. c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
- (2) The permitted facility was at the time being properly operated;
- (3) The permittee submitted notice of the upset as required in F.2. b) of this permit.
- (4) The permittee complied with any remedial measures required under C.3. of this permit.

d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5) Removed Substances

Where removed substances are not otherwise covered by the terms and conditions of this permit or other existing permit by the Chief, any solids, sludges, filter backwash or other pollutants (removed in the course of treatment or control of wastewaters) and which are intended for disposal within the State, shall be disposed of only in a manner and at a site subject to the approval by the Chief. If such substances are intended for disposal outside the State or for reuse, i. e., as a material used for making another product, which in turn has another use, the permittee shall notify the Chief in writing of the proposed disposal or use of such substances, the identity of the prospective disposer or users, and the intended place of disposal or use, as appropriate.

1. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. Reporting

- a) Permittee shall submit each month, ~~quarterly~~, according to the enclosed format, a Discharge Monitoring Report (DMR) indicating in terms of concentration, and/or quantities, the values of the constituents listed in Part A analytically determined to be in the plant effluent(s).
- b) The required DMR's should be received no later than 20 days following the end of the reporting period and be addressed to:

Chief
Division of Water Resources
1201 Greenbrier Street
Charleston, WV 25311
Attention: Municipal

- c) Enter reported average and maximum values under "Quantity" and "Concentration" in the units specified for each parameter, as appropriate.
- d) Specify the number of analyzed samples that exceed the allowable permit conditions in the columns labeled "N.E." (i.e., number exceeding).
- e) Specify frequency of analysis for each parameter as no. analyses/specified period (e.g. "3/month is equivalent to 3 analyses performed every calendar month). If continuous, enter "Cont.". The frequency listed on format is the minimum required.

3. Test Procedures

Samples shall be taken, preserved and analyzed in accordance with 40 CFR Part 136, as in effect July 1, 1985 unless other test procedures have been specified elsewhere in this permit.

4. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information.

- a) The date, exact place, and time of sampling or measurement;
- b) The date(s) analyses were performed;
- c) The individual(s) who performed the sampling or measurement;
- d) The individual(s) who performed the analyses; if a commercial laboratory is used, the name and address of the laboratory;
- e) The analytical techniques or methods used, and
- f) The results of such analyses.

Information not required by the DMR form is not to be submitted to this agency, but is to be retained as required in E.6.

5. Additional Monitoring by Permittee

If the permittee monitors any pollutant at any monitoring point specified in this permit more frequently than required by this permit, using approved test procedures or others as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report Form. Such increased frequency shall also be indicated.

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit.

6. Records Retention

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for the permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Chief at any time.

7. Definitions

- a) "Daily discharge" means the discharge of a pollutant measured during a calendar day or within any specified period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.
- b) "Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
- c) "Maximum daily discharge limitation" means the highest allowable daily discharge.
- d) "Composite Sample" is a combination of individual samples obtained at regular intervals over a time period. Either the volume of each individual sample is proportional to discharge flow rates or the sampling interval (for constant volume samples) is proportional to the flow rates over the time period used to produce the composite. The maximum time period between individual samples shall be two hours.
- e) "Grab Sample" is an individual sample collected in less than 15 minutes.
- f) "i-s" = immersion stabilization - a calibrated device is immersed in the effluent stream until the reading is stabilized.
- g) The "daily average temperature" means the arithmetic average of temperature measurements made on an hourly basis, or the mean value plot of the record of a continuous automated temperature recording instrument, either during a calendar month, or during the operating month if flows are of shorter duration.
- h) The "daily maximum temperature" means the highest arithmetic average of the temperatures observed for any two (2) consecutive hours during a 24-hour day, or during the operating day if flows are of shorter duration.
- i) The "daily average fecal coliform" bacteria is the geometric average of all samples collected during the month.
- j) "Measured Flow" means any method of liquid volume measurement, the accuracy of which has been previously demonstrated in engineering practice, or for which a relationship to absolute volume has been obtained.
- k) "Estimate" means to be based on a technical evaluation of the sources contributing to the discharge including, but not limited to pump capabilities, water meters and batch discharge volumes.
- l) "Non-contact cooling water" means the water that is contained in a leak-free system, i.e. no contact with any gas, liquid, or solid other than the container for transport; the water shall have no net poundage addition of any pollutant over intake water levels, exclusive of approved anti-fouling agents.

F. OTHER REPORTING

1. Reporting Spills and Accidental Discharges

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to Series III, Section 2 of the West Virginia Legislative Rules promulgated pursuant to Chapter 20, Article 5A.

Attached is a copy of the West Virginia Spill Alert System for use in complying with Series III, Section 2 of the rules as they pertain to the reporting of spills and accidental discharges.

2. Immediate Reporting

- a) The permittee shall report any noncompliance which may endanger health or the environment immediately after becoming aware of the circumstances by using the Division's designated spill alert telephone number. A written submission shall be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- b) The following shall also be reported immediately:
 - (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
 - (2) Any upset which exceeds any effluent limitation in the permit; and
 - (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Chief in the permit to be reported immediately. This list shall include any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous waste.
- c) The Chief may waive the written report on a case-by-case basis if the oral report has been received in accordance with the above.
- d) Compliance with the requirements of F.2. of this section, shall not relieve a person of compliance with Series III, Section 2 of the Board's rules.

3. Reporting Requirements

- a) Planned changes. The permittee shall give notice to the Chief of any planned physical alterations or additions to the permitted facility which may affect the nature or quantity of the discharge. Notice is required when:
 - (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in Section 13.7.b of Series II of the Board's rules; or
 - (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under F.2. of this section.
- b) Anticipated noncompliance. The permittee shall give advance notice to the Chief of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- c) In addition to the above reporting requirements, all existing manufacturing, commercial, and silvicultural discharges must notify the Chief in writing as soon as they know or have reason to believe:
 - (1) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - (A) One hundred micrograms per liter (100 ug/l);
 - (B) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2, 4-dinitro phenol; and one milligram per liter (1 mg/l) for antimony;
 - (C) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4. b.7 or 4.4. b.9 of Series II of the Board's rules;
 - (D) The level established by the Chief in accordance with Section 6.3.g. of Series II of the Board's rules;
 - (2) That any activity has occurred or will occur which would result in any discharge (on a non-routine or infrequent basis) of a toxic which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - (A) Five hundred micrograms per liter (500 ug/l);
 - (B) One milligram per liter (1 mg/l) for antimony;
 - (C) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4. b.7. of Series II of the Board's rules;
 - (D) The level established by the Chief in accordance with Section 6.3.g. of Series II of the Board's rules.
 - (3) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4 b.9 of Series II of the Board's rules and which will result in the discharge on a routine or frequent basis of that toxic pollutant at levels which exceed five times the detection limit for that pollutant under approved analytical procedure.
 - (4) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4 b.9 of Series II of the Board's rules and which will result in the discharge on a non-routine or infrequent basis of that toxic pollutant at levels which exceed ten times the detection limit for that pollutant under approved analytical procedure.

4. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under the above paragraphs at the time monitoring reports are submitted. The reports shall contain the information listed in F.2. a).

G. OTHER REQUIREMENTS

1. The herein-described treatment works, structures, electrical and mechanical equipment shall be adequately protected from physical damage by the maximum expected one hundred (100) year flood level and operability be maintained during the twenty-five (25) year flood level.
2. The entire sewage treatment facility shall be adequately protected by fencing.
3. Continuous maintenance and operation of the listed sewage treatment facility shall be performed by or supervised by a certified operator possessing at least a class II certificate for Waste Water Treatment Plant Operators, issued by the State of West Virginia.
4. An instantaneous flow from the sewage disposal system shall not exceed the peak design flow at any given time.
5. The arithmetic mean of values for effluent samples collected in a period of seven(7) consecutive days shall not exceed 45.0 mg/l for BOD5 and TSS and 27.0 mg/l for TKN.
6. The arithmetic means of the effluent values of the BOD5 and TSS discharged during a period of 30 consecutive days shall not exceed 15 percent of respective arithmetic means of the influent values for these parameters during the same time period except as specifically authorized by the permitting authority.

The herein-described activity is to be extended, modified, added to, made, enlarged, acquired, constructed or installed, and operated, used and maintained strictly in accordance with the terms and conditions of this permit; with the plans and specifications submitted with Permit Application No. WV0043991, dated the 2nd day of June, 19 89

_____ ; with the plan of maintenance and method of operation thereof submitted with such application(s); and with any applicable rules and regulations promulgated by the State Water Resources Board.

Failure to comply with the terms and conditions of this permit, with the plans and specifications submitted with Permit Application No. WV0043991, dated the 2nd day of June, 19 89

_____, and with the plan of maintenance and method of operation thereof submitted with such application(s) shall constitute grounds for the revocation or suspension of this permit and for the invocation of all the enforcement procedures set forth in Article 5A, Chapter 20 of the Code of West Virginia.

This permit is issued in accordance with the provisions of Article 5A, Chapter 20 of the Code of West Virginia and is transferable under the terms of Section 7 of said article.

By: _____
Chief

WRD 2A-82
 Revised 3-89 (Combined Discharge)
 Three (3) Package Plants
 FACILITY NAME Claywood Park Public Service District
 STATE OF WEST VIRGINIA
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
 DISCHARGE MONITORING REPORT
 COMMERCIAL LABORATORY NAME
 COMMERCIAL LABORATORY ADDRESS

LOCATION OF FACILITY Davisville, Wood County
 PERMIT NUMBER WV0043991
 OUTLET NO. 001
 WASTELOAD FOR MONTH OF 19
 INDIVIDUAL PERFORMING ANALYSES

Parameter	Minimum	Quantity			Units	M.E.	Other Units			Units	M.E.	Measurement Frequency	Sample Type
		Avg. Monthly	Max. Daily	****			Minimum	Avg. Monthly	Max. Daily				
Flow, in Con- duit or thru trmt. plant 50050	Reported	****	****	****	****								
	Permit Limitation	****	****	****	****							1/Month	Measured
BOD, 5-Day (20 Deg. C) 00310	Reported												
	Permit Limitation	N/A	31.5	63.0	lbs/day	N/A	30	60	mg/l			1/Month	8 hour composite
Solids, Total Suspended 00530	Reported												
	Permit Limitation	N/A	31.5	63.0	lbs/day	N/A	30	60	mg/l			1/Month	8 hour composite
Nitrogen, Total Kjeldahl (as N) 00625	Reported												
	Permit Limitation	N/A	19.0	38.0	lbs/day	N/A	18	36	mg/l			1/Month	8 hour composite
Coliform, Fecal General 74055	Reported	MF	-	MPN									
	Permit Limitation	Circle Method	Used				200	400	counts 100 ml			1/Month	Grab
pH 00400	Reported	****	****	****	****								
	Permit Limitation	****	****	****	****	6.0	N/A	9.0	Std. Units			1/Month	Grab
Reported													
Permit Limitation													
Name of Principal Exec. Officer													Date Completed
Title of Officer													Signature of Principal Exec. Officer or Authorized Agent

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

WRD 2A-82
Revised 3-89
NEW SBR Plant

STATE OF WEST VIRGINIA
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE MONITORING REPORT

FACILITY NAME
Claywood Park Public Service District

COMMERCIAL LABORATORY NAME

LOCATION OF FACILITY
Davisville, Wood County

COMMERCIAL LABORATORY ADDRESS

PERMIT NUMBER
WV0043991

OUTLET NO. 001

WASTELOAD FOR MONTH OF

19

INDIVIDUAL PERFORMING ANALYSES

Parameter	Minimum	Quantity		Units	N.E.	Other Units			Measurement Frequency	Sample Type
		Avg. Monthly	Max. Daily			Minimum	Avg. Monthly	Max. Daily		
Flow, in Conduit or thru trmt. plant 50050	****	****	****	****						
	****	****	****	****					Continuous	Measured
BOD, 5-Day (20 Deg. C) 00310	N/A	60.05	120.1	lbs/day		N/A	0.24	N/A	1/Month	8 hour composite
Solids, Total Suspended 00530	N/A	60.05	120.1	lbs/day		N/A	30	60	1/Month	8 hour composite
Nitrogen, Total Kjeldahl (as N) 00625	N/A	36.03	72.06	lbs/day		N/A	18	36	1/Month	8 hour composite
Coliform, Fecal General 74055	MF	-	MPN							
	Circle	Method	Used			N/A	200	400	1/Month	Grab
pH 00400	****	****	****	****						
	****	****	****	****		6.0	N/A	9.0	1/Month	Grab
	Reported									
	Permit Limitation									
<p>Name of Principal Exec. Officer</p> <p>Title of Officer</p> <p>Signature of Principal Exec. Officer or Authorized Agent</p>										
<p>I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.</p>										
<p>Date Completed</p>										



STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RESOURCES
1201 Greenbrier Street
Charleston, West Virginia 25311

GASTON CAPERTON
Governor

J. EDWARD HAMRICK III
Director

September 26, 1989

LARRY W. GEORGE
Deputy Director

Mr. R. Neil Bee, Manager
Claywood Park Public Service District
Route 5, Box 39
Parkersburg, West Virginia 26101

RE: Claywood Park PSD
C-540353-01

Dear Mr. Bee:

You are hereby advised that the bidding procedures for Contract 1 has been reviewed and approved. The contract may now be awarded to the low, responsive bidder, Raleigh Contracting, Incorporated, as indicated by the proposal you have submitted.

The grantee is responsible for the completeness of documentation of MBE/WBE procurement following award of the Contract.

Certain construction activities have been assigned to our Engineering Section. You will be contacted by a representative of this section in the near future.

The Part B documents that you submitted are being reviewed by this office. The official approval letter and the grant amendment are currently being processed and will be forwarded under separate cover. The total Eligible project costs are \$5,971,600 reflecting an EPA grant of \$4,108,340.

Should you have any questions, please contact Rosalie Ortega or Mike Uhl at (304) 348-0637.

Sincerely,

CONSTRUCTION GRANTS BRANCH

A handwritten signature in cursive script that reads "Mike Johnson".

Mike Johnson, P. E.
Branch Head

MJ/roa

cc: Chuck Fogg, EPA
Bernie Yonkosky, WDA
Howard Cunningham, PSC
Vince Collins, Steptoe & Johnson
Cerrone & Associates

CLAYWOOD PARK PUBLIC SERVICE DISTRICT
\$3,217,202 SEWERAGE SYSTEM REVENUE BONDS,
SERIES A AND SERIES B

ENGINEER'S CERTIFICATE

I, DOMINICK E. CERRONE, Registered Professional Engineer, West Virginia Registration No. 3952, of Cerrone & Associates, Inc., Consulting Engineers, Wheeling, West Virginia, hereby certify as follows:

1. My firm is engineer for the construction and acquisition of a sewerage system (the "Project") for Claywood Park Public Service District in Wood County, West Virginia (the "District"). Certain costs of such construction and acquisition are being financed in part by proceeds of the above-captioned bonds (the "Bonds") and out of certain grant proceeds from the United States Environmental Protection Agency.

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

District; and (viii) the net proceeds of the Bonds, together with the proceeds of grants irrevocably committed therefor and other moneys on deposit or to be simultaneously deposited and irrevocably committed therefor, will be sufficient to pay the costs of acquisition and construction of the Project as set forth in the application submitted to WDA, including the amended Schedule A attached thereto.

WITNESS my signature on this 10th day of October, 1989.

CERRONE & ASSOCIATES, INC.

By 
Dominick E. Cerrone, P.E.

DATE: 10/6/89

AMENDED SCHEDULE A
NAME OF GOVERNMENTAL AGENCY: Claywood Park P.S.D.
TOTAL COST OF PROJECT AND SOURCES OF FUNDS

A. Cost of Project

1. Construction		\$ 5,034,004	
2. Technical Services		\$ 1,074,330	
3. Legal and Fiscal		\$ 61,500	
4. Administrative		\$ 33,000	
5. Site and Other Lands		\$ 70,000	
6. Step I and/or Step II Design or Other Loan Repayment (Specify Type: <u>See attached schedule</u>)		\$ 186,998	
7. Interim Financing Costs		\$ -0-	
8. Contingency		\$ 335,256	
9. Total of Lines 1 through 8			\$ <u>6,795,088</u>

B. Sources of Funds

10. Federal Grants: ¹	EPA Grant	\$ 4,108,340	
(Specify Source)	EPA Advance	\$ 76,233	
11. State Grants: ¹		\$	
(Specify Source)		\$	
		\$	
		\$	
12. Other Grants: ¹		\$	
(Specify Source)		\$	
13. Any Other Source ²	Subscription Fees	\$ 23,840	
(Specify)		\$	
14. Total of Lines 10 through 13			\$ <u>4,208,413</u>
15. Proceeds Required from Bond Issue (Line 9 less Line 14)			\$ <u>2,586,675</u>

C. Cost of Financing

16. Capitalized Interest (construction period plus six months)		\$ 361,935	
17. Funded Reserve Account ³		\$ 256,592	
18. Other Costs ⁴ - Bond Counsel		\$ 12,000	
19. Total Cost of Financing			\$ <u>630,527</u>
20. Size of Bond Issue (Line 15 plus Total from Line 19)			\$ <u>3,217,202</u>

CLAYWOOD PARK P. S. D.
 CEDAR GROVE SEWERS
 NOTES TO SCHEDULE A
 OCTOBER 6, 1989

A) Cost of Project

1. Construction		\$5,034,004
2. Technical Services		
a) Planning	\$30,000	
b) Plan Addendum	10,000	
c) Design	390,000	
d) Eng. During Constr.	131,000	
e) Record Drawings	25,060	
f) Inspection	367,825	
g) Construction Stakeout	85,125	
h) O & M Manual	13,360	
i) Startup	21,960	
	-----	1,074,330
3. Legal & Rule 42		61,500
4. Administrative & Project Coordinator		33,000
5. Site & Other Lands		70,000
6. Other		
a) Testing Services	15,000	
b) Fund Tracking	7,500	
c) Interest Prior to Construction	25,000	
d) Pre-financed Taps	22,500	
e) Start-up Expenses	10,000	
f) Electrical Service	20,000	
g) Equipment	36,998	
h) Plant Decommissioning	50,000	
	-----	186,998
7. Interim Financing Costs		0
8. Contingency		335,256

9. Total Cost of Project		\$6,795,088

B) Sources of Funds

10. a) EPA Grant	\$4,108,340	
b) EPA Planning & Design Advance	76,233	
11. State Grant	0	
12. Other Grant	0	
13. Subscription Fees	23,840	
	-----	4,208,413
14. Total Sources of Funds		
15. Net Proceeds Required from Bond Issue		\$2,586,675

C) Cost of Financing

16. Capitalized Interest	\$361,935	
17. Funded Reserve Account	256,592	
18. Other: Bond Counsel	12,000	
	-----	630,527
19. Total Cost of Financing		
20. Size of Bond Issue		\$3,217,202

Harman, Thompson, Mallory & Ice
Certified Public Accountants

October 9, 1989

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

In re: Claywood Park Public Service
District \$3,217,202 Sewerage
System Revenue Bonds,
Series A and Series B

Gentlemen:

Based upon the rates and charges as set forth and approved in the order of the Public Service Commission of West Virginia (Case No. 88-655-S-CN) entered September 8, 1989, and projected operation and maintenance expenses and anticipated customer usage as furnished to us by Cerrone & Associates, consulting engineers, it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the sewerage system of Claywood Park Public Service District, will pay all repair, operation and maintenance expenses and leave a balance each year equal to at least 110% of the maximum amount required in any year for debt service on the Sewerage System Revenue Bonds Series A and Series B to be issued to West Virginia Water Development Authority and all other obligations secured or payable from the revenues of the System prior to or on a parity with such Bonds.

The opinion herein expressed is further based upon information furnished us that the Series A Bond Reserve Account and the Series B Bond Reserve Account are to be fully funded from Bond proceeds.

Very truly yours,

HARMAN, THOMPSON, MALLORY & ICE

E. L. Thompson

E. L. Thompson

NONARBITRAGE CERTIFICATE OF
CLAYWOOD PARK PUBLIC SERVICE DISTRICT

The undersigned hereby certifies, on behalf of Claywood Park Public Service District (the "District"), with respect to the \$2,801,862 Claywood Park Public Service District Sewerage System Revenue Bond, Series A (the "Local Bond"), issued and delivered by the District on the date hereof that the following exist or are reasonably expected to occur:

1. This Certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986 (the "Code") and the regulations thereunder. The undersigned is a duly authorized member of the public service board of the District and together with the other members of the public service board of the District is charged with the responsibility for issuing the Bonds. The undersigned is familiar with the facts, circumstances and estimates herein certified and is duly authorized to execute and deliver this certificate on behalf of the District.

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

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

4. This certificate is based upon facts, circumstances, estimates and expectations of the District in existence on October 10, 1989, the date on which the Local Bond is being physically delivered in exchange for the issue price thereof, and to the best knowledge and belief of the undersigned, the expectations of the District set forth herein are reasonable.

5. In the Local Act pursuant to which the Local Bond is issued, the District has covenanted to make no use of the proceeds of the Local Bond which would cause the Local Bond to be an "arbitrage bond" within the meaning of the Code.

6. The Bonds are being delivered to the purchaser thereof on the date hereof. Concurrently with the sale and delivery of the Local Bond the District also sold and delivered its Sewerage System Revenue Bond, Series B in the principal amount of \$415,340 (the "Supplemental Bond"). The Supplemental Bond bears no interest.

7. The Local Bond consists of one bond numbered R-1. The purchase price of the Local Bond is \$2,801,862. Proceeds of the Local Bond in the amount of \$361,935 will be set aside in the Bonds Capitalized Interest Account within the Series A Sinking Fund, for application to the payment of the interest on the Local Bond during construction and for six months thereafter. \$245,942 of the proceeds of the Local Bond, will be set aside in the Series A Bond Reserve Account. The remaining proceeds of \$2,193,985 will be deposited in the Construction Trust Fund.

Pursuant to the Local Act, the Local Bond is being issued simultaneously with the delivery of this certificate for the purpose of financing in excess of \$3,217,202 of costs, including issuance costs, interest during construction and for six months thereafter and the funding of a reserve fund, attributable to the construction by the District of a sewerage collection system and treatment facility in the District (the "Project"), and paying costs of issuance thereof.

8. The District expects to enter into a contract within one month of the date hereof for the construction of the Project, and the amount to be expended pursuant to such contract exceeds the lesser of two and one-half percent (2.5%) of the estimated total Project cost financed with proceeds from the sale of the Bonds or One Hundred Thousand Dollars (\$100,000.00).

9. Work on the Project will proceed with due diligence to completion, which is expected on or about October 31, 1990 (within three years of March 8, 1989). All of the proceeds from the sale of the Bonds which will be used for payment of Costs of the Project will be expended for such purpose by September 30, 1991 (within three years of March 8, 1989).

10. The District will, within thirty (30) days following delivery of the Local Bond, enter into agreements which require the District to expend in excess of \$100,000 on the Project. Acquisition, construction and equipping of the Project will proceed with due diligence to completion, and all of the proceeds from the sale of the Local Bond, together with any investment earnings thereon, will be expended for payment of Costs of the Project on or before September 30, 1991. Construction of the Project is expected to be completed by October 31, 1990.

11. The total cost of the Project is estimated at \$7,425,615. Sources of funding for the Project are as follows:

EPA Advance	\$ 76,233
EPA Grant	\$4,108,340
Proceeds of Local Bond	\$2,801,862
Proceeds of Supplemental Bond	\$ 415,340
Local Contributions (Tap Fees)	\$ 23,840
Total	\$7,425,615

The amount the costs of the Project not expected to be reimbursed or paid from the EPA Grant and Advance, the Tap Fees and the Supplemental Bond proceeds is estimated to be at least \$2,801,862. Except for the proceeds of the Local Bond, the Supplemental Bond, the Tap Fees and the EPA Grant and Advance, no other funds of the District will be available to meet Costs of the Project, and no balances are available to meet such costs in any account which may, without legislative or judicial action, be invaded to pay such expenditures without a legislative, judicial or contractual requirement that such account be reimbursed.

12. Under the Local Act, the following special funds or accounts have been created:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Innovative or Alternative Future Connection Fund;
- (4) Innovative or Alternative Future Renewal and Replacement Fund
- (5) Construction Trust Fund, and within the Construction Trust Fund, the Tap Fees Account;
- (6) Series A Sinking Fund, and within the Series A Sinking Fund the Series A Bond Reserve Account and the Bonds Capitalized Interest Account;
- (7) Series B Sinking Fund, and within the Series B Sinking Fund the Series B Bond Reserve Account; and

13. Under the Local Act the proceeds of the Local Bond and the Supplemental Bond will be deposited as follows:

- (1) Local Bond proceeds in the amount of 361,935.00 will be deposited in the Bonds Capitalized Interest Fund in the Series A Sinking Fund to pay interest on the Local Bond for the period of construction on the Project plus six months.
- (2) Local Bond proceeds in the amount of \$245,942.00, representing the Series A Bond Reserve Requirement, will be deposited in the Series A Bond Reserve Account in the Series A Sinking Fund.
- (3) Local Bond proceeds in the amount of \$394,110.50 will be applied to payment of the Design Loan heretofore obtained by the District for the purpose of financing a portion of the Costs of the Project.

- (4) The balance of the proceeds of the Local Bond will be deposited in the Construction Trust Fund and applied solely to payment of Costs of the Project, including costs of issuance of the Local Bond and the Supplemental Bond and related costs.
- (5) Supplemental Bond proceeds in the amount of \$10,650, representing the Series B Bond Reserve Requirement, will be deposited in the Series B Bond Reserve Account in the Series B Sinking Fund.
- (6) The balance of the proceeds of the Supplemental Bond will be deposited in the Construction Trust Fund and applied solely to payment of Costs of the Project, including costs of issuance of the Local Bond and the Supplemental Bond and related costs.

14. All moneys in the Series A Sinking Fund (with the exception of investment earnings thereon) will be used for the payment of the principal and interest as it accrues on the Local Bond. Moneys held in the Series A Sinking Fund will be used solely to pay principal of and interest on the Local Bond and will not be available to meet costs of construction of the Project. All investment earnings on moneys in the Series A Sinking Fund and Series A Bond Reserve Account therein will be withdrawn therefrom and deposited into the Bond Construction Trust Fund until completion of the Project, and thereafter will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied in full, first to the next ensuing interest payment, if any, due on the Local Bond, and then to the next ensuing principal payment due thereon.

15. Except for the Series A Sinking Fund, there are no other funds or accounts established or held by the District which are reasonably expected to be used to pay debt service on the Local Bond or which are pledged as collateral for the Local Bond and for which there is a reasonable assurance that amounts therein will be available to pay debt service on the Local Bond, if the District encounters financial difficulties.

16. All of the proceeds from the sale of the Local Bond and the Supplemental Bond, except any proceeds deemed used for the reserve accounts, to be used for payments of Costs of the Project, will be expended for such purpose by September 30, 1991 (within three years of March 8, 1989).

17. The District does not expect to sell or otherwise dispose of the Project, in whole or in part, prior to the last maturity date of the Local Bond and the Supplemental Bond.

18. The District will comply with the provisions of the Internal Revenue Code of 1986.

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

20. The District covenants and agrees to comply with the rebate requirements of the Code, and with all other requirements of the Code necessary, proper or desirable to maintain the tax-exempt status of the Local Bond.

21. The original proceeds of the Local Bond will not exceed the amount necessary for the purposes of the issue.

22. The amount designated as cost of issuance of the Local Bond consists only of costs which are directly related to and necessary for the issuance of the Local Bond.

23. All property financed with the proceeds of the Local Bond will be held for Federal income tax purposes by (or on behalf of) a qualified governmental unit.

24. The District shall file Form 8038-G in a timely fashion with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255.

25. No more than 10 percent of the proceeds of the Local Bond will be used (directly or indirectly) in any trade or business carried on by, and less than 5 percent of the proceeds of Local Bond have been or will be used to make or finance loans to, any person who is not a governmental unit.

26. The District shall use the Local Bond proceeds solely for the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the District.

27. The District shall not permit at any time or times any of the proceeds of the Local 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 Local Bond from treatment afforded by Section 103(a) of the Code by reason of classification of the Local Bond as "private activity bonds" within the meaning of the Code. The District will take all actions and refrain from taking such actions as shall be necessary to comply with the Code in order to ensure the interest on the Local Bond is excludable from gross income for federal income tax purposes.

28. The Local Bond, in whole or in part, is not and will not be directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

29. The District will rebate to the United States the amount required by Section 148 of the Code and will take all steps necessary to make such rebates. In the event the District fails to make such rebates as required, the District shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the exclusion from gross income for federal income tax purposes of the interest on the Local Bond.

30. The District has retained the right to amend or supplement its authorizing documents if such amendment or supplement is necessary to preserve the exclusion from gross income for federal income tax purposes of the interest on the Local Bond.

31. The District shall comply with the yield restriction on Local Bond proceeds as set forth in the Code.

32. The District will spend the funds in the local sinking fund (other than funds in the reserve account) within a 13 month period beginning on the date of receipt and any monies received from the investment of amounts held in the local sinking fund (other than in the reserve account therein) will be spent within a one year period beginning the date of receipt.

33. The District shall submit to the Issuer within fifteen (15) days following the end of the District's bond year a certified copy of its rebate calculation or if the District qualifies for the small governmental issuer exception to rebate, then the District shall submit a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the bond year which would make the Local Bond subject to rebate.

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

IN WITNESS WHEREOF, I have set my hand this 10th day of October, 1989.

CLAYWOOD PARK PUBLIC SERVICE DISTRICT

By Chun or Tansing
Duly Authorized Board Member

3745E

Form **8038-G**
(December 1986)

Information Return for Tax-Exempt Governmental Bond Issues

CMB No 1545 0720
Expires 12-31-89

Department of the Treasury
Internal Revenue Service

Under Section 149(e)

(Use Form 8038-GC if issue price is under \$100,000.)

Part I Reporting Authority Check box if Amended Return

1 Issuer's name CLAYWOOD PARK PUBLIC SERVICE DISTRICT	2 Issuer's employer identification number 55-0465310
3 Number and street Rt. 5, Box 39	4 Report number G198 9 - 1
5 City or town, state, and ZIP code Parkersburg, West Virginia 26101	6 Date of issue October 10, 1989

Part II Type of Issue (check box(es) that applies)

7 Check box if bonds are tax or other revenue anticipation bonds <input type="checkbox"/>	Iss. Price
8 Check box if bonds are in the form of a lease or installment sale <input type="checkbox"/>	
9 <input type="checkbox"/> Education	
10 <input type="checkbox"/> Health and hospital	
11 <input type="checkbox"/> Transportation	
12 <input type="checkbox"/> Public safety	
13 <input checked="" type="checkbox"/> Environment (including sewage bonds)	2,801,862
14 <input type="checkbox"/> Housing	
15 <input type="checkbox"/> Utilities	
16 <input type="checkbox"/> Other. Describe (see instructions) ▶	

Part III Description of Bonds

	(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
17 Final maturity	10/1/2029	8.40%	226,883.19	226,883.19			
18 Entire issue			2,801,862	2,801,862	28.68 years	N/C	8.73

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

19 Proceeds used for accrued interest	19	
20 Proceeds used for bond issuance costs (including underwriters' discount)	20	13,500
21 Proceeds used for credit enhancement	21	
22 Proceeds allocated to reasonably required reserve or replacement fund	22	245,942
23 Proceeds used to refund prior issues	23	
24 Nonrefunding proceeds of the issue (subtract lines 20, 21, 22, and 23 from line 18, column (c))	24	2,542,420

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

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

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

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

Part VI Miscellaneous

28 Enter the amount (if any) of the state volume cap allocated to this issue ▶ _____

29 Arbitrage rebate:

a Check box if the small governmental unit exception to the arbitrage rebate requirement applies
b Check box if the 6-month temporary investment exception to the arbitrage rebate requirement is expected to apply
c Check box if you expect to earn and rebate arbitrage profits to the U.S.

30 Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(ii) ▶ _____

31 Pooled financings:

a Check box if any of the proceeds of this issue are to be used to make loans to other governmental units and enter the amount ▶ _____
b Check box if this issue is a loan made from the proceeds of another tax-exempt issue and enter the name of the issuer ▶ West Virginia Water Development Authority and the date of the issue ▶ March 8, 1989

Please Sign Here

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

Signature of officer Charles A. Townsend Date 10/10/89 Title Chairman

DAVIS, BAILEY, PFALZGRAF & HALL

ATTORNEYS AT LAW

601 AVERY STREET

POST OFFICE BOX 48

PARKERSBURG, WEST VIRGINIA 26102-0048

(304) 485-8500

TELECOPIER (304) 485-7973

FEDERAL I.D. NO. 55-0631173

FRED L. DAVIS (905-1976)
JOHN S. BAILEY, JR.
WILLIAM R. PFALZGRAF
FRED L. DAVIS, JR.
F. RICHARD HALL
WILLIAM A. TRAINER
HOWARD E. SEUFER, JR.

ROBERT J. KENT*
STEVEN R. HARDMAN
J. MICHAEL WEBER
SARA R. SIMON

*ALSO ADMITTED IN OHIO

October 10, 1989

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

Gentlemen:

We are bond counsel to Claywood Park Public Service District, Wood County, West Virginia (the "District").

We have examined a record of proceedings and other papers relating to (i) the authorization of a loan agreement, executed by the District on September 27, 1989, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the District and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a revenue bond of the District, dated October 10, 1989, (the "Local Bond"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bond is in the principal amount of \$2,801,862, issued as one bond registered as to principal and interest to the Authority, with interest payable April 1 and October 1 of each year, beginning April 1, 1990. The Bond bears interest at the rate of 8.40% per annum and is payable in principal installments on October 1 in each of the years, all as follows:

<u>Year</u>	<u>Installment</u>	<u>Interest Rate</u>
1991	\$ 10,584.97	8.40%
1992	11,474.11	8.40%
1993	12,437.93	8.40%
1994	13,482.72	8.40%
1995	14,615.27	8.40%
1996	15,842.95	8.40%
1997	17,173.76	8.40%
1998	18,616.35	8.40%
1999	20,180.13	8.40%

<u>Year</u>	<u>Installment</u>	<u>Interest Rate</u>
2000	21,875.26	8.40%
2001	23,712.78	8.40%
2002	25,704.65	8.40%
2003	27,863.84	8.40%
2004	30,204.40	8.40%
2005	32,741.57	8.40%
2006	35,491.87	8.40%
2007	38,473.18	8.40%
2008	41,704.93	8.40%
2009	45,208.14	8.40%
2010	49,005.63	8.40%
2011	53,122.10	8.40%
2012	57,584.36	8.40%
2013	62,421.44	8.40%
2014	67,664.84	8.40%
2015	73,348.69	8.40%
2016	79,509.98	8.40%
2017	86,188.82	8.40%
2018	93,428.68	8.40%
2019	101,276.69	8.40%
2020	109,783.93	8.40%
2021	119,005.78	8.40%
2022	129,002.27	8.40%
2023	139,838.46	8.40%
2024	151,584.89	8.40%
2025	164,318.02	8.40%
2026	178,120.73	8.40%
2027	193,082.87	8.40%
2028	209,301.84	8.40%
2029	226,883.19	8.40%

The Local Bond is issued, for the purpose of constructing a sewerage system treatment and collection facility in the District, paying interest on the Local Bond during the construction period and for six months thereafter, funding a bond reserve account, and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 16, Article 13A of the Code of West Virginia of 1931, as amended (the "Act"), the Resolution of the District duly enacted by the District on October 10, 1989, and a resolution supplemental thereto duly enacted October 10, 1989, (collectively the "Resolution"), pursuant to and under

which Act and Resolution the Local Bond is authorized and issued, and the Loan Agreement has been undertaken. The Local Bond is subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Resolution and the Loan Agreement.

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

1. The Loan Agreement has been duly authorized by, and executed and delivered on behalf of the District and, assuming due authorization, execution and delivery by the Authority, constitutes a valid and binding special obligation of the District enforceable in accordance with the terms thereof.

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

3. The District is a duly organized and presently existing public service district and a political subdivision of the State of West Virginia, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bond, all under the provisions of the Act and other applicable provisions of law.

4. The members and officers of the public service board of the District have been duly and properly appointed and elected, have taken the requisite oaths and are authorized to act in their respective capacities in behalf of the District.

5. The District has legally and effectively enacted the Resolution and all other necessary resolutions in connection with the issuance and sale of the Local Bond. The Resolution contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

6. The execution and delivery of the Local Bond and other documents by the District will not conflict with or cause

a breach or default on the District's part under any other agreement to which the District is a party.

7. The Local Bond is a valid and legally enforceable special obligation of the District, payable from the net revenues of the System referred to in the Resolution and secured by a first lien on and pledge of the net revenues of said System, all in accordance with the terms of the Local Bond and the Resolution, and has been duly issued and delivered to the Authority.

8. The Local Bond is, by statute, exempt from all taxation by the State of West Virginia and other taxing bodies of the State and the interest on the Local Bond is exempt from personal and corporate income taxes imposed directly thereon by the State of West Virginia.

9. Under existing law and court decisions, the interest on the Local Bond is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. However, such interest is taken into account in determining adjusted net book income for taxable years ending before January 1, 1990, and adjusted current earnings for taxable years ending after December 31, 1989, for the purpose of determining alternative minimum taxable income for corporations. Such interest is taken into account in determining adjusted net book income (adjusted current earnings for taxable years ending after December 31, 1989) for the purpose of computing the alternative minimum tax imposed on such corporations. This opinion is subject to the conditions that the District comply with all requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied subsequent to the issuance of the Local Bond in order that interest thereon be (or continue to be) excluded from gross income for federal income tax purposes. Failure to comply with such requirements could cause the interest on the Local Bond to be so included in gross income retroactive to the date of issuance of the Local Bond. The District has covenanted to comply with all such requirements. We express no opinion regarding other federal tax consequences arising with respect to the Local Bond.

10. The District has received all permits, licenses approvals and authorizations necessary for the issuance of the Local Bond, construction of the Project, operation of the System and imposition of rates and charges, including without limitation, the receipt of all requisite orders and approvals from the Public Service Commission of West Virginia, including the Final Order of the Public Service Commission of West Virginia entered September 8, 1989, (Case No. 88-655-S-CN) granting to the District a Certificate of Convenience and Necessity, and approving the proposed financing. The time for appeal of such order of the Public Service Commission of West Virginia has expired prior to the date hereof without an appeal having been filed.

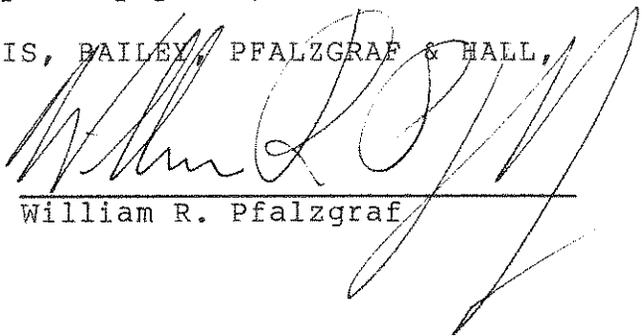
11. To the best of our knowledge, after due inquiry, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transaction contemplated by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

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

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

Very truly yours,

DAVIS, BAILEY, PFALZGRAF & HALL,

By: 
William R. Pfalzgraf

DAVIS, BAILEY, PFALZGRAF & HALL

ATTORNEYS AT LAW

601 AVERY STREET

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FEDERAL I.D. NO. 55-0631173

FRED L. DAVIS 1905-1976
JOHN S. BAILEY, JR.
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ROBERT J. KENT*
STEVEN R. HARDMAN
J. MICHAEL WEBER
SARA R. SIMON

*ALSO ADMITTED IN OHIO

October 10, 1989

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

Gentlemen:

We are bond counsel to Claywood Park Public Service District, Wood County, West Virginia (the "District").

We have examined a record of the proceedings and other papers relating to (i) the authorization of a loan agreement, executed by the District on September 27, 1989, including all schedules and exhibits attached thereto (the "Supplemental Loan Agreement"), between the District and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a supplemental, subordinate revenue bond of the District dated October 10, 1989 (the "Supplemental Bond"), to be purchased by the Authority in accordance with the provisions of the Supplemental Loan Agreement. The Supplemental Bond is in the principal amount of \$415,340, issued in the form of one bond registered as to principal to the Authority, without interest thereon, with principal payable in installments on October 1 in each of the years, all as follows:

<u>Year</u>	<u>Installment</u>	<u>Year</u>	<u>Installment</u>
1991	10,649.88	2011	10,649.74
1992	10,649.74	2012	10,649.74
1993	10,649.74	2013	10,649.74
1994	10,649.74	2014	10,649.74
1995	10,649.74	2015	10,649.74
1996	10,649.74	2016	10,649.74
1997	10,649.74	2017	10,649.74
1998	10,649.74	2018	10,649.74
1999	10,649.74	2019	10,649.74
2000	10,649.74	2020	10,649.74
2001	10,649.74	2021	10,649.74
2002	10,649.74	2022	10,649.74
2003	10,649.74	2023	10,649.74
2004	10,649.74	2024	10,649.74
2005	10,649.74	2025	10,649.74
2006	10,649.74	2026	10,649.74
2007	10,649.74	2027	10,649.74
2008	10,649.74	2028	10,649.74
2009	10,649.74	2029	10,649.74
2010	10,649.74		

West Virginia Water Development Authority
October 10, 1989
Page Two

The Supplemental Loan Agreement is supplemental to a loan agreement executed by the District on September 27, 1989, also between the District and the Authority (the "Loan Agreement"). The Supplemental Bond is junior, subordinate and inferior as to lien and source of and security for payment to the bond issued pursuant to the Loan Agreement (the "Local Bond"), which Local Bond is issued simultaneously herewith.

The Supplemental Bond is issued, together with the Local Bond, for the purpose of assisting the District in the financing of the costs of constructing and installing sewerage system treatment and collection facilities in the District, funding a bond reserve account, and paying costs of issuance and other costs incidental thereto and the financing thereof.

We have also examined the applicable provisions of Chapter 16, Article 13A of the Code of West Virginia of 1931, as amended (the "Act"), and the Bond Resolution duly enacted by the District on October 10, 1989 and a resolution supplemental thereto duly enacted October 10, 1989, (collectively the "Resolution"), pursuant to and under which Act and Resolution the Supplemental Bond is authorized and issued, and the Supplemental Loan Agreement has been undertaken. The Supplemental Bond is subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Resolution and the Supplemental Loan Agreement.

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

1. The Supplemental Loan Agreement has been duly authorized by, and executed and delivered on behalf of the District and, assuming due authorization, execution and delivery by the Authority constitutes a valid and binding special obligation of the District enforceable in accordance with the terms thereof.

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

3. The District is a duly organized and presently existing public service district and a political subdivision of the State of West Virginia, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Supplemental Loan Agreement and to issue and sell the Supplemental Bond, all under the provisions of the Act and other applicable provisions of law.

4. The members and officers of the public service board of the District have been duly and properly appointed and elected, have taken the requisite oaths and are authorized to act in their respective capacities in behalf of the District.

5. The District has legally and effectively enacted the Resolution and all other necessary resolutions in connection with the issuance and sale of the Supplemental Bond. The Resolution contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Supplemental Loan Agreement.

6. The Supplemental Bond is a valid, binding and legally enforceable special obligation of the District, payable from the net revenues of the System referred to in the Resolution and secured by a second lien on and pledge of the net revenues of said System, all in accordance with the terms of the Supplemental Bond and the Resolution and has been duly authorized, executed, issued and delivered to the Authority. Said lien and pledge are junior, subordinate and inferior to that created for the Local Bond.

7. The Supplemental Bond is, by statute, exempt from all taxation by the State of West Virginia and other taxing bodies of the State.

8. The District has received all permits, licenses approvals and authorizations necessary for the issuance of the Bond, construction of the Project, operation of the System and imposition of rates and charges, including without limitation, the receipt of all requisite orders and approvals from the Public Service Commission of West Virginia, including the Final Order of the Public Service Commission of West Virginia entered September 8, 1989, (Case No. 88-655-S-CN) granting to the District a Certificate of Convenience and Necessity, and approving the proposed financing. The time for appeal of such order of the Public Service Commission of West Virginia has expired prior to the date hereof without an appeal having been filed.

West Virginia Water Development Authority
October 10, 1989
Page Four

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

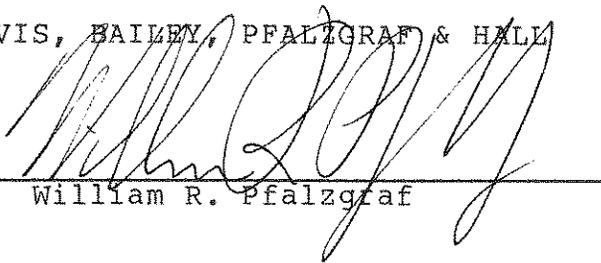
No opinion is given herein as to the effect upon enforceability of the Supplemental Bond of bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights or in the exercise of judicial discretion in appropriate cases.

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

Very truly yours,

DAVIS, BAILEY, PFALZGRAF & HALL

By



William R. Pfalzgraf

3707E

DAVIS, BAILEY, PFALZGRAF & HALL

ATTORNEYS AT LAW

601 AVERY STREET

POST OFFICE BOX 48

PARKERSBURG, WEST VIRGINIA 26102-0048

(304) 485-8500

TELECOPIER (304) 485-7973

FEDERAL I.D. NO. 55-0631173

FRED L. DAVIS 1905-1976
JOHN S. BAILEY, JR.
WILLIAM R. PFALZGRAF
FRED L. DAVIS, JR.
F. RICHARD HALL
WILLIAM A. TRAINER
HOWARD E. SEUFER, JR.

ROBERT J. KENT*
STEVEN R. HARDMAN
J. MICHAEL WEBER
SARA R. SIMON

*ALSO ADMITTED IN OHIO

October 10, 1989

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

Claywood Park Public Service District
Route 5, Box 39
Parkersburg, West Virginia 26101

RE: Claywood Park Public Service District
Sewerage System Revenue Bonds, Series A

Gentlemen:

Please refer to our approving legal opinion of even date herewith, as to the above-captioned Bond issue, which opinion is delivered herewith.

Based upon the certificate of the Public Service Board of the Claywood Park Public Service District (the "District"), of even date herewith, stating facts, estimates and circumstances with reference to arbitrage, in our opinion the Bonds are not "arbitrage bonds" under the provisions of Sections 103 and 148 of the Code. While we have undertaken no independent investigation or verification of the expectations set forth in said certificate, no matters come to our attention which make unreasonable or incorrect the statements, expectations or representations made in said certificate.

In rendering the foregoing opinion, we wish to advise you that Section 148 of the Code and the temporary regulations issued thereunder in their present form impose certain restrictions regarding the investment of proceeds of the Bonds and require, among other things, that no intentional use of any portion of the proceeds of the Bonds be made in a manner so as to cause the Bonds to constitute "arbitrage bonds" and requires that certain amounts be periodically rebated to the United States by the District, subject to the exceptions therein set forth. The failure to comply with these provisions may cause the Bonds to become

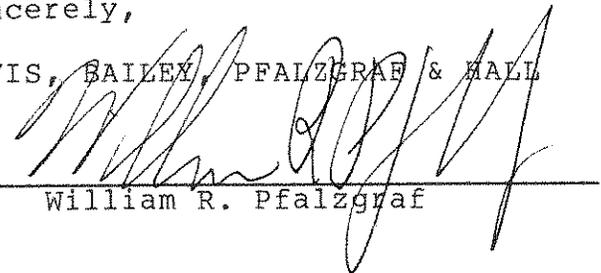
West Virginia Water Development Authority
October 10, 1989
Page 2

taxable. In rendering this opinion, we have relied upon the representations and covenants of the District to the effect that, to the extent applicable, the District will comply with said restrictions and requirements, including, without limitation, the rebate requirement. We express no opinion herein as to the taxability of the interest on the Bonds in the event of the failure to comply with the requirements and restrictions of Section 148 of the Code, as set forth hereinabove, and any rules and regulations thereunder, and the statements, expectations and representations made in said certificate.

Sincerely,

DAVIS, BAILEY, PFALZGRAF & HALL

By



William R. Pfalzgraf

3689E

DAVIS, BAILEY, PFALZGRAF & HALL

ATTORNEYS AT LAW

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SARA R. SIMON

*ALSO ADMITTED IN OHIO

October 10, 1989

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

IN RE: Claywood Park Public Service District Sewerage
System Revenue Bonds, Series A and Series B

Gentlemen:

We are counsel to Claywood Park Public Service District, a public service district, in Wood and Wirt Counties, West Virginia (the "District"). As such counsel, we have examined copies of the approving opinions of bond counsel, a loan agreement and supplemental loan agreement, both executed by the District on September 27, 1989, as supplemented and amended, by and between the West Virginia Water Development Authority (the "Authority") and the District (collectively, the "Loan Agreement"), the Local Act (as defined therein) and other documents relating to the above-captioned Bonds of the District. Terms used in said opinions, Local Act and Loan Agreement and not otherwise defined herein have the same meanings herein.

We are of the opinion that:

1. The Loan Agreement has been duly authorized, executed and delivered by the District and, assuming due authorization, execution and delivery by the Authority, constitutes a valid and binding obligation of the District enforceable in accordance with its terms, and inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the District without the consent of the Authority.

2. The members and officers of the public service board of the District have been duly and properly appointed and elected, have taken the requisite oaths, and are authorized to act in their respective capacities on behalf of the District.

West Virginia Water
Development Authority
October 10, 1989
Page 2

3. The Local Act and all other necessary resolutions have been duly and effectively adopted by the District and are in full force and effect. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

4. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transaction contemplated by the Loan Agreement, and the carrying out of the terms of either thereof, do not and will not in any material respect conflict with or constitute on the part of the District a breach of or default under any agreement or other instrument to which the District is a party or any existing law, regulation, court order or consent decree to which the District is subject.

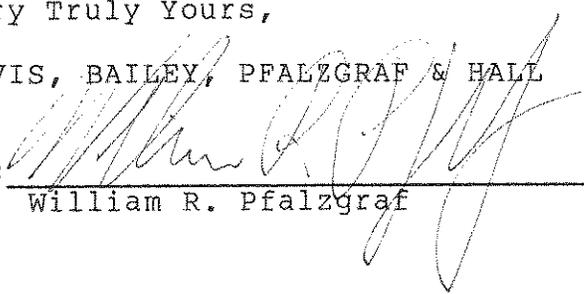
5. The District has received any and all permits, licenses, approvals and authorizations required by law or otherwise necessary for the issuance of the Bonds, construction of the Project, operation of the System and imposition of rates and charges, including without limitation, the receipt of all requisite orders and approvals from the Public Service Commission of West Virginia, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the approval and adoption in the Local Act of the rates and charges established by the Public Service Commission of West Virginia. The time for appeal of such order of the Public Service Commission of West Virginia has expired prior to the date hereof without an appeal having been filed.

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

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

Very Truly Yours,

DAVIS, BAILEY, PFALZGRAF & HALL

By: 

William R. Pfalzgraf

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

NEW ISSUE REPORT FORM

Date of Report: October 10, 1989

(See Reverse for Instructions)

ISSUER & ISSUE: <u>CLAYWOOD PARK PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BONDS, SERIES A and SERIES B</u>	
ADDRESS: <u>Rt. 5, Box 39, Parkersburg, WV</u>	COUNTY: <u>Wood</u>
PURPOSE: <u>New Money <input checked="" type="checkbox"/></u>	OF ISSUE: <u>Refunding <input type="checkbox"/></u> Refunds issue(s) dated: _____
ISSUE DATE: <u>October 10, 1989</u>	CLOSING DATE: <u>October 10, 1989</u>
ISSUE AMOUNT: <u>\$ 3,217,202</u>	RATE: <u>7.00%</u>
1st DEBT SERVICE DUE: <u>4/1/90</u>	1st PRINCIPAL DUE: <u>10/1/90</u>
1st DEBT SERVICE AMOUNT: <u>111,552.13*</u>	PAYING AGENT: <u>West Virginia Municipal Bond Commission</u>
ISSUERS: <u>Davis, Bailey, Pfalzgraf & Hall</u>	PURCHASER: <u>UNDEVELOPED</u>
BOND COUNSEL: <u>& Hall</u>	BOND COUNSEL: <u>Jackson & Kelly</u>
Contact Person: <u>William R. Pfalzgraf</u>	Contact Person: <u>Samme Gee</u>
Phone: <u>(304) 485-8500</u>	Phone: <u>(304) 340-0318</u>
DEPOSITORY BANK: <u>Commercial Banking & Trust Company</u>	ESCROW TRUSTEE: _____
Contact Person: <u>C. Randall Law</u>	Contact Person: _____
Phone: <u>(304) 424-0300</u>	Phone: _____
KNOWLEDGEABLE ISSUER CONTACT	OTHER: _____
Contact Person: <u>R. Neil Bee</u>	Contact Person: _____
Position: <u>Manager</u>	Function: _____
Phone: <u>(304) 422-6042</u>	Phone: _____
DEPOSITS TO MBC AT CLOSE: Accrued Interest: _____ Days \$ _____	
By <u>Wire</u>	Capitalized Interest: <u>\$ 361,935</u>
By <u>Check</u>	Reserve Account: Series A <u>\$ 245,942</u>
By <u>IGT</u>	Other Reserve Account: Series B <u>\$ 10,650</u>
REFUNDS & TRANSFERS BY MBC AT CLOSE:	
By <u>Wire</u>	To Escrow Trustee: \$ _____
By <u>Check</u>	To Issuer: \$ _____
By <u>IGT</u>	To CIF-State Treasury \$ _____
	To Other: \$ _____
NOTES: <u>*Calculated at 8.40% on 2,801,862 (Series A Amount) for 173 days, using 365-day year.</u>	
FOR MUNICIPAL BOND COMMISSION USE ONLY:	
DOCUMENTS REQUIRED: _____	
TRANSFERS REQUIRED: _____	

The purpose of the **NEW ISSUE REPORT FORM** is to provide the WV Municipal Bond Commission with an early warning of three basis facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

1. Formal notification that a new issue is outstanding.
2. Date of first action or debt service.
3. Contact people should we lack documents, information, or funds needed to administer the issue by the date of the first action or debt service.

The Commission recognizes that as bond transcripts become increasingly long and complex, it has become more difficult to assemble and submit them to the Commission within the 30 days specified by the WV Code 13-3-8. This notice is not intended to provide all the information needed to administer an issue, but to alert the Commission and ensure that no debt service payments are missed due to delays in assembling bond transcripts. If, at the time of closing, documents such as the ordinance and all supplements, debt service schedules, and a specimen bond or photostat are available and submitted with this form, it will greatly aid the Commission in the performance of its duties. These documents are needed to set up the proper accounts and to advise the issuer of monthly deposit requirements as far in advance of the first debt service as possible.

It is not necessary to complete all items if they are not pertinent to your issue. Indicate the County of the issuer. With PSDs that overlap more than one county, indicate the county of their business office. Complete "Rate" only if the issue has only one rate. Please complete a separate form for each series of an issue. Other important information can be recorded under "Notes".

Again, please submit this form on each new issue on the day of closing. If fund transfers into or out of the Commission at close are required, please submit this form before closing. If no significant facts change by closing, no resubmission at close is required. If, however, there are changes, please submit an updated form, with changes noted, at close.

If you should have any questions concerning this form, please call the Commission.

ASSIGNMENT SEPARATE FROM BOND

FOR VALUE RECEIVED, the West Virginia Water Development Authority hereby sells, assigns and transfers unto One Valley Bank, National Association, Charleston, West Virginia, the Sewerage System Revenue Bond, Series A, of the Claywood Park Public Service District, in the principal amount of \$2,801,862.00, numbered R-1, standing in the name of West Virginia Water Development Authority on the books of said District.

Dated: October 10, 1989.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

By Daniel B. Yakosky
Authorized Representative

3746E

CLAYWOOD PARK PUBLIC SERVICE DISTRICT

Sewerage System Revenue Bonds
Series A and Series B

CERTIFICATE OF REGISTRATION OF BONDS
October 10, 1989

I, C. Randall Law, Vice President and Senior Trust Officer of Commercial Banking & Trust Company, a state banking association, as Registrar under the Resolution and Registrar's Agreement providing for the \$3,217,202 aggregate principal amount of Sewerage System Revenue Bonds, Series A and Series B, of the Claywood Park Public Service District (the "District"), hereby certify that on the 10th day of October, 1989, the single fully registered Series A Bond of the District numbered R-1 in the principal amount of \$2,801,862.00, designated "Sewerage System Revenue Bond, Series A," and the single fully registered Series B Bond of the District numbered R-1 in the principal amount of \$415,340.00, designated "Sewerage System Revenue Bond, Series B," were registered as to principal and interest (the Series B Bond being registered as to principal only) in the name of "West Virginia Water Development Authority" in the books of the District kept for that purpose at our office, by a duly authorized officer on behalf of the Commercial Banking & Trust Company, a state banking association, as Registrar.

WITNESS my signature as of this 10th day of October,
1989:

COMMERCIAL BANKING & TRUST COMPANY,

By 
C. Randall Law, Vice President
and Senior Trust Officer

3747E

CREDIT AGREEMENT

THIS AGREEMENT, Made this 10th day of October, 1989, by and between Claywood Park Public Service District (the "Borrower") situate in Wood County, West Virginia, and Commercial Banking and Trust Company, a state banking corporation of Parkersburg, Wood County, West Virginia (the "Bank").

WHEREAS, Pursuant to a Step II/III Grant Agreement (collectively together with all supplements, attachments and waivers pertaining thereto, the "Grant Agreement") with the United States Environmental Protection Agency (the "EPA"), Borrower is to receive a Grant in the amount of \$4,108,340 from the EPA to be paid in installments during construction and in full upon completion of the Project; and

WHEREAS, the Borrower desires to arrange interim financing against the Grant proceeds to facilitate prompt acquisition and construction of the Project to be financed in part by the Grant proceeds; and

WHEREAS, the Bank is interested in lending not to exceed \$750,000 to the Borrower in construction advances with interest at the rate of the Chase Manhattan, N.A. prime rate per annum upon the amounts so advanced, which rate of interest shall be adjusted to a rate of interest equal to the Chase Manhattan Bank prime rate of interest as of the dates of such changes in the prime rate; and

WHEREAS, the Bank requires this credit agreement to state the terms upon which such advances will be made and repaid;

NOW, THEREFORE, WITNESSETH: that in consideration of the premises and of the construction advances to be made by the Bank as hereinafter provided, the Borrower covenants and agrees and makes assignment as follows:

1. The Borrower hereby assigns, sells, sets over, transfers and delivers to the Bank all its right, title and interest in and to the proceeds of the Grant in the principal amount of not to exceed \$750,000 to and only to the extent of the principal amount of construction advances made by the Bank to the Borrower and interest from the dates of takedowns of construction advances to the date of payment thereof.

2. At or immediately following the receipt of the final installment of the Grant, the Borrower will repay to the Bank the principal amount of all construction advances made hereunder and accrued interest thereon to the date of payment. Upon receipt of such repayment by the Bank, this credit agreement shall become null and void and of no further effect without the necessity of any release or other documents.

3. It is understood and agreed that before any construction advances will be made by the Bank to the Borrower, the Bank shall have received (a) assurances satisfactory to it that all terms, conditions and provisions of the Grant Agreement have been or will be satisfied by the Borrower; (b) a negotiable promissory note duly executed on behalf of the Borrower payable to the order of the Bank consistent with the provisions hereof and otherwise in such form as may be required by the Bank; (c) a certified copy of the Grant Agreement and the other documentation provided in this credit agreement or required by the Bank whether herein provided or not.

4. Prior to the making of any construction advances hereunder, the Bank shall have received from the Borrower as to each such advance (a) a periodic construction estimate for the applicable period from the engineer or architect for the Borrower; (b) a duly certified resolution of the governing body of the Borrower in form and substance satisfactory to the Bank approving each such periodic construction estimate and requesting the Bank to make a construction advance in the amount stated in such periodic construction estimate; (c) evidence that expenditures have been approved by the Consulting Engineers subject to final audit; and (d) a certificate from the Consulting Engineers that anticipated Grant receipts expected to be received will be at least sufficient to repay such construction advance with interest.

It is understood and agreed that the Bank shall be entitled to rely entirely upon such periodic construction estimates in the making of construction advances and shall be under no obligation to make any inspection of the construction work upon the Project; and it is further understood and agreed that such architect or engineer is at all times and for all purposes deemed to be the agent of the Borrower and not of the Bank.

5. The Borrower hereby covenants and agrees that it will comply with all terms, provisions and requirements of the Grant Agreement. The Borrower hereby authorizes and empowers the Bank, at the Bank's option, to act as its agent, at the expense of the Borrower, to take all steps necessary to effect such compliance prior to receipt of the Grant, if the Borrower fails to do so, any such action by the Bank not to constitute a waiver by the Bank of any of its rights hereunder.

6. Borrower hereby irrevocably covenants and agrees to proceed promptly with construction of the Project as described in the plans and specifications therefore now on file with the Secretary of the Borrower, prepared by Cerrone & Associates, Inc., Consulting Engineers of Wheeling, West Virginia.

There are attached hereto as parts hereof (1) a true, correct and complete copy of the Grant Agreement, including the acceptance by the Borrower and all supplements, amendments and waivers; and (2) a certified copy of the resolution of the governing body of the Borrower authorizing execution of this credit agreement. The Borrower covenants to furnish promptly to the Bank certified copies of all agreements, supplements, amendments and waivers pertaining to the Grant Agreement.

IN WITNESS WHEREOF, the above-named Borrower has caused its name to be signed by its Chairman on the date first above written.

CLAYWOOD PARK PUBLIC SERVICE
DISTRICT:

By Charles J. Tensas
Chairman, Public Service
District

COMMERCIAL BANKING AND TRUST
COMPANY:

By [Signature]
Its [Signature]

This instrument prepared under the direction of William R. Pfalzgraf, Attorney at Law, 601 Avery Street, Parkersburg, West Virginia 26101.

3703E

CROSS-RECEIPT FOR SERIES A BOND AND SERIES B BOND
AND SERIES A BOND PROCEEDS AND SERIES B BOND PROCEEDS

Re: Claywood Park Public Service District Sewerage
System Revenue Bonds, Series A and Series B

The undersigned, DANIEL B. YONKOSKY, Director of the West Virginia Water Development Authority, for and on behalf of West Virginia Water Development Authority (the "Authority") and CHARLES A. TOWNSEND, Chairman of the Public Service Board of the Claywood Park Public Service District (the "District"), hereby certify as follows:

1. On the 10th day of October, 1989, the Authority received the entire original issue of \$2,801,862 in principal amount of Sewerage System Revenue Bond, Series A (the "Series A Bond"), issued as one fully registered Bond number R-1.

2. On the 10th day of October, 1989, the Authority received the entire original issue of \$415,340 in principal amount of Sewerage System Revenue Bond, Series B (the "Series B Bond") (the Series A Bond and the Series B Bond being hereinafter referred to collectively as the "Bonds"), issued as one fully registered Bond number R-1.

3. At the time of such receipt of the Bonds upon original issuance, the Bonds had been executed by Charles A. Townsend, as Chairman of the Public Service Board of the District, by his manual signature, and by William Ray Maze, as Secretary of the Public Service Board of the District, by his manual signature and the official seal of the District had been affixed upon the Bonds.

4. The District has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series A Bond, of the proceeds of the Series A Bond in the principal amount of \$2,801,862.

5. The District has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series B Bond, of proceeds of the Series B Bond in the principal amount of \$380,162, leaving a balance of \$35,178, which the District expects to receive from the Authority within six (6) weeks.

IN WITNESS WHEREOF, Daniel B. Yonkosky duly signed and delivered this receipt on behalf of WEST VIRGINIA WATER DEVELOPMENT AUTHORITY and the CLAYWOOD PARK PUBLIC SERVICE DISTRICT has caused this receipt to be duly executed and delivered by the Chairman of its Public Service Board, as of this 10th day of October, 1989.

CLAYWOOD PARK PUBLIC SERVICE
DISTRICT

By: Charles A. Townsend
Charles A. Townsend, Chairman

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

By: Daniel B. Yonkosky
Daniel B. Yonkosky, Director

3700E

CLAYWOOD PARK PUBLIC SERVICE DISTRICT
\$3,217,202 SEWERAGE SYSTEM REVENUE BONDS
SERIES A AND SERIES B

REQUEST AND AUTHORIZATION TO COMMERCIAL BANKING AND
TRUST COMPANY TO AUTHENTICATE AND DELIVER THE BONDS

The Claywood Park Public Service District hereby requests and authorizes the Commercial Banking and Trust Company, Parkersburg, West Virginia, pursuant to its powers and duties as Registrar, to authenticate, register and deliver the Claywood Park Public Service District Sewerage System Revenue Bonds, Series A and Series B, in the aggregate principal amount of \$3,217,202, to the Purchaser thereof.

Dated this 10th day of October, 1989.

CLAYWOOD PARK PUBLIC SERVICE DISTRICT

BY Charles A. Townsend
Charles A. Townsend, Chairman

[SEAL]

ATTEST:

William Roy May
Secretary

3706E