

**CITY OF KINGWOOD  
WATER REVENUE BONDS, SERIES 2007 A  
(WEST VIRGINIA INFRASTRUCTURE FUND)**

**DATE OF CLOSING: JUNE 14, 2007**

**BONDS TRANSCRIPT**

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**CITY OF KINGWOOD**

**Water Revenue Bonds, Series 2007 A  
(West Virginia Infrastructure Fund)**

**BOND TRANSCRIPT**

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**CITY OF KINGWOOD**

**WATER REVENUE BONDS, SERIES 2007 A  
(WEST VIRGINIA INFRASTRUCTURE FUND)**

**BOND ORDINANCE**

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CITY OF KINGWOOD

BOND ORDINANCE

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATER SYSTEM OF THE CITY OF KINGWOOD AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$500,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2007 A (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation"), is enacted pursuant to the provisions of Chapter 8, Article 19 and Chapter 31, Article 15A of the West Virginia Code of 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

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

A. The City of Kingwood (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Preston County of said State.

B. The Issuer presently owns and operates a public water system (the "System"). However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain extensions, additions, betterments and improvements to the System of the Issuer, consisting of 11,000 linear feet of water line, five fire hydrants, one tie-in to the existing water distribution system, new meters, together with all appurtenant facilities (collectively, the "Project"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The Issuer intends to permanently finance a portion of the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority"), which administers the West Virginia Infrastructure Fund (the "Infrastructure Fund") for the West Virginia Infrastructure and Jobs Development Council (the "Council") which the Authority administers pursuant to the Act, a grant from the Governor's Partnership Program and a grant from the Council.

D. It is deemed necessary for the Issuer to issue its Water Revenue Bonds, Series 2007 A (West Virginia Infrastructure Fund), in the total aggregate principal amount of not more than \$500,000 (the "Series 2007 A Bonds"), to be initially represented by a single bond, to permanently finance a portion of the costs of acquisition and construction of the Project. The remaining costs of the Project shall be funded from the sources set forth in Section 2.01 hereof. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, upon the Series 2007 A Bonds prior to and during acquisition and construction of the Project and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Series 2007 A Bonds Reserve Account (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority, discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2007 A Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof, provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2007 A Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 40 years.

F. It is in the best interests of the Issuer that its Series 2007 A Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement (the "Loan Agreement") by and between the Issuer and the Authority on behalf of the Council, in form satisfactory to the respective parties, to be approved hereby if not previously approved by resolution of the Issuer.

G. There are outstanding obligations of the Issuer which will rank on a parity with the Series 2007 A Bonds as to liens, pledge, source of and security for payment, being the Issuer's (1) Water Revenue Bonds, Series 1987 A (West Virginia Water Development Authority), dated January 7, 1987, issued in the original aggregate principal amount of \$2,810,612 (the "Series 1987 A Bonds"); and (2) Water Revenue Bonds, Series 2001 (West Virginia Water Development Authority), dated January 18, 2001, issued in the original aggregate principal amount of \$1,139,214 (the "Series 2001 Bonds"). The Series 1987 A Bonds and the Series 2001 Bonds are hereinafter collectively called the "First Lien Bonds."

There are outstanding obligations of the Issuer which will rank junior and subordinate to the Series 2007 A Bonds as to liens, pledge of and security for payment, being the Issuer's Water Revenue Bonds, Series 1987 B (West Virginia Water Development Authority), dated January 7, 1987, issued in the original aggregate principal amount of \$689,388 (the "Series 1987 B Bonds" and, collectively with the First Lien Bonds, the "Prior Bonds").

The Series 2007 A Bonds shall be issued on a parity with the First Lien Bonds and senior and prior to the Series 1987 B Bonds with respect to liens, pledge and source of and security for payment and in all other respects. Prior to the issuance of the Series 2007 A Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the First Lien Bonds have been met; (ii) the written consent of the Holders of the First Lien Bonds to the issuance of the Series 2007 A Bonds on a parity with the First Lien Bonds; and (iii) the written consent of the Holder of the Series 1987 B Bonds to the issuance of the Series 2007 A Bonds senior and prior to the Series 1987 B Bonds. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

H. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay the principal of and interest on the Bonds (as hereinafter defined) and payments into all funds and accounts and other payments provided for herein and in the Prior Ordinances (as hereinafter defined) and all costs of operation and maintenance of the System.

I. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 2007 A Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the approval of the Project and the financing thereof by the West Virginia Infrastructure and Jobs Development Council and the obtaining of a certificate of convenience and necessity from the Public Service Commission of West Virginia by final order.

J. The Project has been reviewed and determined to be technically and financially feasible by the West Virginia Infrastructure and Jobs Development Council pursuant to Chapter 31, Article 15A of the West Virginia Code of 1931, as amended.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2007 A Bonds by the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Bondholders of any and all of such Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

"Act" means, collectively, Chapter 8, Article 19 and Chapter 31, Article 15A the West Virginia Code of 1931, as amended and in effect on the date of enactment hereof.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2007 A Bonds, or any other agency, board or department of the State that succeeds to the functions of the Authority.

"Authorized Officer" means the Mayor of the Issuer, or any other officer of the Issuer specifically designated by resolution of the Governing Body.

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

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

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

"Bonds" means, collectively, the Series 2007 A Bonds, the Prior Bonds and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

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

"Closing Date" means the date upon which there is an exchange of the Series 2007 A Bonds for all or a portion of the proceeds of the Series 2007 A Bonds from the Authority.

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

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

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

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

"Council" means the West Virginia Infrastructure and Jobs Development Council or any successor thereto.

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

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

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

"First Lien Bonds" means, collectively, the Series 1987 A Bonds and the Series 2001 Bonds.

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

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

"Grant" means any grants committed for the Project.

"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 Revenue" does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualifies Investments, as hereinafter defined, purchased pursuant to Article 8.01 hereof) or any Tap Fees as hereinafter defined.

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

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

"Issuer" means the City of Kingwood, a municipal corporation and political subdivision of the State of West Virginia, in Preston County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" means the loan agreement heretofore entered, or to be entered, into by and between the Issuer and the Authority on behalf of the Council, providing for the purchase of the Series 2007 A Bonds, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 2007 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 2007 A Bonds Reserve Account.

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

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

"Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered except (i) any Bond cancelled by the Bond Registrar, at or prior to said date; (ii) any Bond for the payment of which monies, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been

paid as provided in Article X hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any Bond registered to the Issuer.

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

"Paying Agent" means the Commission or such other entity or authority as may be designated as a Paying Agent for the Series 2007 A Bonds by the Issuer in the Supplemental Resolution with the written consent of the Authority and the Council.

"Prior Bonds" means, collectively, the Series 1987 A Bonds, the Series 1987 B Bonds and the Series 2001 Bonds.

"Prior Ordinances" means, collectively, the ordinance of the Issuer enacted December 2, 1986, authorizing the Series 1987 A Bonds and the Series 1987 B Bonds, and the ordinance of the Issuer enacted December 12, 2000, authorizing the Series 2001 Bonds.

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

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

(a) Government Obligations;

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

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

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

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, or similar banking arrangements, fully secured by investments of the types described in paragraphs (a) through (e) above, or fully insured by FDIC with member banks of the Federal Reserve System or or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia Board of Treasury Investments pursuant to Chapter 12, Article 6C of the West Virginia Code of 1931, as amended including, without limitation, authorized pools of investments operated by such State Board of Investments.

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

"Recorder" means the Recorder of the Issuer.

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

"Registrar" means the Bond Registrar.

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

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by Prior Ordinances and continued hereby.

"Reserve Accounts" means, collectively, the respective Reserve Accounts established for the Series 2007 A Bonds and the Prior Bonds.

"Reserve Requirement" means collectively, the respective amounts required to be on deposit in any Reserve Account.

"Revenue Fund" means the Revenue Fund created by the Prior Ordinances and continued hereby.

"Series 1987 A Bonds" means the Issuer's Water Revenue Bonds, Series 1987 A (West Virginia Water Development Authority), dated January 7, 1987, issued in the original aggregate principal amount of \$2,810,612.

"Series 1987 B Bonds" means the Issuer's Water Revenue Bonds, Series 1987 B (West Virginia Water Development Authority), dated January 7, 1987, issued in the original aggregate principal amount of \$689,388.

"Series 2001 Bonds" means the Issuer's Water Revenue Bonds, Series 2001 (West Virginia Water Development Authority), dated January 18, 2001, issued in the original aggregate principal amount of \$1,139,214.

"Series 2007 A Bonds" means the Water Revenue Bonds, Series 2007 A (West Virginia Infrastructure Fund), of the Issuer, authorized by this Ordinance.

"Series 2007 A Bonds Construction Trust Fund" means the Series 2007 A Bonds Construction Trust Fund established by Section 5.01 hereof.

"Series 2007 A Bonds Reserve Account" means the Series 2007 A Bonds Reserve Account established in the Series 2007 A Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 2007 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2007 A Bonds in the then current or any succeeding year.

"Series 2007 A Bonds Sinking Fund" means the Series 2007 A Bonds Sinking Fund established by Section 5.02 hereof.

"Sinking Funds" means, collectively, the respective Sinking Funds established for the Series 2007 A Bonds and the Prior Bonds.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the supplemental resolution authorizing the sale of the Series 2007 A Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2007 A Bonds, and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation or the Prior Ordinances to be set aside and held for the payment of or security for the Bonds or any other obligations of the Issuer, including, without limitation the Sinking Funds, the Reserve Accounts and the Renewal and Replacement Fund.

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

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

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

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

## ARTICLE II

### AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of the Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project at an estimated cost of not to exceed \$810,000, which will be paid from proceeds of the Series 2007 A Bonds, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2007 A Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project in an amount compatible with the financing plan submitted to the Council and the Authority.

The cost of the project is estimated not to exceed \$810,000 of which not more than \$500,000 will be obtained from the proceeds of the 2007 A Bonds; \$50,000 has been obtained as a Governor's Partnership Grant and approximately \$260,000 will be obtained from a grant from the Council.

### ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purposes of paying Costs of the Project not otherwise provided for and paying certain costs of issuance and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 2007 A Bonds of the Issuer. The Series 2007 A Bonds shall be issued as a single bond, designated "Water Revenue Bond, Series 2007 A (West Virginia Infrastructure Fund)", in the principal amount of not more than \$500,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2007 A Bonds remaining after funding of the Series 2007 A Bonds Reserve Account (if funded from Bond proceeds) and capitalizing interest on the Series 2007 A Bonds, if any, shall be deposited in or credited to the Series 2007 A Bonds Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of Bonds. The Series 2007 A Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum, payable on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the Loan Agreement. The Series 2007 A Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest, if any, on the Series 2007 A Bonds shall be paid by check or draft of the Paying Agent or its agent, mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 2007 A Bonds shall initially be issued in the form of a single bond, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of the Series 2007 A Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 2007 A Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

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

Section 3.03. Execution of Bonds. The Series 2007 A Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed the Series 2007 A Bonds shall cease to be such officer of the Issuer before the Series 2007 A Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 2007 A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 2007 A Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof, shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 2007 A Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2007 A Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting the Series 2007 A Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 2007 A Bonds remain outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain books for the registration and transfer of such Bonds.

The registered Series 2007 A Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Series 2007 A Bonds or transferring the registered Series 2007 A Bonds are exercised, all Series 2007 A Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 2007 A

Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Series 2007 A Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Series 2007 A Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2007 A Bonds or, in the case of any proposed redemption of Series 2007 A Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2007 A Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2007 A Bonds shall not, in any event, be or constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Gross Revenues derived from the operation of the System as herein provided. No holder or holders of the Series 2007 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2007 A Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Gross Revenues; Lien Positions with respect to Prior Bonds. The payment of the debt service of all Series 2007 A Bonds shall be secured by a first lien on the Gross Revenues derived from the System, on a parity with the First Lien Bonds and senior and prior to the Series 1987 B Bonds. The Gross Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 2007 A Bonds and the Prior Bonds and to make all other payments hereinafter set forth, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2007 A Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2007 A Bonds to the original purchasers upon receipt of the documents set forth below:

A. If other than the Authority, a list of the names in which the Series 2007 A Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;

B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2007 A Bonds to the original purchasers;

C. An executed and certified copy of the Bond Legislation;

D. An executed copy of the Loan Agreement;  
and

E. The unqualified approving opinion of bond counsel on the Series 2007 A Bonds.

Section 3.10. Form of Series 2007 A Bonds. The text of the Series 2007 A Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 2007 A BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF KINGWOOD  
WATER REVENUE BONDS, SERIES 2007 A  
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. AR-\_\_\_\_\_

\$\_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That on this \_\_\_ day of \_\_\_\_, 2007, the CITY OF KINGWOOD, a municipal corporation and political subdivision of the State of West Virginia in Preston County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 200\_\_, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority on behalf of the Council, dated \_\_\_\_\_, 2007.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. The existing public waterworks system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 31, Article 15A of the West Virginia Code of 1931, as amended

(collectively, the "Act"), and a Bond Ordinance duly enacted by the Issuer on \_\_\_\_\_, 2007, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2007 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (1) WATER REVENUE BONDS, SERIES 1987 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED JANUARY 7, 1987, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,810,612; AND (2) WATER REVENUE BONDS, SERIES 2001 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED JANUARY 18, 2001, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,139,214 (COLLECTIVELY, THE "FIRST LIEN BONDS").

THIS BOND IS ISSUED SENIOR AND PRIOR TO, WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, THE ISSUER'S WATER REVENUE BONDS, SERIES 1987 B (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED JANUARY 7, 1987, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$689,388 (THE "SERIES 1987 B BONDS" AND, COLLECTIVELY WITH THE FIRST LIEN BONDS, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Gross Revenues in favor of the Holders of the First Lien Bonds and senior and prior to the pledge of Gross Revenues in favor of the Holders of the Series 1987 B Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2007 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Gross Revenues, the monies in the Series 2007 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with, or subordinate to, the Bonds, including the Prior Bonds and to provide for the reasonable expenses of operation, repair and maintenance of the System, and; provided however, that so long as there exists in the Series 2007 A Bonds Reserve Account an amount

at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with, or subordinate to, the Bonds, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

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

IN WITNESS WHEREOF, the CITY OF KINGWOOD has caused this Bond to be signed by its Mayor, and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated as of the date first written above.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2007 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_, 2007.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

---

Authorized Officer



EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto  
\_\_\_\_\_  
the within Bond and does hereby irrevocably constitute and appoint  
\_\_\_\_\_, Attorney to transfer the said Bond  
on the books kept for registration of the within Bond of the said Issuer with full power of  
substitution in the premises.

Dated: \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Series 2007 A Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "Exhibit A" and made a part hereof, and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The Loan Agreement and all schedules and exhibits attached thereto are hereby approved and ratified and incorporated into this Bond Legislation.

Section 3.12. Filing of Amended Schedule. Upon completion of the acquisition and construction of the Project, the Issuer will file with the Council and the Authority a schedule for the Series 2007 A Bonds, the form of which will be provided by the Authority and the Council, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

## ARTICLE V

### FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank.

The following special funds or accounts are hereby created with (or continued if previously established by the Prior Ordinances) and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and the Issuer and from each other:

- (1) Revenue Fund (established by the Prior Ordinances);
- (2) Renewal and Replacement Fund (established by the Prior Ordinances); and
- (3) Series 2007 A Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission.

The following special funds or accounts are hereby created with (or continued if previously established by the Prior Ordinances) and shall be held by the Commission separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

- (1) Series 1987 A Sinking Fund (established by Prior Ordinance);
- (2) Series 1987 A Reserve Fund (established by Prior Ordinance);
- (3) Series 1987 B Sinking Fund (established by Prior Ordinance);
- (4) Series 1987 B Reserve Fund (established by Prior Ordinance);
- (5) Series 2001 Sinking Fund (established by Prior Ordinance);
- (6) Series 2001 Reserve Fund (established by Prior Ordinance);
- (7) Series 2007 A Bonds Sinking Fund; and
- (8) Series 2007 A Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross

Revenues derived from the operation of the System and all parts thereof shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and in the Prior Ordinances and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner provided in this Bond Legislation and in the Prior Ordinances. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

(1) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission the interest payments on the respective First Lien Bonds, as required by the Prior Ordinances.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously (i) remit to the Commission the principal payments on the respective First Lien Bonds, as required by the Prior Ordinances; and (ii) remit to the Commission, commencing 3 months prior to the first date of payment of principal of the Series 2007 A Bonds, for deposit in the Series 2007 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2007 A Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2007 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously (i) remit to the Commission for deposit in the respective reserve accounts for the First Lien Bonds, the amounts required by the Prior Ordinances to be deposited therein; and (ii) remit to the Commission, commencing 3 months prior to the first date of payment of principal of the Series 2007 A Bonds, if not fully funded upon issuance of the Series 2007 A Bonds, for deposit in the Series 2007 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2007 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2007 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2007 A Bonds Reserve Requirement.

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

(5) The Issuer shall next, on the first day of each month, from the monies remaining in the Revenue Fund, transfer to the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month (as previously set forth in the Prior Ordinances and not in addition thereto), exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, improvements or extensions to the System; provided, that any deficiencies in any

Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

(6) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission the principal payments on the Series 1987 B Bonds, as required by the Prior Ordinances.

(7) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission for deposit in the reserve account for the Series 1987 B Bonds, the amount required by the Prior Ordinances to be deposited therein.

Monies in the Series 2007 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2007 A Bonds as the same shall become due. Monies in the Series 2007 A Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the Series 2007 A Bonds as the same shall come due, when other monies in the Series 2007 A Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2007 A Bonds Sinking Fund and the Series 2007 A Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2007 A Bonds Construction Trust Fund, and following completion of 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 Series 2007 A Bonds and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2007 A Bonds Reserve Account which result in a reduction in the balance of the Series 2007 A Bonds Reserve Account to below the Series 2007 A Bonds Reserve Requirement shall be subsequently restored from the first Gross Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the Series 2007 A Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve accounts in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the Series 2007 A Bonds Sinking Fund, or the Series 2007 A Bonds Reserve Account therein when the aggregate amount of funds therein are at least equal to the aggregate principal

amount of the Series 2007 A Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

Principal, interest or reserve payments, whether for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the First Lien Bonds and Series 2007 A Bonds in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2007 A Bonds Sinking Fund and the Series 2007 A Bonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited. If required by the Authority at anytime, the Issuer shall make the necessary arrangements whereby required payments into the Series 2007 A Bonds Sinking Fund and the Series 2007 A Bonds Reserve Account shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Monies in the Series 2007 A Bonds Sinking Fund and the Series 2007 A Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

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

C. The Issuer shall on the first day of each month (if such day is not a business day, then the next succeeding business day) deposit with the Commission the required principal, interest and reserve payments with respect to the Series 2007 A Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

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

E. The monies in excess of the maximum amounts insured by FDIC in all funds and accounts shall at all times be secured, to the full extent thereof in excess of

such insured sum, by Government Obligations or by other Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

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

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

## ARTICLE VI

### APPLICATION OF BOND PROCEEDS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the monies received from the sale of the Series 2007 A Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2007 A Bonds, there shall first be deposited with the Commission in the Series 2007 A Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 2007 A Bonds for the period commencing on the date of issuance of the Series 2007 A Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 2007 A Bonds, there shall be deposited with the Commission in the Series 2007 A Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 2007 A Bonds Reserve Account.

C. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2007 A Bonds, such monies shall be deposited with the Depository Bank in the Series 2007 A Bonds Construction Trust Fund and applied solely to payment of the Costs of the Project in the manner set forth in Section 6.02 hereof and until so expended, are hereby pledged as additional security for the Series 2007 A Bonds.

D. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2007 A Bonds shall be expended as directed by the Council.

Section 6.02. Disbursements of Bond Proceeds. The Issuer shall each month provide the Council with a requisition for the costs incurred for the Project, together with such documentation as the Council shall require. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements of the proceeds of the Series 2007 A Bonds from the Series 2007 Bonds Construction Trust Fund shall be made only after submission to, and approval from, the Council of a certificate, signed by an Authorized Officer and the Consulting Engineers, stating that:

- (1) None of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;
- (2) 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;

- (3) Each of such costs has been otherwise properly incurred; and
- (4) Payment for each of the items proposed is then due and owing.

Pending such application, monies in the Series 2007 A Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

The Issuer shall expend all proceeds of the Series 2007 A Bonds within 3 years of the date of issuance of the Council's bonds, the proceeds of which were used to make the loan to the Issuer, if applicable.

## ARTICLE VII

### ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2007 A Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 2007 A Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2007 A Bonds or the interest thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2007 A Bonds shall not be nor constitute a corporate indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Series 2007 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2007 A Bonds or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Gross Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Series 2007 A Bonds shall be secured by a first lien on the Gross Revenues derived from the System, on a parity with the lien on the Gross Revenues in favor of the Holders of the First Lien Bonds and senior and prior to the lien on the Gross Revenue in favor of the Holders of the Series 1987 B Bonds. The Gross Revenues in an amount sufficient to pay the principal of and interest on the Prior Bonds and the Series 2007 A Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges , with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreement. The initial schedule of rates and charges for the services of the facilities of the System shall be as set forth in the water rate ordinance duly enacted on September 28, 2004, which rates are incorporated herein by reference as a part hereof.

So long as the Series 2007 A Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set

forth in the Bond Legislation and in compliance with the Loan Agreement. In the event the schedule of rates, fees and charges initially established for the System in connection with the Series 2007 A Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement.

Section 7.05.      Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of or encumber the System or any part thereof, except as provided in the Prior Ordinances and with the written consent of the Authority and the Council.

So long as the Series 2007 A Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the Council, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2007 A Bonds, immediately be remitted to the Commission for deposit in the Series 2007 A Bonds Sinking Fund, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to immediately apply such proceeds to the payment of principal of and interest on the Series 2007 A Bonds. Any balance remaining after the payment of all the Series 2007 A Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, in writing, 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 Revenue Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, in writing, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and the Governing Body may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding in accordance with the laws 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 be deposited in the Renewal and Replacement Fund.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 7.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2007 A Bonds and the First Lien Bonds. All obligations issued by the Issuer after the issuance of the Series 2007 A Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Series 2007 A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2007 A Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 2007 A Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

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

Section 7.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinances shall be applicable. In addition, no additional Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2007 A Bonds pursuant to this Ordinance, without the prior written consent of the Authority and the Council and without complying with the conditions and requirements herein provided (unless less restrictive than the provisions of the Prior Ordinances).

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

No Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Recorder a written statement by Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustment 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 additional Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall not be less than 115%, of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

- (1) The Bonds then Outstanding;
- (2) Any additional Parity Bonds theretofore issued pursuant to the provisions contained in the Prior Ordinances and this Bond Legislation then Outstanding; and
- (3) The additional 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 the improvements to be financed by such Parity Bonds and any increase in rates enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to the date of issuance of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Recorder prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12 consecutive month period herein above referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, as stated in a certificate, on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the time for appeal of which has expired (without successful appeal) prior to the issuance of such Parity Bonds.

All covenants and other provisions of this Ordinance (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Series 2007 A Bonds and the Holders of any Parity Bonds theretofore or subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of

any bond of one series over any other bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and account created in this Ordinance required for and on account of such Parity Bonds, in addition to the payments required for the Bonds theretofore issued pursuant to this Ordinance.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Series 2007 A Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to the lien on and source of and security for payment from such revenues, with the Series 2007 A Bonds.

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

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

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

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

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia. Separate control accounting records shall be

maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Issuer. The Issuer shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Issuer shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Council and the Authority, or any other original purchaser of the Series 2007 A Bonds, and shall mail in each year to any Holder or Holders of the Series 2007 A Bonds, requesting the same, an annual report containing the following:

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

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

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

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants (and in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto, to the extent legally required), and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 2007 A Bonds and shall submit said report to the Authority and the Council, or any other original purchaser of the Series 2007 A Bonds. Such audit report submitted to the Authority and the Council shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service requirements.

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

The Issuer shall permit the Authority and the Council, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of

operation of the Project, the Issuer shall also provide the Authority and the Council, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the Council with respect to the System pursuant to the Act.

Section 7.09.      Rates. So long as the Prior Bonds are outstanding, the Issuer will maintain rates as required in the Prior Ordinances. Prior to the issuance of the Series 2007 A Bonds, rates or charges for the use of the services and facilities of the System will be fixed and established, all in the manner and form required by law, and a copy of such rates and charges so fixed and established shall at all times be kept on file in the office of the Recorder of the Issuer, which copy will be open to inspection by all interested parties. The schedule or schedules of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds and accounts created hereunder. Such schedule or schedules 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 Issuer hereby covenants and agrees that the schedule or schedules of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System, (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Series 2007 A Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with, or subordinate to, the Series 2007 A Bonds including the Prior Bonds; provided that, in the event that, an amount equal to or in excess of the Reserve Requirement is on deposit in the Series 2007 A Bonds Reserve Account and any reserve accounts for obligations on a parity with, or subordinate to, the Series 2007 A Bonds are funded at least at the requirement therefor, such sum need only equal 110% of the maximum amount required in any year for payment of principal of and interest on the Series 2007 A Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with, or subordinate to, the Series 2007 A Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance described in Section 7.04.

The Issuer hereby covenants to commence enactment of such ordinance or ordinances as shall be required to increase the rates and charges for the services and facilities of the System within 30 days following a determination of the Independent Certified Public Accountant that less than the above-required coverage exists or in the event that the annual audit report shows less than the above-required coverage, such increase to provide rates and charges sufficient to produce such required coverage.

Section 7.10.      Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority and the Council within 30 days of adoption thereof. No expenditures for the operation and maintenance of the

System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a registered professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of a registered professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority, the Council or to any Holder of any Bonds, who shall file his or her address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him or her within 30 days of adoption thereof and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and on behalf of such Holder of any Bonds.

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

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineers in the form attached to the Loan Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Authority and the Council, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the Council is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

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

The Issuer shall employ qualified operating personnel properly certified by the State to operate the System during the entire term of the Loan Agreement.

Section 7.12. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any

franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

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

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 20 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, rates, rentals and other charges, if not paid, when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services of the System until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law.

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

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2007 A Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM,  
MALICIOUS MISCHIEF AND EXTENDED COVERAGE

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

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

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

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

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

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

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

The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project; provided that the amounts and terms of such coverage are satisfactory to the Authority and the Council. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

Section 7.16. Connections. To the extent permitted by the laws of the State and rules and regulations of the Public Service Commission of West Virginia, the Issuer shall require every owner, tenant or occupant of any house, dwelling, or building intended to be served by the System to connect thereto.

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

The Issuer will obtain all permits required by state and federal laws for the acquisition and construction of the Project and all orders and approvals from the West Virginia Public Service Commission and the West Virginia Infrastructure and Jobs Development Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for the issuance of the Series 2007 A Bonds required by State law, with all appeal periods having expired without successful appeal.

Section 7.18. Compliance with Loan Agreement and Law. The Issuer shall perform, satisfy and comply with all the terms and conditions of the Loan Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer will provide the Council with copies of all documents submitted to the Authority. The Issuer agrees to

comply with all applicable laws, rules and regulations issued by the Authority, the Council or other state, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

Section 7.19. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2007 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 2007 A Bonds and shall be on a parity with the statutory mortgage lien in favor of the Holders of the First Lien Bonds and senior and prior to the Series 1987 B Bonds.

Section 7.20. Securities Laws Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

Section 7.21. Contracts; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2007 A Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the Council for written approval. The Issuer shall obtain the written approval of the Council before expending any proceeds of the Series 2007 A Bonds held in "contingency" as set forth in the schedule attached to the certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the Council before expending any proceeds of the Series 2007 A Bonds made available due to bid or construction or project underruns.

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

## ARTICLE VIII

### INVESTMENT OF FUNDS

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

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

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year (or more often if reasonably requested by the Issuer), a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest on the Bonds from gross income for federal income tax purposes.

Section 8.02.      Certificate as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2007 A Bonds as a condition to issuance of the Series 2007 A Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2007 A Bonds as may be necessary in order to maintain the status of the Series 2007 A Bonds as governmental bonds; (ii) that it shall not take, or permit or suffer to be taken, any action with respect to the Issuer's use of the proceeds of the Series 2007 A Bonds which would cause any bonds, the interest, if any, on which is

exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority or the Council, as the case may be, from which the proceeds of the Series 2007 A Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority or the Council, to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Bond Legislation.

The Issuer shall annually furnish to the Authority information with respect to the Issuer's use of the proceeds of the Series 2007 A Bonds and any additional information requested by the Authority.

## ARTICLE IX

### DEFAULT AND REMEDIES

Section 9.01.      Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2007 A Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest, if any, on the Series 2007 A Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its respective part relating to the Series 2007 A Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2007 A Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Holder of a Bond; or

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

(4) If default occurs with respect to the Prior Bonds or the Prior Ordinances.

Section 9.02.      Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of the Series 2007 A Bonds may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Series 2007 A Bonds; (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Series 2007 A Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Series 2007 A Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Holders of the Series 2007 A Bonds shall be on a parity with the Holders of the First Lien Bonds and senior and prior to the Series 1987 B Bonds.

Section 9.03.      Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

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

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

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

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds

and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of the System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

## ARTICLE X

### PAYMENT OF BONDS

Section 10.01.      Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid, to the Holders of the Series 2007 A Bonds, the principal of and interest due or to become due thereon, if any, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Gross Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2007 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2007 A Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2007 A Bonds, no material modification or amendment of this Ordinance, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2007 A Bonds, shall be made without the consent in writing of the Registered Owners of the Series 2007 A Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the Series 2007 A Bonds or the rate of interest, if any, thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2007 A Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the excludability of interest, if any, on the Series 2007 A Bonds from gross income of the holders thereof.

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

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Series 2007 A Bonds.

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

Section 11.05. Conflicting Provisions Repealed. All ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed; provided that, in the event of any conflict between this Ordinance and the Prior Ordinances, the Prior Ordinances shall control (unless less restrictive), so long as the Prior Bonds are Outstanding.

Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the Recorder and members of the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 11.07. Effective Date. This Ordinance shall take effect immediately following public hearing and final reading hereof.

Section 11.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in *The Preston County Journal*, a newspaper published and of general circulation in the City of Kingwood, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Series 2007 A Bonds, and that any person interested may appear before the Governing Body upon a date certain, not less than ten days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

Passed on First Reading: April 24, 2007

Passed on Second Reading: May 8, 2007

Passed on Final Reading  
Following Public  
Hearing: May 23, 2007

  
\_\_\_\_\_  
Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the  
CITY OF KINGWOOD on the 23rd day of May, 2007.

Dated: June 14, 2007.

[SEAL]

  
Recorder



CITY OF KINGWOOD

Water Revenue Bonds, Series 2007 A  
(West Virginia Infrastructure Fund)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE WATER REVENUE BONDS, SERIES 2007 A (WEST VIRGINIA INFRASTRUCTURE FUND), OF THE CITY OF KINGWOOD; RATIFYING AND APPROVING A LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; APPROVING A BOND ORDINANCE; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the council (the "Governing Body") of the City of Kingwood (the "Issuer") has duly and officially adopted and enacted a bond ordinance, effective May 23, 2007 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATER SYSTEM OF THE CITY OF KINGWOOD AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$500,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2007 A (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND

DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Ordinance when used herein;

WHEREAS, the Bond Ordinance provides for the issuance of the Water Revenue Bonds, Series 2007 A (West Virginia Infrastructure Fund), of the Issuer, in the aggregate principal amount not to exceed \$500,000 (the "Bonds" or the "Series 2007 A Bonds"), and has authorized the execution and delivery of a loan agreement relating to the Bonds, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), all in accordance with Chapter 8, Article 19 and Chapter 31, Article 15A of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Bond Ordinance it is provided that the form of the Loan Agreement and the exact principal amount, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Loan Agreement has been presented to the Issuer at this meeting;

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

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Loan Agreement be approved and entered into by the Issuer, that the exact principal amount, the date, the maturity date, the redemption provisions, the interest rate, the interest and principal payment dates and the sale price of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF KINGWOOD:

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Water Revenue Bonds, Series 2007 A (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of \$265,000. The Bonds shall be dated the date of delivery thereof, shall finally mature June 1, 2047, and shall bear no interest. The principal of the Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2008, and maturing June 1, 2047, and in the amounts as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Bonds shall be subject to redemption upon the written consent of the Authority and the Council, and upon payment of a redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Bonds.

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

Section 3. The Issuer does hereby authorize, approve, ratify and accept the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the applications to the Council and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 4. The Issuer does hereby appoint and designate The Huntington National Bank, Charleston, West Virginia, to serve as Registrar (the "Registrar"), for the Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 5. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds under the Bond Ordinance.

Section 6. The Issuer does hereby appoint and designate WesBanco, Inc., Kingwood, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 7. Series 2007 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2007 A Bonds Sinking Fund, as capitalized interest.

Section 8. Series 2007 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2007 A Bonds Reserve Account.

Section 9. The balance of the proceeds of the Bonds shall be deposited in or credited to the Series 2007 A Bonds Construction Trust Fund as received from the Council from time to time for payment of costs of the Project, including, without limitation, costs of issuance of the Bonds and related costs.

Section 10. The Mayor and the Recorder are hereby authorized and directed to execute and deliver such other documents, agreements, instruments and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about June 14, 2007, to the Authority pursuant to the Loan Agreement.

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

Section 12. The Issuer does hereby approve and authorize all contracts relating to the financing, acquisition and construction of the Project.

Section 13. The Issuer hereby determines to invest all monies in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such monies to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Monies in the Series 2007 A Bonds Sinking Fund, including the Series 2007 A Bonds Reserve Account therein, shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 14. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 23rd day of May, 2007.

A handwritten signature in cursive script, appearing to read "Fred P. ...", is written above a solid horizontal line. The signature is written in black ink and includes a small flourish at the end.

Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the City of Kingwood on the 23rd day of May, 2007.

Dated: June 14, 2007.

[SEAL]

  
\_\_\_\_\_  
Recorder

485090.00004



IC-1  
(11/01/04)

LOAN AGREEMENT

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

CITY OF KINGWOOD

(Governmental Agency)

W I T N E S S E T H:

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

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

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

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

WHEREAS, the Governmental Agency has completed and filed with the Authority an Application for a Construction Loan with attachments and exhibits and an

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

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

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

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

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

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

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

## ARTICLE II

### The Project and the System

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

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

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

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

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

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

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

may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

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

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

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

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

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

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Governmental Agency by written notice to the  
{C1206272.1}

to the first date of payment of principal of the Local Bonds, if the reserve account for the Local Bonds (the "Reserve Account") was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof (which, with an approving opinion of bond counsel to the Governmental Agency, may be with a letter of credit or surety) in an amount equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

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

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

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

(b) Covenants substantially as follows:

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

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

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

{C1206272.1}

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

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

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

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

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

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

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

{C1206272.1}

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

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

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

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

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

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

{c1206272.1}

the Authority may exercise any or all of the rights and powers granted under the Act and State law, including, without limitation, the right to an appointment of a receiver.

## ARTICLE VI

### Other Agreements of the Governmental Agency

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

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

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

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

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

{C1206272.1}

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

7.10 This Loan Agreement shall terminate upon the earlier of:

- (i) the end of ninety (90) days after the date of execution hereof by the Authority or such later date as is agreed to in writing by the Council if the Governmental Agency has failed to deliver the Local Bonds to the Authority;
- (ii) termination by the Authority and the Council pursuant to Section 6.1 hereof; or
- (iii) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Governmental Agency to the Authority, acting on behalf of the Council.

EXHIBIT A

FORM OF CERTIFICATE OF CONSULTING ENGINEER

\_\_\_\_\_  
(Issuer)

\_\_\_\_\_  
(Name of Bonds)

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

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

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

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by [DEP/BPH/PSC] and any change orders approved by the Issuer, the Council and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least \_\_\_\_\_ years if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in the Schedule B attached hereto as Exhibit A and my firm<sup>1</sup> has ascertained that all

<sup>1</sup>If another responsible party, such as the Issuer's attorney, reviews the insurance and  
{C1206272.1}

EXHIBIT B

OPINION OF BOND COUNSEL FOR GOVERNMENTAL AGENCY

[To Be Dated as of Date of Loan Closing]

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

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

Ladies and Gentlemen:

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

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

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

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

EXHIBIT C

MONTHLY FINANCIAL REPORT

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

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

\_\_\_\_\_  
 Name of Person Completing Form

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Telephone

EXHIBIT D

MONTHLY PAYMENT FORM

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

Re: [Name of bond issue]

Ladies and Gentlemen:

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

Sinking Fund:

Interest	\$
Principal	\$
Total:	\$
Reserve Account:	\$

Witness my signature this \_\_\_\_ day of \_\_\_\_\_.

[Name of Governmental Agency]

By: \_\_\_\_\_  
Authorized Officer

Enclosure: copy of check(s)

SCHEDULE Y

\$265,000

City of Kingwood  
 40 Years, 0% Interest Rate  
 Closing Date: June 14, 2007

Debt Service Schedule

Part 1 of 4

Date	Principal	Coupon	Total P+I
09/01/2007	-	-	-
12/01/2007	-	-	-
03/01/2008	-	-	-
06/01/2008	-	-	-
09/01/2008	-	-	-
12/01/2008	1,710.00	-	1,710.00
03/01/2009	1,710.00	-	1,710.00
06/01/2009	1,710.00	-	1,710.00
09/01/2009	1,710.00	-	1,710.00
12/01/2009	1,710.00	-	1,710.00
03/01/2010	1,710.00	-	1,710.00
06/01/2010	1,710.00	-	1,710.00
09/01/2010	1,710.00	-	1,710.00
12/01/2010	1,710.00	-	1,710.00
03/01/2011	1,710.00	-	1,710.00
06/01/2011	1,710.00	-	1,710.00
09/01/2011	1,710.00	-	1,710.00
12/01/2011	1,710.00	-	1,710.00
03/01/2012	1,710.00	-	1,710.00
06/01/2012	1,710.00	-	1,710.00
09/01/2012	1,710.00	-	1,710.00
12/01/2012	1,710.00	-	1,710.00
03/01/2013	1,710.00	-	1,710.00
06/01/2013	1,710.00	-	1,710.00
09/01/2013	1,710.00	-	1,710.00
12/01/2013	1,710.00	-	1,710.00
03/01/2014	1,710.00	-	1,710.00
06/01/2014	1,710.00	-	1,710.00
09/01/2014	1,710.00	-	1,710.00
12/01/2014	1,710.00	-	1,710.00
03/01/2015	1,710.00	-	1,710.00
06/01/2015	1,710.00	-	1,710.00
09/01/2015	1,710.00	-	1,710.00
12/01/2015	1,710.00	-	1,710.00
03/01/2016	1,710.00	-	1,710.00
06/01/2016	1,710.00	-	1,710.00
09/01/2016	1,710.00	-	1,710.00
12/01/2016	1,710.00	-	1,710.00
03/01/2017	1,710.00	-	1,710.00
06/01/2017	1,710.00	-	1,710.00
09/01/2017	1,710.00	-	1,710.00
12/01/2017	1,710.00	-	1,710.00
03/01/2018	1,710.00	-	1,710.00
06/01/2018	1,710.00	-	1,710.00

\$265,000

City of Kingwood  
40 Years, 0% Interest Rate  
Closing Date: June 14, 2007

Debt Service Schedule

Part 3 of 4

Date	Principal	Coupon	Total P+I
09/01/2029	1,710.00	-	1,710.00
12/01/2029	1,710.00	-	1,710.00
03/01/2030	1,710.00	-	1,710.00
06/01/2030	1,710.00	-	1,710.00
09/01/2030	1,710.00	-	1,710.00
12/01/2030	1,710.00	-	1,710.00
03/01/2031	1,710.00	-	1,710.00
06/01/2031	1,710.00	-	1,710.00
09/01/2031	1,710.00	-	1,710.00
12/01/2031	1,710.00	-	1,710.00
03/01/2032	1,710.00	-	1,710.00
06/01/2032	1,710.00	-	1,710.00
09/01/2032	1,710.00	-	1,710.00
12/01/2032	1,710.00	-	1,710.00
03/01/2033	1,710.00	-	1,710.00
06/01/2033	1,710.00	-	1,710.00
09/01/2033	1,710.00	-	1,710.00
12/01/2033	1,710.00	-	1,710.00
03/01/2034	1,710.00	-	1,710.00
06/01/2034	1,710.00	-	1,710.00
09/01/2034	1,710.00	-	1,710.00
12/01/2034	1,710.00	-	1,710.00
03/01/2035	1,709.00	-	1,709.00
06/01/2035	1,709.00	-	1,709.00
09/01/2035	1,709.00	-	1,709.00
12/01/2035	1,709.00	-	1,709.00
03/01/2036	1,709.00	-	1,709.00
06/01/2036	1,709.00	-	1,709.00
09/01/2036	1,709.00	-	1,709.00
12/01/2036	1,709.00	-	1,709.00
03/01/2037	1,709.00	-	1,709.00
06/01/2037	1,709.00	-	1,709.00
09/01/2037	1,709.00	-	1,709.00
12/01/2037	1,709.00	-	1,709.00
03/01/2038	1,709.00	-	1,709.00
06/01/2038	1,709.00	-	1,709.00
09/01/2038	1,709.00	-	1,709.00
12/01/2038	1,709.00	-	1,709.00
03/01/2039	1,709.00	-	1,709.00
06/01/2039	1,709.00	-	1,709.00
09/01/2039	1,709.00	-	1,709.00
12/01/2039	1,709.00	-	1,709.00
03/01/2040	1,709.00	-	1,709.00
06/01/2040	1,709.00	-	1,709.00

SCHEDULE Z

None.



**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

**FINAL**

4/5/2007

**Issued: March 16, 2007**

**CASE NO. 06-1829-W-CN**

**CITY OF KINGWOOD**

**Application for a certificate of convenience and necessity to extend a potable water service along Preston County Route 7/13 in order to supply potable water and fire protection to 38 new customers in and around the Preston Country Club.**

**RECOMMENDED DECISION**

On November 20, 2006, the City of Kingwood (hereinafter, City or Applicant), Preston County, West Virginia, filed with the West Virginia Public Service Commission (hereinafter, Commission) an application for a certificate of convenience and necessity to construct an extension of its existing water system, to supply potable water and fire protection to 38 new customers located along Preston County Route 7/13, in and around the Preston Country Club. According to the application, the project is necessary because the prospective customers currently rely on water wells and springs on their own properties and are often without adequate water supply during periods of dry weather. The application states that the project includes construction of 11,000 linear feet of water line, five (5) new fire hydrants, one (1) tie-in to the existing water distribution line, numerous new meters and the necessary repair of streets and driveways. According to the application, the City has adequate capacity to provide additional service to the new customers and has recently improved its water distribution system and added an additional water storage tank. The application states that, "There is adequate pumping time, storage and fire protection available", and that the proposed water line extension will not unreasonably burden the Applicant's system. The estimated total project cost is \$575,000, to be financed by a grant from the West Virginia Infrastructure and Jobs Development Council (hereinafter, WVIJDC) in the amount of \$260,000; a WVIJDC loan in the amount of \$265,000, having an interest rate of 0%, repayable over a period of forty (40) years; and a Budget Digest grant in the amount of \$50,000. The application states that no rate increase is necessary for

KAG

the proposed project and that current revenues are adequate to cover the increased operation and maintenance expenses associated with this project, as well as the debt service payments associated with the WVIJDC loan. Roger Hardesty & Associates, Certified Public Accountants, prepared the Rule 42 exhibit and Financial Statements for the City. The cover letter from Roger Hardesty & Associates addressed to the City of Kingwood Water Works Board states that, "The attached Statement H indicates that the project will not have a material effect on the cash flows of the City. Therefore, a rate increase to fund this project is not necessary."

On November 20, 2006, the Commission issued a Notice of Filing in this case. It required that the City of Kingwood give notice of the filing of the certificate application, by publishing a copy of the Notice of Filing once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Preston County. The City of Kingwood was ordered to make due return to the Public Service Commission of proper certification of publication immediately after publication. The Notice of Filing stated that, "Anyone desiring to protest or intervene should file a written protest or notice of intervention within 30 days following the date of this publication unless otherwise modified by Commission Order. Failure to timely protest or intervene can affect your right to protest aspects of this certificate case, including any associated rate increases, or to participate in future proceedings." The Order also stated that, if no protests were received within the thirty (30) day period, the Commission could waive formal hearing and grant the application based on the evidence submitted with said application and its review thereof.

On November 28, 2006, the Commission issued an Amended Notice of Filing.

On December 6, 2006, the Commission issued a Referral Order in this case. The Commission referred the case to the Division of Administrative Law Judges for resolution and required that the Division of Administrative Law Judges render a decision on or before April 4, 2007, if no public protest to the certificate application is received. The Commission ordered that, if public protest to the certificate application is received during the thirty (30) day public protest period, the Division of Administrative Law Judges render a decision on or before June 18, 2007.

On December 11, 2006, Staff Attorney Meyishi P. Blair, of the Commission's Legal Division, filed the Initial Joint Staff Memorandum, along with the Initial Internal Memorandum, prepared by Utilities Analyst Michael Quinlan of the Commission's Water and Wastewater Division and Technical Analyst Sylvie Steranka of the Commission's Engineering Division. Therein, Staff recommended that the City's request for a waiver of the 30-day notice requirement be granted, pursuant to West Virginia Code 24-2-11(c), since the project has received approval from the WVIJDC. After summarizing the relevant facts, Technical Staff listed eleven (11) additional items that the City would be required to submit before a final recommendation could be filed. Staff requested that the City be required to submit the eleven (11) items within ten (10) days. Also, Staff noted its concern regarding specific discrepancies between the construction cost estimates and the

project drawings. Staff expressed its concerns regarding the possible insufficiency of the contingency allowance, in light of recent rapid escalations in construction costs and the fact that this project has not yet gone out for bids. Staff recommended that the City "carefully evaluate the project scope in order to determine in advance the best means of reducing construction costs, if necessary." In the Initial Joint Staff Memorandum, Staff Attorney Blair requested that the City promptly publish the Notice of Filing order and file the Affidavits of Publication.

On December 11, 2006, Staff Attorney Blair filed Commission Staff's First Set of Interrogatories, Data Requests or Requests for Information.

On January 2, 2007, the City of Kingwood filed Answers to Commission Staff's First Set of Interrogatories, along with numerous attachments.

Also, on January 2, 2007, additional documentation was filed with the Commission by Thrasher Engineering, the City's design engineer for this project. Copies of the Users Agreements were filed, along with certain maps from the Whetsell Settlement Water Line Extension Project; Contract No. 1 - Whetsell Settlement Water Line Extension Project April 2006 Contract Documents; and Detailed Specifications.

On January 8, 2007, copies of the West Virginia Department of Health and Human Resources, Bureau for Public Health, Office of Environmental Health Services "Sanitary Survey", dated November 15, 2006, were filed.

On January 17, 2007, Staff Attorney Blair filed a Further Initial Joint Staff Memorandum, along with an Interim Internal Memorandum, prepared by Utilities Analyst Quinlan and Technical Analyst Steranka. Therein, Technical Staff requested two (2) additional items and requested that the City of Kingwood address another area of concern, specifically, the adequacy of the water storage tank capacity. Staff requested that the City respond to its requests within ten (10) days so that Staff would be able to comply with the case processing deadline established for this case.

On January 17, 2007, Staff Attorney Blair filed Commission Staff's Second Set of Interrogatories, Data Requests or Requests for Information.

On February 5, 2007, the City of Kingwood filed its Response to Commission Staff's Second Set of Interrogatories.

On February 9, 2007, a letter was filed by Thrasher Engineering on behalf of the City of Kingwood. The letter was from Bruce E. Jenkins, of the Preston County Health Department, to Randy Watson, of Thrasher Engineering. It expressed the Preston County Health Department's strong support of the proposed water line extension to the Preston Country Club- Whetsell Settlement Area.

Mr. Jenkins stated that he knew, through years of involvement with the homes in the Preston Country Club-Whetsell Settlement Area, that the water wells were plagued by high iron content, high levels of hydrogen sulfide gas and bad odors. Some wells, he stated, had suffered bacterial contamination. He concluded that, "A public water line extension to the area will eliminate the Public Health Threat and provide the residents with a safe potable supply of water."

On February 20, 2007, a Procedural Order was issued in this case which required that the City of Kingwood file proper certification of publication of the Amended Notice of filing, on or before February 27, 2007.

Also, on February 20, 2007, Staff Attorney Blair filed a Further Initial Joint Staff Memorandum along with a Final Internal Memorandum, prepared by Utility Analyst Quinlan and Technical Analyst Steranka. After describing the project, Staff advised that the estimated total project cost was \$575,000, including an estimated construction cost of \$449,000. Staff determined that the customer density would be 17.75 customers per mile, resulting in a per linear foot cost of \$51.00 and a cost per customer of \$15,132. Staff concluded that the cost per customer was "extremely high, especially considering a slightly low customer density." Staff determined that the proposed project would increase operation and maintenance costs for the City of Kingwood by \$7,843 per year. Technical Staff noted that the City of Kingwood has applied for all necessary permits and the project plans and specifications have been approved by the West Virginia Office of Environmental Health Services. Staff expressed concerns regarding storage tank capacity within the system, specifically, the fact that the average tank capacity is lower than the recommended two (2) day domestic capacity. Staff noted that, with the addition of 38 new customers, average tank capacity would decrease even further.

Staff concluded that the proposed project is "necessary and appropriate". Staff noted specific problems in the project area regarding both water quality and water quantity issues. Staff detailed two (2) alternatives to this project that were considered and ultimately rejected by the City of Kingwood. Technical Staff concluded that "the new system will ensure safe and continuous supply of potable water to 38 new customers in the Whetsell Settlement."

Utility Analyst Quinlan reported that the project will be funded by a West Virginia Infrastructure and Jobs Development Council (hereinafter, WVIJDC) grant of \$260,000, a Budget Digest grant of \$50,000 and a WVIJDC loan of \$265,000, at 0% interest for 40 years. Staff reported that the City's Rule 42 Exhibit shows that annual revenue will increase by \$14,300 as a result of this project; that operation and maintenance expenses are projected to increase by \$7,843 annually; and that total debt service and reserve requirements are projected to increase by \$7,833 annually. Remaining cash surplus will decrease by \$1,376, with a proforma cash flow surplus of \$85,893 and debt service coverage of 140%. Financial Staff concluded that "this project is financially feasible and should be approved." Staff noted that the City's current rates are sufficient to offset the costs

Internal Memorandum and recommended that the City use it in its next ordinance adoption process to bring its tariff into conformance with the Commission's recommended tariff language.

Staff specifically recommended:

(1) The City of Kingwood be granted a Certificate of Convenience and Necessity to extend potable water service to 38 new customers in and around the Preston Country Club in the amount of \$575,000 and described in the engineering plans and contract documents submitted with this filing;

(2) Approval of project financing consisting of a Budget Digest grant of \$50,000, a WVJDC grant of \$260,000 and a WVJDC loan of \$265,000 at 0% interest for 40 years;

(3) Should the plans and/or scope of the project change, or in the event that a change in project financing affects rates, the City of Kingwood should request a reopening of the certificate case for the necessary adjustments and approval;

(4) In the event that there is a change in project costs that does not affect rates, the City of Kingwood would not be required to petition the Commission for a reopening of the certificate case, but would be required to file an affidavit signed by its Certified Public Accountant verifying that rates are not affected;

(5) The City of Kingwood shall provide a copy of the engineer's certified tabulation of bids, within ten (10) days of the bid opening date, for each construction contract or vendor bid contract to be awarded for this project;

(6) The City of Kingwood be required to notify the Commission when its engineer has performed the substantial completion inspection; and

(7) The City of Kingwood be required to adopt the standard tariff provision language recommended by Staff in its next ordinance adoption process.

On February 26, 2007, the City filed a Certificate of Publication from *The Preston Journal*, a weekly newspaper of general circulation, published at Kingwood, Preston County, West Virginia. The Certificate of Publication established that the Amended Notice of Filing was published in *The Preston Journal* on December 6, 2006.

## DISCUSSION

Commission Staff recommended approval of the City of Kingwood's certificate application and that recommendation, along with several additional recommendations, was clearly set forth in the Further Initial Joint Staff Memorandum and the Final Internal Memorandum. Both of the Staff memoranda were provided to the City of Kingwood by mail. In cover letters accompanying the Staff memoranda, the Applicant was advised that, "If you wish to respond to the enclosed Staff memorandum, you may do so in writing, within 10 days, unless directed otherwise, of this date." Also, the cover letter stated that, "Your failure to respond in writing to the utility's answer, Staff's recommendations, or other documents may result in a decision in your case based on your original filing and the other documents in the case file, without further hearing or notice." The record in this case reflects that the Applicant has not filed an objection or a response to the recommendations of Commission Staff and more than ten (10) days have passed. Therefore, it is reasonable to assume that the Applicant does not object to Staff's recommendations, particularly since Commission Staff has recommended that the Commission grant the City of Kingwood's certificate application.

Furthermore, the record reflects that the Amended Notice of Filing was properly published as a Class I legal notice, as directed in the Commission's November 28 order. The Amended Notice of Filing provided that public protests or requests for intervention regarding the City of Kingwood's certificate application be filed with the Public Service Commission within thirty (30) days of the date of publication of the Amended Notice of Filing. The Applicant later filed a Certificate of Publication establishing that publication of the Amended Notice of Filing occurred on December 6, 2006. The record reflects that no public protests and no requests to intervene were filed in this matter during the thirty (30) day public protest period. Therefore, it is reasonable to conclude that there is no objection from the public to the issuance of a certificate of convenience and necessity for the Applicant to construct the water line extension described in the certificate application.

## FINDINGS OF FACT

1. On November 20, 2006, the City of Kingwood filed an application with the Commission for a certificate of convenience and necessity to construct an extension of its existing water distribution system to provide public water and fire protection to thirty-eight (38) new customers located along Preston County Route 7/13, in and around the Preston Country Club. The project includes construction of 11,000 linear feet of water line, five (5) new fire hydrants, one (1) tie-in to the existing water distribution line, numerous new meters and the necessary repair of streets and driveways. (See, November 20, 2006 filing).

2. The City of Kingwood published the Amended Notice of Filing regarding this certificate application in *The Preston County Journal*, a weekly newspaper of general circulation, published at Kingwood, Preston County, on December 6, 2006. (See, February 26, 2007 filing).

3. A Certificate of Publication from *The Preston County Journal* was filed with the Public Service Commission by the City of Kingwood. (See, February 26, 2007 filing).

4. The total estimated project cost is \$575,000 and will be financed through a \$50,000 Budget Digest grant, a WVIJDC grant of \$260,000, and a WVIJDC loan in the amount of \$265,000, at an annual interest rate of 0% and a term of forty (40) years. (See, Final Internal Memorandum filed February 20, 2007).

5. The West Virginia Office of Environmental Health Services reviewed the plans and specifications for this project and issued Permit No. 17,060 on May 17, 2006 for installation of the public water line extension, all necessary valves and appurtenances. (See, November 20, 2006 filing).

6. The proposed water line extension will provide safe and reliable public water service and fire protection for thirty-eight (38) new customers, many of whom experience chronic water quality and water quantity problems. (See, Final Internal Memorandum filed February 20, 2007).

7. The proposed water line extension will not overburden the City of Kingwood's existing water distribution system, but will decrease the City's average tank capacity. (See, Final Internal Memorandum filed February 20, 2007).

8. Operation and maintenance expenses are projected to increase by \$7,843.00 annually as a result of the proposed water line extension. (See, Final Internal Memorandum filed February 20, 2007).

9. The City of Kingwood estimates that annual revenues will increase by \$14,300 as a result of this proposed water line extension. (See, Final Internal Memorandum filed February 20, 2007).

10. The City of Kingwood's current rate structure, effective for all service rendered on and after October 29, 2004, will generate revenue sufficient to offset the costs associated with the construction and maintenance and operation of the water line extension proposed in this certificate application, based upon financial information provided to the Commission by the City. (See, Final Internal Memorandum filed February 20, 2007).

11. The City of Kingwood's current effective rates will generate a cash flow surplus of \$85,893.00 and debt service coverage of 140%. (See, Final Internal Memorandum filed February 20, 2007).

12. A letter of commitment from the West Virginia Infrastructure and Jobs Development Council regarding the WVIJDC loan and the WVIJDC grant were filed by the City with the certificate application. (See, November 20, 2006 filing).

### CONCLUSIONS OF LAW

1. It is reasonable to grant the City of Kingwood's request for a waiver of the thirty (30) day notice requirement required by West Virginia Code 24-2-11(c), since this project has been approved by the West Virginia Infrastructure and Jobs Development Council.

2. The public convenience and necessity require the specific water line extension proposed by the City of Kingwood, described in the certificate application filed on November 20, 2006.

3. It is reasonable to approve the proposed financing for the project, consisting of a Budget Digest grant of \$50,000, a WVIJDC grant of \$260,000, and a WVIJDC loan in the amount of \$265,000, at an annual interest rate of 0%, for a term of forty (40) years.

4. It is reasonable to grant the City of Kingwood a certificate of public convenience and necessity for construction of the proposed public water line extension along Preston County Route 7/13 to provide service to thirty-eight (38) new customers in and around the Preston Country Club.

### ORDER

**IT IS, THEREFORE, ORDERED** that the certificate application filed herein on November 20, 2006, by the City of Kingwood, for a certificate of convenience and necessity to construct an extension of its existing water distribution system to provide public water service to approximately 38 new customers along Preston County Route 7/13, in the vicinity of the Preston Country Club, be, and hereby is, granted.

**IT IS FURTHER ORDERED** that the financing for the project, consisting of a Budget Digest grant of \$50,000; a WVIJDC grant of \$260,000; and a WVIJDC loan of \$265,000, at an annual interest rate of 0%, for a term of forty (40) years, be, and hereby is, approved.

**IT IS FURTHER ORDERED** that the City of Kingwood's petition for a waiver of the thirty (30) day notice requirement contained within West Virginia Code §24-2-11, be, and hereby is, granted, since the West Virginia Infrastructure and Jobs Development Council has approved this project.

**IT IS FURTHER ORDERED** that the City of Kingwood submit a certificate of substantial completion for this water line extension project from its professional engineer as soon as it becomes available.

**IT IS FURTHER ORDERED** that the City of Kingwood file a copy of the engineer's certified tabulation of bids for each construction contract or vendor bid contract awarded for this project, within ten (10) days of the bid opening date.

~~**IT IS FURTHER ORDERED** that, should there be any changes in the scope, plans or financing of the project, or if a change in project cost affects the rates approved for the project, the City of Kingwood shall obtain Commission approval of such changes, prior to commencing construction.~~

**IT IS FURTHER ORDERED** that, if there is a change in project cost that does not affect rates, the City of Kingwood is not required to obtain Commission approval of such change. However, the City of Kingwood shall, in such case, file an affidavit with the Commission, duly executed by its Certified Public Accountant, verifying that rates are not affected.

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

**IT IS FURTHER ORDERED** that this matter be, and hereby is, removed from the Commission's docket of open cases.

**IT IS FURTHER ORDERED** that the Executive Secretary shall serve a copy of this Procedural Order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this Recommended Decision is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed, this Recommended Decision shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Recommended Decision by filing an appropriate petition, in writing, with the Commission's Executive Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make an Administrative Law Judge's Recommended Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Public Service Commission.



Cecelia Gail Jarrell  
Administrative Law Judge

CGJ:s  
061829aa.wpd

*Sheila Kae Williams*

ATTORNEY AT LAW

GARDEN TOWERS, SUITE 314  
202 TUNNELTON STREET

*Kingwood, West Virginia 26537*

(304) 329-1173

February 22, 2007

(304) 329-1203 FAX

Public Service Commission of West Virginia  
201 Brooks Street  
P. O. Box 812  
Charleston, WV 25323  
ATTN: Sandra Squire  
Executive Secretary

Re: City of Kingwood/Whetsell Settlement Water  
Case No. 06-1829-W-CN

Dear Ms. Squire:

Enclosed herewith please find the original certificate of publication for the Certificate case as published upon the Order of the Commission in this Certificate case. Please file in the certificate case as appropriate.

Should you have any questions, please advise. Thank you for your attention to this matter.

Very truly yours,



Sheila Kae Williams  
Legal counsel for the City of  
Kingwood

SKW/tls  
enc.

RECEIVED  
2007 FEB 26 AM 9:04  
W VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

# Certificate of Publication

RECEIVED  
DECEMBER 26 AM 9:04  
W. VA. PUBLIC SERVICE  
COMMISSION OFFICE  
SECRETARY'S OFFICE

I, **Carol Peters**, the undersigned Advertising Manager of The Preston County Journal, a weekly newspaper of general circulation, published at Kingwood, Preston County, West Virginia, do hereby certify that the notice

City of Kingwood - Whetsell Settlement Project

a copy of which notice is hereto annexed, was published in said paper for One successive weeks, beginning with its issue of 12/6/06

and expiring with its issue of 12/6/06

And, I do further certify that on 12/6/06

I posted and left posted, a copy of said notice at the front door of the Courthouse of said county.



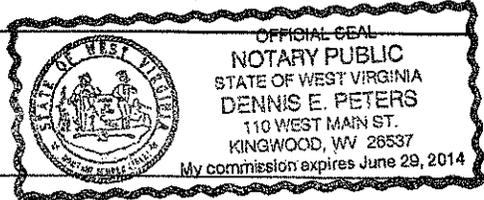
ADVERTISING MANAGER

Subscribed and sworn to before me this the 13<sup>th</sup> day of December, 2006



NOTARY PUBLIC

My commission expires 6/29/2014



Kingwood, WV \_\_\_\_\_

Received of \_\_\_\_\_

Amount for publishing notice hereto \$ \_\_\_\_\_

ADVERTISING MANAGER

**LEGAL NOTICE**  
**PUBLIC SERVICE COMMISSION**  
**OF WEST VIRGINIA**  
**CHARLESTON**

Entered by the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 28<sup>th</sup> day of November, 2006.

CASE NO. 06-1829-W-CN  
CITY OF KINGWOOD  
Kingwood, WV 26537

Application for a certificate of convenience and necessity to extend a potable water service along Preston County Route 7713 in order to supply potable water and fire protection to 38 new customers in and around the Preston Country Club.

**AMENDED NOTICE OF FILING**

WHEREAS, on November 20, 2006, the City of Kingwood (City), filed an application, duly verified, for a Certificate to extend potable water service to thirty-eight (38) new customers in and around the Preston County Club in Preston County, West Virginia. This application is on file with and available for public inspection at the Public Service Commission, 201 Brooks Street, in Charleston, West Virginia.

WHEREAS, the City estimates that construction will cost approximately \$575,000.00. It is proposed that the construction will be financed as follows: a grant of \$260,000.00 from the West Virginia Infrastructure Council; a loan of \$265,000.00 from the West Virginia Infrastructure Council at 0% for 40 years; and, a \$50,000.00 Budget Digest grant.

WHEREAS, the City anticipates charging the following water rates for its customers which are presently established:

Customers with metered water supply:

Number of Gallons/Month	Rate
First 2,000 gallons	\$7.53 per 1,000 gallons
Next 3,000 gallons	\$7.53 per 1,000 gallons
Next 35,000 gallons	\$5.03 per 1,000 gallons
All over 40,000 gallons	\$4.75 per 1,000 gallons

**MINIMUM CHARGE**

No bill shall be rendered for less than \$15.06 which is the equivalent to 2,000 gallons or the following minimum amounts according to the size of the meter installed:

5/8 inch meter, or less	\$15.06 per month
3/4 inch meter	\$22.59 per month
1 inch meter	\$37.65 per month
1 1/2 inch meter	\$75.30 per month
2 inch meter	\$120.48 per month
3 inch meter	\$225.90 per month
4 inch meter	\$376.50 per month
6 inch meter	\$753.00 per month
8 inch meter	\$1,204.80 per month

**RESALE RATE**

All water for resale to Preston County Public Service District No. 2 and the Town of Albright shall be billed at \$3.98 per 1,000 gallons used per month.

**MINIMUM CHARGE FOR RESALE**

No bill shall be rendered for less than the following amounts according to the size of meter installed:

5/8 inch meter, or less	\$12.14 per month
3/4 inch meter	\$18.21 per month
1 inch meter	\$30.35 per month
1 1/2 inch meter	\$60.70 per month
2 inch meter	\$97.12 per month
3 inch meter	\$182.10 per month
4 inch meter	\$303.50 per month
6 inch meter	\$607.00 per month
8 inch meter	\$971.20 per month

#### DELAYED PAYMENT PENALTY

The above schedule of rates is net. On all current amounts not paid in full when due, within twenty (20) days of date of bill, a ten percent (10%) penalty will be added to the net current amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

#### WATER CONNECTION CHARGE (TAP FEE)

A charge of \$300.00 will be made for every new subscriber requiring a new connection for meters of one inch or less.

Where new connections involve meters larger than one inch, the new connection will be \$350.00 or actual cost, whichever is greater.

#### RECONNECTION SERVICE CHARGE

- (a) Whenever the supply of water is turned off for violation of rules and regulations, nonpayment of bills, or fraudulent use of water, a reconnection charge in the amount of \$20.00 shall be paid as tariff for reconnecting service.
- (b) If service is discontinued at the request of a customer, the Kingwood Water Works may refuse service to such customer, at the same premises, within eight (8) months, unless said Water Works shall first receive payment in the amount of \$20.00 as a tariff for reconnecting services.

There is no rate increase due to the construction project. The project has grant funds and the current rates support the loan payments which will be incurred in constructing the water lines and installing the meters.

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

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

FOR THE COMMISSION:

Sandra Squire  
Executive Secretary

12/6



# West Virginia Infrastructure & Jobs Development Council

**Public Members:**

**Mark Prince**  
Hurricane  
**Dwight Calhoun**  
Petersburg  
**Tim Stranko**  
Morgantown  
**Dave McComas**  
Prichard

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

Jefferson E. Brady, P.E.  
Executive Director

Jefferson.Brady@verizon.net

November 3, 2006

Robert Gidley, Chairman  
City of Kingwood  
313 Tunnelton Street  
Kingwood, West Virginia 26537

Re: Binding Commitment Letter  
City of Kingwood Water Project  
Project 2003W-766

Dear Mr. Gidley:

The West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") provides this binding offer of an Infrastructure Fund loan of approximately \$265,000 (the "Loan") and an Infrastructure Fund grant of approximately \$260,000 (the "Grant") to the City of Kingwood (the "City") for above referenced water project. (Project). The Infrastructure Council has determined the Project to be technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The Loan and Grant will be subject to the terms set forth on Schedule A attached hereto and incorporated herein by reference. The final Loan and Grant amounts will be established after the City has received acceptable bids for the Project. The Infrastructure Council will set aside a portion of the Infrastructure Fund to make the Loan and Grant upon the City's compliance with the program requirements. The Loan and Grant agreements will be between the City and the West Virginia Water Development Authority (Authority), acting on behalf of the Infrastructure Council.

This commitment is contingent upon the Project meeting the following schedule:

- a. File Certificate Case with the Public Service Commission no later than November 30, 2006;
- b. Advertise for bids no later than March 1, 2007  
(The City must receive authority from the Infrastructure Council before bidding the project.)

The Infrastructure Council reserves the right to withdraw this Loan and Grant commitments if any of the above schedule dates are not met. The Infrastructure Council may, when justifiable circumstances occur, offer to modify the schedule. Any decision to modify the schedule is at the sole discretion of the Infrastructure Council.

Robert Gidley  
November 3, 2006  
Page 2

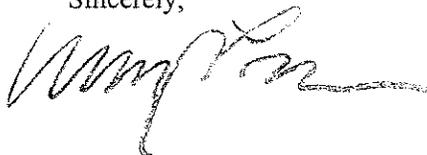
If the City becomes aware that it will not meet one or more of the above schedule dates, the City should immediately notify the Infrastructure Council of this fact and the circumstances which have caused or will cause the City to be unable to meet the schedule. In addition, please immediately notify the Infrastructure Council if any of the other dates on the attached schedule have or will not be met.

The Authority will enter into Loan and Grant agreements with the City following receipt of the completed Schedule B, a final, nonappealable order from the Public Service Commission authorizing construction of the Project, evidence of binding commitments for other funding; evidence of all permits; evidence of acceptable bids; and any other documents requested by the Infrastructure Council.

No statements or representations made before or after the issuance of this contingent commitment by any person, member of the Infrastructure Council, or agent or employee of the Authority shall be construed as approval to alter or amend this commitment, as all such amendments or alterations shall only be made in writing after approval of the Infrastructure Council.

If the City has any questions regarding this commitment, please contact Jeff Brady at the above-referenced telephone number.

Sincerely,



Mark Prince

MP/jb

Attachments

cc: Debbie Legg, WVDO  
Pat Taylor, BPH  
Matthew Fluharty, P.E., Thrasher Engineering, Inc.  
Sheila K. Williams, Esquire  
John Stump, Steptoe & Johnson

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

City of Kingwood

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

WEST VIRGINIA INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL

City of Kingwood  
Water Project 2003W-766  
November 3, 2006

SCHEDULE A

- A. Approximate Amount:       \$ 265,000    Loan  
                                      \$ 260,000    Grant
- B. Loan:               \$ 265,000
1. Maturity Date:                   40 years from date of closing.
  2. Interest Rate:                   0%
  3. Loan Advancement Date(s)       Monthly, upon receipt of proper requisition
  4. Debt Service Commencement:     The first quarter following completion of construction, which date must be identified prior to closing.
  5. Special Conditions:             None
- C. Grant:
1. Grant Advancement Date(s):     Monthly, upon receipt of proper requisition and after complete advancement of all Loan funding.
  2. Special Conditions:             None
- NOTICE:     The terms set forth above are subject to change following the receipt of construction bids.
- D. Other Funding Sources:  
      Budget Digest                       \$ 50,000
- E. Total Project Cost:                \$ 575,000

## Project Schedule

		Funding Source(s)	
<b>Utility:</b>	City of Kingwood	IJDC Loan	\$265,000
<b>County:</b>	Preston	IJDC Grant	\$260,000
<b>Project Number:</b>	2003W-766	Governor's Par. Grant	\$50,000
<b>Total:</b>			<b>\$575,000</b>

Project Milestone	Responsible Party	Start	Complete
Engineering Agreement	Thrasher	Complete	Complete
Prepare & Submit Plans & Specs to BPH	Thrasher	Complete	Complete
Plans & Specs Review & Approval	BPH	Complete	Complete
Prepare & Submit Permit Applications	Thrasher	Aug 30, '06	Aug 30, '06
Prepare Rule 42	Gerry Kirk	Aug 30, '06	Sep 30, '06
File Certificate Case with PSC	Sheila Williams	Oct 15, '06	Oct 15, '06
Review & Approve PSC Certificate (120, 180, or 270 Days)	PSC	Oct 15, '06	Apr 15, '07
Rights-of-way, Easements & Land Acquisitions	Sheila Williams	Aug '06	Sep 30, '06
Authority to Advertise for Bids	IJDC	March 1, '07	March 1, '07
Advertise	Thrasher / City	March 1, '07	March 1, '07
Bid Opening	Thrasher	Apr 1, '07	Apr 1, '07
Loan Closing	Step toe & Johnson / City	July 1, '07	July 1, '07
Construction	Contractor(s)	July 1, '07	Nov 1, '07



CITY OF KINGWOOD

Water Revenue Bonds, Series 2007 A  
(West Virginia Infrastructure Fund)

CROSS-RECEIPT FOR BOND AND BOND PROCEEDS

On this 14th day of June, 2007, the undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, and the undersigned Mayor of the City of Kingwood (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the date hereof, the Authority received the entire original issue of \$265,000 principal amount of the Water Revenue Bonds, Series 2007 A (West Virginia Infrastructure Fund), of the Issuer (the "Bonds"), issued as a single, fully registered Bond, numbered AR-1, and dated June 14, 2007.

2. At the time of such receipt of the Bonds upon original issuance, the Bonds had been executed by the Mayor and the Recorder of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been affixed upon the Bonds.

3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Bonds, of the sum of \$20,314, being a portion of the principal amount of the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer by the Authority on behalf of the West Virginia Infrastructure and Jobs Development Council as acquisition and construction of the Project progresses.

[Remainder of Page Intentionally Blank]

Dated as of the day and year first above written.

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

By: Barbara B Meadows  
Its: Authorized Representative

CITY OF KINGWOOD

By: Fred Redden  
Its: Mayor

485090.00004



CITY OF KINGWOOD

Water Revenue Bonds, Series 2007 A  
(West Virginia Infrastructure Fund)

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

The Huntington National Bank,  
as Bond Registrar  
Charleston, West Virginia

Ladies and Gentlemen:

On this 14th day of June, 2007, there are delivered to you herewith:

(1) Bond No. AR-1, constituting the entire original issue of the City of Kingwood Water Revenue Bonds, Series 2007 A (West Virginia Infrastructure Fund), in the principal amount of \$265,000, dated June 14, 2007 (the "Bonds"), executed by the Mayor and the Recorder of the City of Kingwood (the "Issuer"), and bearing the official seal of the Issuer, authorized to be issued under and pursuant to a Bond Ordinance duly enacted by the Issuer on May 23, 2007, and a Supplemental Resolution duly adopted by the Issuer on May 23, 2007 (collectively, the "Bond Legislation");

(2) A copy of the Bond Legislation authorizing the above-captioned Bond issue, duly certified by the Recorder of the Issuer;

(3) Executed counterparts of the loan agreement dated June 14, 2007 (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Infrastructure and Jobs Development Council; and

(4) An executed opinion of nationally recognized bond counsel regarding the validity of the Loan Agreement and the Bonds.

You are hereby requested and authorized to deliver the Bonds to the Authority upon payment to the Issuer of the sum of \$20,314, representing a portion of the principal amount of the Bonds. Prior to such delivery of the Bonds, you will please cause the Bonds to be authenticated and registered by an authorized officer, as Bond Registrar, in accordance with the form of Certificate of Authentication and Registration thereon.

Dated as of the date first written above.

CITY OF KINGWOOD

By:   
Its: Mayor



**SPECIMEN**

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF KINGWOOD  
WATER REVENUE BONDS, SERIES 2007 A  
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. AR-1

\$265,000

KNOW ALL MEN BY THESE PRESENTS: That on this 14th day of June, 2007, the CITY OF KINGWOOD, a municipal corporation and political subdivision of the State of West Virginia in Preston County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of TWO HUNDRED SIXTY FIVE THOUSAND DOLLARS (\$265,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2008, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority on behalf of the Council, dated June 14, 2007.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. The existing public waterworks system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 31, Article 15A of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Ordinance duly enacted by the Issuer on May 23, 2007, and a Supplemental Resolution duly adopted by the Issuer on May 23, 2007 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for

**SPECIMEN**

the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (1) WATER REVENUE BONDS, SERIES 1987 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED JANUARY 7, 1987, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,810,612; AND (2) WATER REVENUE BONDS, SERIES 2001 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED JANUARY 18, 2001, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,139,214 (COLLECTIVELY, THE "FIRST LIEN BONDS").

THIS BOND IS ISSUED SENIOR AND PRIOR TO, WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, THE ISSUER'S WATER REVENUE BONDS, SERIES 1987 B (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED JANUARY 7, 1987, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$689,388 (THE "SERIES 1987 B BONDS" AND, COLLECTIVELY WITH THE FIRST LIEN BONDS, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Gross Revenues in favor of the Holders of the First Lien Bonds and senior and prior to the pledge of Gross Revenues in favor of the Holders of the Series 1987 B Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2007 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Gross Revenues, the monies in the Series 2007 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with, or subordinate to, the Bonds, including the Prior Bonds and to provide for the reasonable expenses of operation, repair and maintenance of the System, and; provided however, that so long as there exists in the Series 2007 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with, or subordinate to, the Bonds, including the Prior Bonds, an amount at least equal to the requirement therefor,

**SPECIMEN**

such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

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

IN WITNESS WHEREOF, the CITY OF KINGWOOD has caused this Bond to be signed by its Mayor, and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated as of the date first written above.

[SEAL]

*[Handwritten Signature]*  
Mayor

**SPECIMEN**

ATTEST:

*[Handwritten Signature]*  
Recorder

**SPECIMEN**

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2007 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: June 14, 2007.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

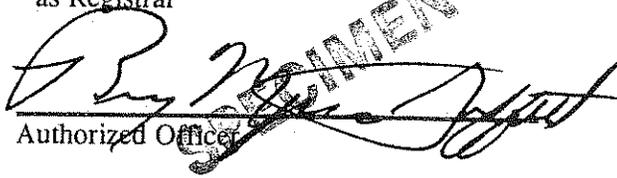
  
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$20,314	June 14, 2007	(19) \$	
(2) \$		(20) \$	
(3) \$		(21) \$	
(4) \$		(22) \$	
(5) \$		(23) \$	
(6) \$		(24) \$	
(7) \$		(25) \$	
(8) \$		(26) \$	
(9) \$		(27) \$	
(10) \$		(28) \$	
(11) \$		(29) \$	
(12) \$		(30) \$	
(13) \$		(31) \$	
(14) \$		(32) \$	
(15) \$		(33) \$	
(16) \$		(34) \$	
(17) \$		(35) \$	
(18) \$		(36) \$	

TOTAL \$ \_\_\_\_\_

**SPECIMEN**

EXHIBIT B

DEBT SERVICE SCHEDULE

\$265,000

City of Kingwood (West Virginia)  
40 Years, 0% Interest Rate  
Closing Date: June 14, 2007

**SPECIMEN**

**Debt Service Schedule**

Part 1 of 4

Date	Principal	Coupon	Total P+I
09/01/2007	-	-	-
12/01/2007	-	-	-
03/01/2008	-	-	-
06/01/2008	-	-	-
09/01/2008	-	-	-
12/01/2008	1,710.00	-	1,710.00
03/01/2009	1,710.00	-	1,710.00
06/01/2009	1,710.00	-	1,710.00
09/01/2009	1,710.00	-	1,710.00
12/01/2009	1,710.00	-	1,710.00
03/01/2010	1,710.00	-	1,710.00
06/01/2010	1,710.00	-	1,710.00
09/01/2010	1,710.00	-	1,710.00
12/01/2010	1,710.00	-	1,710.00
03/01/2011	1,710.00	-	1,710.00
06/01/2011	1,710.00	-	1,710.00
09/01/2011	1,710.00	-	1,710.00
12/01/2011	1,710.00	-	1,710.00
03/01/2012	1,710.00	-	1,710.00
06/01/2012	1,710.00	-	1,710.00
09/01/2012	1,710.00	-	1,710.00
12/01/2012	1,710.00	-	1,710.00
03/01/2013	1,710.00	-	1,710.00
06/01/2013	1,710.00	-	1,710.00
09/01/2013	1,710.00	-	1,710.00
12/01/2013	1,710.00	-	1,710.00
03/01/2014	1,710.00	-	1,710.00
06/01/2014	1,710.00	-	1,710.00
09/01/2014	1,710.00	-	1,710.00
12/01/2014	1,710.00	-	1,710.00
03/01/2015	1,710.00	-	1,710.00
06/01/2015	1,710.00	-	1,710.00
09/01/2015	1,710.00	-	1,710.00
12/01/2015	1,710.00	-	1,710.00
03/01/2016	1,710.00	-	1,710.00
06/01/2016	1,710.00	-	1,710.00
09/01/2016	1,710.00	-	1,710.00
12/01/2016	1,710.00	-	1,710.00
03/01/2017	1,710.00	-	1,710.00
06/01/2017	1,710.00	-	1,710.00
09/01/2017	1,710.00	-	1,710.00
12/01/2017	1,710.00	-	1,710.00
03/01/2018	1,710.00	-	1,710.00
06/01/2018	1,710.00	-	1,710.00

\$265,000

City of Kingwood (West Virginia)

40 Years, 0% Interest Rate

Closing Date: June 14, 2007

**SPECIMEN**

**Debt Service Schedule**

Part 2 of 4

Date	Principal	Coupon	Total P+I
09/01/2018	1,710.00	-	1,710.00
12/01/2018	1,710.00	-	1,710.00
03/01/2019	1,710.00	-	1,710.00
06/01/2019	1,710.00	-	1,710.00
09/01/2019	1,710.00	-	1,710.00
12/01/2019	1,710.00	-	1,710.00
03/01/2020	1,710.00	-	1,710.00
06/01/2020	1,710.00	-	1,710.00
09/01/2020	1,710.00	-	1,710.00
12/01/2020	1,710.00	-	1,710.00
03/01/2021	1,710.00	-	1,710.00
06/01/2021	1,710.00	-	1,710.00
09/01/2021	1,710.00	-	1,710.00
12/01/2021	1,710.00	-	1,710.00
03/01/2022	1,710.00	-	1,710.00
06/01/2022	1,710.00	-	1,710.00
09/01/2022	1,710.00	-	1,710.00
12/01/2022	1,710.00	-	1,710.00
03/01/2023	1,710.00	-	1,710.00
06/01/2023	1,710.00	-	1,710.00
09/01/2023	1,710.00	-	1,710.00
12/01/2023	1,710.00	-	1,710.00
03/01/2024	1,710.00	-	1,710.00
06/01/2024	1,710.00	-	1,710.00
09/01/2024	1,710.00	-	1,710.00
12/01/2024	1,710.00	-	1,710.00
03/01/2025	1,710.00	-	1,710.00
06/01/2025	1,710.00	-	1,710.00
09/01/2025	1,710.00	-	1,710.00
12/01/2025	1,710.00	-	1,710.00
03/01/2026	1,710.00	-	1,710.00
06/01/2026	1,710.00	-	1,710.00
09/01/2026	1,710.00	-	1,710.00
12/01/2026	1,710.00	-	1,710.00
03/01/2027	1,710.00	-	1,710.00
06/01/2027	1,710.00	-	1,710.00
09/01/2027	1,710.00	-	1,710.00
12/01/2027	1,710.00	-	1,710.00
03/01/2028	1,710.00	-	1,710.00
06/01/2028	1,710.00	-	1,710.00
09/01/2028	1,710.00	-	1,710.00
12/01/2028	1,710.00	-	1,710.00
03/01/2029	1,710.00	-	1,710.00
06/01/2029	1,710.00	-	1,710.00

\$265,000

City of Kingwood (West Virginia)  
40 Years, 0% Interest Rate  
Closing Date: June 14, 2007

**SPECIMEN**

**Debt Service Schedule**

Part 3 of 4

Date	Principal	Coupon	Total P+I
09/01/2029	1,710.00	-	1,710.00
12/01/2029	1,710.00	-	1,710.00
03/01/2030	1,710.00	-	1,710.00
06/01/2030	1,710.00	-	1,710.00
09/01/2030	1,710.00	-	1,710.00
12/01/2030	1,710.00	-	1,710.00
03/01/2031	1,710.00	-	1,710.00
06/01/2031	1,710.00	-	1,710.00
09/01/2031	1,710.00	-	1,710.00
12/01/2031	1,710.00	-	1,710.00
03/01/2032	1,710.00	-	1,710.00
06/01/2032	1,710.00	-	1,710.00
09/01/2032	1,710.00	-	1,710.00
12/01/2032	1,710.00	-	1,710.00
03/01/2033	1,710.00	-	1,710.00
06/01/2033	1,710.00	-	1,710.00
09/01/2033	1,710.00	-	1,710.00
12/01/2033	1,710.00	-	1,710.00
03/01/2034	1,710.00	-	1,710.00
06/01/2034	1,710.00	-	1,710.00
09/01/2034	1,710.00	-	1,710.00
12/01/2034	1,710.00	-	1,710.00
03/01/2035	1,709.00	-	1,709.00
06/01/2035	1,709.00	-	1,709.00
09/01/2035	1,709.00	-	1,709.00
12/01/2035	1,709.00	-	1,709.00
03/01/2036	1,709.00	-	1,709.00
06/01/2036	1,709.00	-	1,709.00
09/01/2036	1,709.00	-	1,709.00
12/01/2036	1,709.00	-	1,709.00
03/01/2037	1,709.00	-	1,709.00
06/01/2037	1,709.00	-	1,709.00
09/01/2037	1,709.00	-	1,709.00
12/01/2037	1,709.00	-	1,709.00
03/01/2038	1,709.00	-	1,709.00
06/01/2038	1,709.00	-	1,709.00
09/01/2038	1,709.00	-	1,709.00
12/01/2038	1,709.00	-	1,709.00
03/01/2039	1,709.00	-	1,709.00
06/01/2039	1,709.00	-	1,709.00
09/01/2039	1,709.00	-	1,709.00
12/01/2039	1,709.00	-	1,709.00
03/01/2040	1,709.00	-	1,709.00
06/01/2040	1,709.00	-	1,709.00

\$265,000

City of Kingwood (West Virginia)

40 Years, 0% Interest Rate

Closing Date: June 14, 2007

SPECIMEN

## Debt Service Schedule

Part 4 of 4

Date	Principal	Coupon	Total P+I
09/01/2040	1,709.00	-	1,709.00
12/01/2040	1,709.00	-	1,709.00
03/01/2041	1,709.00	-	1,709.00
06/01/2041	1,709.00	-	1,709.00
09/01/2041	1,709.00	-	1,709.00
12/01/2041	1,709.00	-	1,709.00
03/01/2042	1,709.00	-	1,709.00
06/01/2042	1,709.00	-	1,709.00
09/01/2042	1,709.00	-	1,709.00
12/01/2042	1,709.00	-	1,709.00
03/01/2043	1,709.00	-	1,709.00
06/01/2043	1,709.00	-	1,709.00
09/01/2043	1,709.00	-	1,709.00
12/01/2043	1,709.00	-	1,709.00
03/01/2044	1,709.00	-	1,709.00
06/01/2044	1,709.00	-	1,709.00
09/01/2044	1,709.00	-	1,709.00
12/01/2044	1,709.00	-	1,709.00
03/01/2045	1,709.00	-	1,709.00
06/01/2045	1,709.00	-	1,709.00
09/01/2045	1,709.00	-	1,709.00
12/01/2045	1,709.00	-	1,709.00
03/01/2046	1,709.00	-	1,709.00
06/01/2046	1,709.00	-	1,709.00
09/01/2046	1,709.00	-	1,709.00
12/01/2046	1,709.00	-	1,709.00
03/01/2047	1,709.00	-	1,709.00
06/01/2047	1,709.00	-	1,709.00
<b>Total</b>	<b>\$265,000.00</b>	-	<b>\$265,000.00</b>

### Yield Statistics

Bond Year Dollars	\$5,488.52
Average Life	20.711 Years
Average Coupon	-
Net Interest Cost (NIC)	-
True Interest Cost (TIC)	1.50E-10
Bond Yield for Arbitrage Purposes	1.50E-10
All Inclusive Cost (AIC)	1.50E-10

### IRS Form 8038

Net Interest Cost	-
Weighted Average Maturity	20.711 Years

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto  
the within Bond and does hereby irrevocably constitute and appoint  
\_\_\_\_\_, Attorney to transfer the said Bond on the books  
kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: \_\_\_\_\_, \_\_\_\_\_.

In the presence of:

\_\_\_\_\_

\_\_\_\_\_

SPECIMEN

SPECIMEN



June 14, 2007

City of Kingwood  
Water Revenue Bonds, Series 2007 A  
(West Virginia Infrastructure Fund)

City of Kingwood  
Kingwood, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Infrastructure and Jobs Development Council  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the City of Kingwood (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia, of its \$265,000 Water Revenue Bonds, Series 2007 A (West Virginia Infrastructure Fund), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a loan agreement, dated June 14, 2007, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal only to the Authority, bearing no interest, with principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2008, and maturing June 1, 2047, all as set forth in "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 8, Article 19 and Chapter 31, Article 15A of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public water system of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act, the Bond Ordinance duly enacted by the Issuer on May 23, 2007, as supplemented by a Supplemental Resolution duly adopted by the Issuer on May 23, 2007 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the Loan Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the Loan Agreement when used herein.

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

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

2. The Loan Agreement has been duly authorized by and executed on behalf of the Issuer, is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the Council and cannot be amended so as to affect adversely the rights of the Authority or the Council or diminish the obligations of the Issuer without the written consent of the Authority and the Council.

3. The Bond Legislation and all other necessary ordinances and resolutions have been duly and effectively enacted and adopted by the Issuer and constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms. The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Gross Revenues of the System referred to in the Bond Legislation and secured by a first lien on and pledge of the Gross Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Water Revenue Bonds, Series 1987 A (West Virginia Water Development Authority), dated January 7, 1987, issued in the original aggregate principal amount of \$2,810,612 (the "Series 1987 A Bonds"), and Water Revenue Bonds, Series 2001 (West Virginia Water Development Authority), dated January 18, 2001, issued in the original aggregate principal amount of \$1,139,214 (the "Series 2001 Bonds") (collectively, the "First Lien Bonds") and senior and prior to, with respect to liens, pledge and source of and security for payment the Issuer's Water Revenue Bonds, Series 1987 B (West Virginia Water Development Authority), dated January 7, 1987, issued in the original aggregate principal amount of \$689,388 (the "Series 1987 B Bonds"), all in accordance with the terms of the Bonds and the Bond Legislation. The Issuer has obtained the written consent of the holders of the First Lien Bonds and the Series 1987 B Bonds to the issuance of the Bonds on a parity with the First Lien Bonds, and senior and prior to the Series 1987 B Bonds.

5. The Bonds are, under the Act, exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof, and the interest on the Bonds, if any, is exempt from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

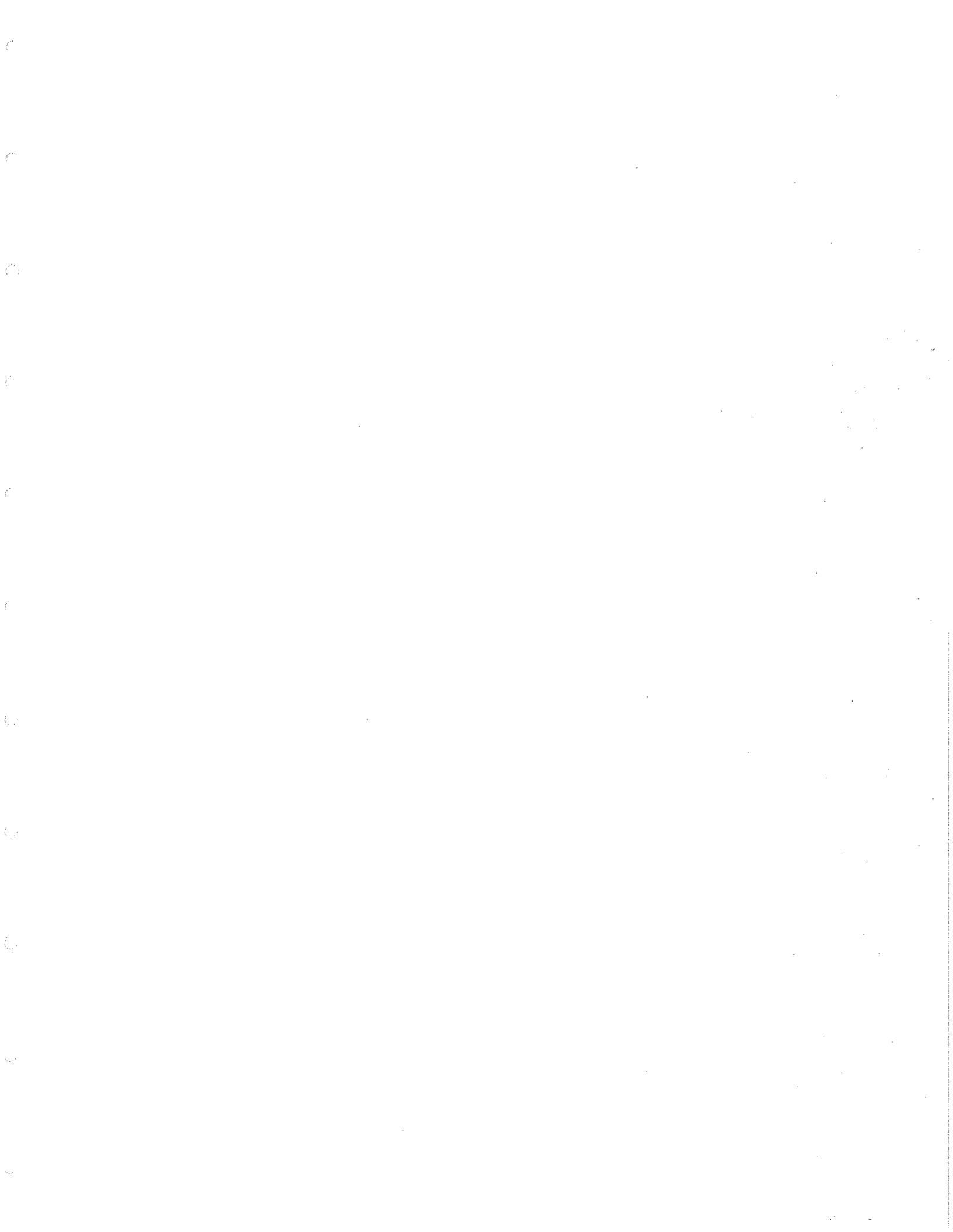
6. The Bonds have not been issued on the basis that the interest, if any, thereon is or will be excluded from gross income for federal income tax purposes. We express no opinion regarding the excludability of such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds, the Loan Agreement and the Bond Legislation, and the liens and pledges set forth therein, may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

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

Very truly yours,

  
STEPHENS & JOHNSON PLLC



*Sheila Kae Williams*

ATTORNEY AT LAW

GARDEN TOWERS, SUITE 314

202 TUNNELTON STREET

*Kingwood, West Virginia 26537*

(304) 329-1173

(304) 329-1203 FAX

June 14, 2007

City of Kingwood  
Water Revenue Bonds, Series 2007 A  
(West Virginia Infrastructure Fund)

City of Kingwood  
Kingwood, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Infrastructure and Jobs Development Council  
Charleston, West Virginia

Steptoe & Johnson PLLC  
Clarksburg, West Virginia

Ladies and Gentlemen:

I am counsel to the City of Kingwood in Preston County, West Virginia (the "Issuer"), in connection with the above-captioned bond issue. As such counsel, I have examined copies of the approving opinion of Steptoe & Johnson PLLC, as bond counsel, a loan agreement dated June 14, 2007, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), a Bond Ordinance duly enacted by the Issuer on May 23, 2007, as supplemented by a Supplemental Resolution duly adopted by the Issuer on May 23, 2007 (collectively, the "Bond Legislation"), and other documents and papers relating to the Issuer and the above-captioned Bonds of the Issuer (the "Bonds"). All capitalized terms used herein and not otherwise defined herein shall have the same meanings as set forth in the Bond Legislation and the Loan Agreement when used herein.

I am of the opinion that:

1. The Issuer has been duly created and is validly existing as a municipal corporation

and political subdivision of the State of West Virginia, and the Mayor, Recorder and members of the Council of the Issuer have been duly and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act on behalf of the Issuer in their respective capacities.

2. The Bond Legislation has been duly adopted and enacted by the Issuer and is in full force and effect.

3. The Loan Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority, and the Council constitutes a valid and binding agreement of the Issuer enforceable in accordance with its terms.

4. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transactions contemplated by the Bonds, the Loan Agreement and the Bond Legislation, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any ordinance, order, resolution, agreement, or other instrument to which the Issuer is a party or any existing law, regulation, court order or consent decree to which the Issuer is subject.

5. The Issuer has received all permits, licenses, approvals, exemptions, consents, registrations, certificates and authorizations required by law for the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for the use of the System, including without limitation, the receipt of all requisite orders and approvals from the West Virginia Bureau for Public Health, the West Virginia Infrastructure and Jobs Development Council and the Public Service Commission of West Virginia, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of ordinances prescribing such rates and charges. The time for appeal of such rate ordinances has expired prior to the date hereof without appeal.

6. The Issuer has received the Recommended Decision of the Public Service Commission of West Virginia entered on March 16, 2007, which became a final order on April 5, 2007, in Case No. 06-1829-W-CN, granting the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the Final Order has expired prior to the date hereof. Such Order remains in full force and effect.

7. To the best of my knowledge, there is no litigation, action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Loan Agreement, the Bond Legislation, the acquisition and construction of the Project, the operation of the System, or the validity of the Bonds or the collection or pledge of the Gross Revenues therefor.

8. All successful bidders have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy. Based upon my review of the contracts, the surety bonds and policies or other evidence of insurance coverage in connection with the Project, I am of the opinion that such surety bonds and policies (i) are in compliance with the contracts; (ii) are adequate in form, substance and amount to protect the various interests of the Issuer; (iii) have been executed by duly authorized representatives of the proper parties; (iv) meet the requirements of the Act, the Bond Legislation and the Loan Agreement; and (v) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

City of Kingwood, et al.  
Page 3

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very truly yours,

A handwritten signature in cursive script that reads "Sheila Kae Williams". The signature is written in black ink and is positioned above the printed name.

SHEILA KAE WILLIAMS



*Sheila Rae Williams*

ATTORNEY AT LAW

GARDEN TOWERS, SUITE 314

202 TUNNELTON STREET

*Kingwood, West Virginia 26537*

(304) 329-1173

(304) 329-1203 FAX

June 14, 2007

West Virginia Infrastructure and Jobs Development Council  
300 Summers Street, Suite 980  
Charleston, WV 25301  
ATTN: Jeff Brady

Re: City of Kingwood Water Project/Whetsell Settlement

Dear Mr. Brady:

This law firm is counsel to the City of Kingwood (the "Issuer") in connection with a project to construct certain additions and improvements to its water system, including a waterline extension for Whetsell Settlement situate near Kingwood, in Preston County, West Virginia (the "Project"). I am providing this final title opinion on behalf of the Issuer to satisfy the requirements of the West Virginia Infrastructure and Jobs Development Council (the "Council") for the Project. Please be advised of the following:

1. I am of the opinion that the Issuer is a duly created and validly existing municipality possessed with all the powers and authority granted to municipalities under the laws of the State of West Virginia to construct, operate and maintain the Project as approved by the West Virginia Bureau of Public Health ("BPH").
2. In accordance with information provided to the undersigned by the project engineer, the Issuer has obtained all necessary permits and approvals for the construction of the Project.
3. I have investigated and ascertained the location of, and am familiar with the legal description of, the necessary sites, including easements and/or rights of way, required for the Project as set forth in the plans for the Project prepared by Thrasher Engineering, the consulting engineers for the Project.
4. I have examined the records on file in the Office of the Clerk of the County Commission of Preston County, West Virginia, the county in which the Project is to be located, and, in my opinion, the Issuer has acquired legal title or such other estate or interest in all required necessary site components for the Project, including easements and/or rights of way, as set forth in the plans for the Project and in accordance with information provided to the undersigned by Thrasher Engineering, the consulting engineers for the Project, sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the Project.
5. All easements and rights of way which have been acquired by the Issuer have been duly recorded in the Office of the Clerk of the County Commission of Preston County to protect the legal title to and interest of the Issuer.

Very truly yours,

A handwritten signature in cursive script that reads "Sheila Kae Williams". The signature is written in black ink and is positioned above the printed name.

Sheila Kae Williams

Legal Counsel for the City of Kingwood



CITY OF KINGWOOD

Water Revenue Bonds, Series 2007 A  
(West Virginia Infrastructure Fund)

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. CERTIFICATION OF COPIES OF DOCUMENTS
6. INCUMBENCY AND OFFICIAL NAME
7. LAND AND RIGHTS-OF-WAY
8. MEETINGS, ETC.
9. CONTRACTORS' INSURANCE, ETC.
10. LOAN AGREEMENT
11. RATES
12. SIGNATURES AND DELIVERY
13. BOND PROCEEDS
14. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE
15. PUBLIC SERVICE COMMISSION ORDERS
16. SPECIMEN BOND
17. CONFLICT OF INTEREST
18. GRANT
19. EXECUTION OF COUNTERPARTS

On this 14th day of June, 2007, we, the undersigned MAYOR and RECORDER of the City of Kingwood in Preston County, West Virginia (the "Issuer"), and the undersigned COUNSEL TO THE ISSUER, hereby certify in connection with the City of Kingwood Water Revenue Bonds, Series 2007 A (West Virginia Infrastructure Fund), dated the date hereof (the "Bonds" or the "Series 2007 A Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning as in the Bond Ordinance of the Issuer duly enacted May 23, 2007, and the Supplemental Resolution duly adopted May 23, 2007 (collectively, the "Bond Legislation").

2. NO LITIGATION: 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, the acquisition and construction of the Project, the operation of the System, the receipt of the Gross Revenues, or in any way contesting or affecting the validity of the Bonds, or any proceedings of the Issuer taken with respect to the issuance or sale of the Bonds, the pledge or application of the Gross Revenues or any other moneys or security

provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Bonds, the acquisition and construction of the Project, the operation of the System, the pledge or application of moneys and security or the collection of the Gross Revenues.

3. **GOVERNMENTAL APPROVALS AND BIDDING:** All applicable approvals, permits, exemptions, consents, authorizations, registrations and certificates required by law for the acquisition and construction of the Project, the operation of the System and the issuance of the Bonds have been obtained and remain in full force and effect, and competitive bids for the acquisition and construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the West Virginia Code of 1931, as amended, which bids remain in full force and effect.

4. **NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS:** There has been no adverse change in the financial condition of the Issuer since the approval, execution and delivery by the Issuer of the Loan Agreement, and the Issuer has met all conditions prescribed in the bond purchase agreement (the "Loan Agreement") entered into by and between the Issuer and the Authority on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"). The Issuer has or can provide the financial, institutional, legal and managerial capabilities necessary to complete and operate the Project.

There are outstanding obligations of the Issuer which will rank on a parity with the Series 2007 A Bonds as to liens, pledge, source of and security for payment, being the Issuer's (1) Water Revenue Bonds, Series 1987 A (West Virginia Water Development Authority), dated January 7, 1987, issued in the original aggregate principal amount of \$2,810,612 (the "Series 1987 A Bonds"); and (2) Water Revenue Bonds, Series 2001 (West Virginia Water Development Authority), dated January 18, 2001, issued in the original aggregate principal amount of \$1,139,214 (the "Series 2001 Bonds"). The Series 1987 A Bonds and the Series 2001 Bonds are hereinafter collectively called the "First Lien Bonds." There are outstanding obligations of the Issuer which will rank junior and subordinate to the Series 2007 A Bonds as to liens, pledge of and security for payment, being the Issuer's Water Revenue Bonds, Series 1987 B (West Virginia Water Development Authority), dated January 7, 1987, issued in the original aggregate principal amount of \$689,388 (the "Series 1987 B Bonds" and, collectively with the First Lien Bonds, the "Prior Bonds"). The Issuer is current on all Prior Bonds' payments and is in compliance with all covenants and requirements of the Prior Ordinance.

The Series 2007 A Bonds shall be issued on a parity with the First Lien Bonds with respect to liens, pledge and source of and security for payment and in all other respects. Prior to the issuance of the Series 2007 A Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the First Lien Bonds have been met; (ii) the written consent of the Holders of the First Lien Bonds to the issuance of the Series 2007 A Bonds on a parity with the First Lien Bonds; and (iii) the written consent of the Holder of the Series 1987 B Bonds to the issuance of the Series 2007 A Bonds senior and prior to the Series 1987 B Bonds. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

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

Bond Ordinance

Supplemental Resolution

Loan Agreement

Public Service Commission Order

Infrastructure Council Approval

Charter and Rules of Procedure

Oaths of Office of Officers and Councilmembers

Water Rate Ordinance

Minutes on Adoption and Enactment of Rate Ordinance

Affidavits of Publication of Rate Ordinance and Notice of Public Hearing

Minutes on Adoption and Enactment of Bond Ordinance and Adoption of Supplemental Resolution

Affidavit of Publication of Abstract of Bond Ordinance and Notice of Public Hearing

Consent of WDA to Issuance of Series 2007 A Bonds

Prior Bond Ordinances and Supplemental Resolutions

Evidence of Insurance

Bureau for Public Health and NPDES Permits

Evidence of Partnership Grant

Water Purchase Contract

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "City of Kingwood." The Issuer is a municipal corporation in Preston County and is presently existing under the laws of, and a political subdivision of, the State of

West Virginia. The governing body of the Issuer is its council, consisting of a Mayor, a Recorder and 5 councilmembers, all duly elected, qualified and acting, and 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>
Fred Peddicord, III, Mayor	July 1, 2005	June 30, 2007
William Robertson, Recorder	July 1, 2005	June 30, 2007
Bruce Wiley	July 1, 2005	June 30, 2007
David Toothman	July 1, 2005	June 30, 2007
James Maier	July 1, 2005	June 30, 2007
David Estep	July 1, 2005	June 30, 2007
Jeffrey Zigray	July 1, 2005	June 30, 2007

The duly appointed and acting Counsel to the Issuer is Sheila Williams, Esquire, of Kingwood, West Virginia.

7. **LAND AND RIGHTS-OF-WAY:** All land in fee simple and all rights-of-way and easements necessary for the acquisition and construction of the Project and the operation and maintenance of the System have been acquired or can and will be acquired by purchase, or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions 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 Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

8. **MEETINGS, ETC.:** All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the acquisition, construction, operation and financing of the Project or the System were authorized or adopted at regular or special meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, including, particularly and without limitation, Chapter 6, Article 9A of the West Virginia Code of 1931, as amended, and a quorum of duly elected or appointed, as applicable, qualified and acting members of the Governing Body was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

9. **CONTRACTORS' INSURANCE, ETC.:** 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 Bond Legislation. All insurance for the System required by the Bond Legislation is in full force and effect.

10. **LOAN AGREEMENT:** As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not 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; (iii) to the best

knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the Loan Agreement which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information in the Loan Agreement not misleading; and (iv) the Issuer is in compliance with the Loan Agreement.

11. RATES: The Issuer has duly enacted a water rate ordinance on September 28, 2004, setting forth the respective rates and charges for the services of the System. The time for appeal of such rate ordinance has expired prior to the date hereof without any appeal, and such rate ordinance is currently in effect.

12. SIGNATURES AND DELIVERY: On the date hereof, the undersigned Mayor did officially sign all of the Bonds of the aforesaid issue, consisting upon original issuance of a single Bond, dated the date hereof, by her manual signature, and the undersigned Recorder did officially cause the official seal of the Issuer to be affixed upon said Bonds and to be attested by her manual signature, and the Registrar did officially authenticate, register and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the Loan Agreement. Said official seal of the Issuer is also impressed above the signatures appearing on this certificate.

13. BOND PROCEEDS: On the date hereof, the Issuer received \$20,314 from the Authority and the Council, being a portion of the principal amount of the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

14. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE: Upon adoption of the Bond Ordinance, an abstract thereof, determined by the Governing Body to contain sufficient information as to give notice of the contents thereof, was published once each week for 2 successive weeks, with not less than 6 full days between each publication, the first such publication occurring not less than 10 days before the date stated below for the public hearing, in the Preston County Journal, a newspaper published and of general circulation in the City of Kingwood, together with a notice to all persons concerned, stating that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in such Bond Ordinance, stating that any person interested may appear before the Governing Body at the public hearing held at a public meeting of the Governing Body on the 23rd day of May 2007, at 7 :00p.m., at the City Hall and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the Recorder of the Issuer for review by interested parties during the office hours of the Issuer. At such hearing all objections and suggestions were heard by the Governing Body and the Bond Ordinance became finally adopted, enacted and effective as of the date of such public hearing, and remains in full force and effect.

15. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the Recommended Decision of the Public Service Commission of West Virginia in Case No. 06-1829-W-CN entered on March 16, 2007 which became final order on April 5, 2007, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the Final Order has expired prior to the date hereof. Such Order is in full force and effect.

16. SPECIMEN BOND: Delivered concurrently herewith is a true and accurate specimen of the Bond.

17. CONFLICT OF INTEREST: No officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bonds, the

Bond Legislation and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

18. GRANT: On the date hereof, the grant from the Council in the amount of \$260,000 and the Partnership Grant of \$50,000 are in full force and effect.

19. EXECUTION OF COUNTERPARTS: This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

[Remainder of Page Intentionally Left Blank]

WITNESS our signatures and the official seal of the CITY OF KINGWOOD  
as of the date first written above.

[CORPORATE SEAL]

SIGNATURE

OFFICIAL TITLE

Fred D. Pedersen <sup>78</sup>

Mayor

Will [Signature]

Recorder

\_\_\_\_\_

Counsel to Issuer

485090.00004

WITNESS our signatures and the official seal of the CITY OF KINGWOOD  
as of the date first written above.

[CORPORATE SEAL]

SIGNATURE

OFFICIAL TITLE

\_\_\_\_\_

Mayor

\_\_\_\_\_  
*Shelby Lee Williams*  
\_\_\_\_\_

Recorder

Counsel to Issuer

485090.00004



CITY OF KINGWOOD

Water Revenue Bonds, Series 2007 A  
(West Virginia Infrastructure Fund)

CERTIFICATE OF ENGINEER

On this 14th day of June, 2007, I, H. Wood Thrasher, Registered Professional Engineer, West Virginia License No. 9478, of Thrasher Engineering, Inc., Consulting Engineers, in Clarksburg, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain extensions, additions, betterments and improvements (the "Project") to the existing public water system (the "System") of the City of Kingwood (the "Issuer"), to be constructed primarily in Preston County, West Virginia, which acquisition and construction are being financed in part by the proceeds of the above-captioned bonds (the "Series 2007 A Bonds") of the Issuer. Capitalized terms used herein and not defined herein shall have the same meanings set forth in the Bond Ordinance enacted by the Issuer on May 23, 2007, and the Supplemental Resolution adopted by the Issuer on May 23, 2007, and the loan agreement (the "Loan Agreement"), dated June 14, 2007 (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council").

2. The Bonds are being issued for the purposes of (i) paying a portion of the costs of acquisition and construction of the Project; and (ii) paying costs of issuance and related costs.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the Council and any change orders approved by the Issuer, the Council and all necessary governmental bodies; (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least 40 years, if properly constructed, operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing described in Schedule B, attached hereto as Exhibit A and the Issuer's counsel, Sheila Williams, Esquire, has ascertained that all successful bidders have

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

WITNESS my signature and seal as of the date first written above.

THRASHER ENGINEERING, INC.

[SEAL]



H. Wood Thrasher, P.E.

West Virginia License No. 9478

485090.00004

**WEST VIRGINIA INFRASTRUCTURE  
SCHEDULE B  
CITY OF KINGWOOD  
WHETSELL SETTLEMENT WATER LINE EXTENSION  
WVIJDC & BUDGET DIGEST**

A. COST OF PROJECT	TOTAL	IJDC Loan/Grant	Budget Digest Grant
1 Construction			
Contract 1	369,987.00	369,987.00	
2 Technical Services - Thrasher			
a. Preliminary Engineering	10,000.00		10,000.00
b. Design	32,000.00		32,000.00
c. Engineering During Construction	8,000.00		8,000.00
d. Inspection	20,000.00	20,000.00	
e. Special Services	3,500.00	3,500.00	
3 Legal & Fiscal			
a. Legal (S. Williams)	10,000.00	10,000.00	
4 Administrative	30,000.00	30,000.00	
5 Sites & Other Lands			
a. Land acquisition / ROW	10,000.00	10,000.00	
6 Contingency	41,013.00	41,013.00	
7 Miscellaneous			
a. WVDOH Inspection Fees	5,000.00	5,000.00	
b. Project Contingency (DOH Bond / Permits / Etc.)	25,000.00	25,000.00	
8 TOTAL of Lines 1 through 7	564,500.00	514,500.00	50,000.00
<b>B. COST OF FINANCING</b>			
9 Funded Reserve			
10 Other Costs			
a. Registrar fees	500.00	500.00	
b. Bond Counsel (S&J)	10,000.00	10,000.00	
11 Cost of Financing	10,500.00	10,500.00	0.00
12 TOTAL PROJECT COST line 8 plus line 11	575,000.00	525,000.00	50,000.00
<b>C. SOURCES OF OTHER FUNDS</b>			
13 Federal Grants			
14 State Grants	260,000.00	260,000.00	
15 Other Grants	50,000.00		50,000.00
16 Any Other Source			
17 TOTAL GRANTS Lines 13 through 16	310,000.00	260,000.00	50,000.00
18 Size of Bond Issue (line 12 minus Line 17)	265,000.00	265,000.00	0.00

  
City of Kingwood

  
Date

  
Thrasher Engineering, Inc.

  
Date



ROGER HARDESTY & ASSOCIATES, AC  
CERTIFIED PUBLIC ACCOUNTANTS

420 MORGANTOWN STREET  
KINGWOOD, WV 26537  
PHONE (304) 329-1351  
FAX (304) 329-1352

215 DON KNOTTS BLVD., SUITE 210  
MORGANTOWN, WV 26501  
PHONE (304) 225-2228  
FAX (304) 985-2576

June 14, 2007

City of Kingwood  
Water Revenue Bonds, Series 2007 A  
(West Virginia Infrastructure Fund)

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Infrastructure & Jobs Development Council  
Charleston, West Virginia

Ladies and Gentlemen:

Based upon the rates and charges as set forth in the water rate ordinance of the City of Kingwood (the "Issuer") enacted September 28, 2004, and the projected operating expenses and the anticipated customer usage as furnished to me by Thrasher Engineering, Inc., it is my opinion that such rates and charges will be sufficient to provide revenues which, will pay all operating expenses and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Water Revenue Bonds, Series 2007 A (West Virginia Infrastructure Fund) (the "Bonds"), to be issued to the West Virginia Water Development Authority on the date hereof and all other obligations secured by or payable from the revenues of the System, including the Issuer's Water Revenue Bonds, Series 1987 A (West Virginia Water Development Authority), Water Revenue Bonds, Series 1987 B (West Virginia Water Development Authority), and Water Revenue Bonds, Series 2001 (West Virginia Water Development Authority) (collectively, the "Prior Bonds").

It is further my opinion that the Net Revenues actually derived from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of the Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by the Bonds, are not less than 115% of the largest aggregate amount that will mature and become due in any succeeding fiscal year for the principal of and interest on the Bonds and the Prior Bonds.

Very truly yours,



Gerald L. Kirk, CPA

485090.00004

CH863814.2



CITY OF KINGWOOD

Water Revenue Bonds, Series 2007 A  
(West Virginia Infrastructure Fund)

CERTIFICATE AS TO USE OF PROCEEDS

On this 14th day of June, 2007, the undersigned Mayor of the City of Kingwood in Preston County, West Virginia (the "Issuer"), being the official of the Issuer duly charged with the responsibility for the issuance of \$265,000 Water Revenue Bonds, Series 2007 A (West Virginia Infrastructure Fund), of the Issuer, dated June 14, 2007 (the "Bonds" or the "Series 2007 A Bonds"), hereby certifies as follows:

1. I am the officer of the Issuer duly charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Bond Ordinance duly enacted by the Issuer on May 23, 2007, as supplemented by Supplemental Resolution duly enacted by the Issuer on May 23, 2007 (collectively, the "Bond Ordinance"), authorizing the Bonds.

2. This certificate may be relied upon as the certificate of the Issuer.

3. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on June 14, 2007, the date on which the Bonds are being physically delivered in exchange for a portion of the principal amount of the Series 2007 A Bonds, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. In the Bond Ordinance pursuant to which the Bonds are issued, the Issuer has covenanted that it shall not take, or permit or suffer to be taken, any action with respect to Issuer's use of the proceeds of the Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Internal Revenue Code of 1986, as amended, and the temporary and permanent regulations promulgated thereunder or under any predecessor thereto (collectively, the "Code"), issued by the West Virginia Water Development Authority (the "Authority") or the West Virginia Infrastructure and Jobs Development Council (the "Council"), as the case may be, from which the proceeds of the Bonds are derived, to lose their status as tax-exempt bonds. The Issuer hereby covenants to take all actions necessary to comply with such covenant.

5. The Series 2007 A Bonds were sold on June 14, 2007, to the Authority, pursuant to a Loan Agreement dated June 14, 2007, by and among the Issuer, the Authority and the Council, for an aggregate purchase price of \$265,000 (100% of par), at which time, the Issuer received \$20,314 from the Authority and the Council, being the first advance of the principal amount of the Series 2007 A Bonds. No accrued interest has been or will be paid on the Series 2007 A Bonds. The balance of the principal amount of the Series 2007 A Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

6. The Series 2007 A Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public Water of the Issuer (the "Project"), and (ii) paying certain costs of issuance of the Bonds and related costs.

7. Within 30 days after the delivery of the Bonds, the Issuer shall enter into agreements which require the Issuer to expend at least 5% of the net sale proceeds of the Bonds on the Project, constituting a substantial binding commitment. The acquisition and construction of the Project and the allocation of the net sale proceeds of the Bonds to expenditures of the Project shall commence immediately and shall proceed with due diligence to completion, and with the exception of proceeds deposited in the Series 2007 A Bonds Reserve Account, if any, all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before June 1, 2008. The acquisition and construction of the Project is expected to be completed by March 1, 2008.

8. The total cost of the Project is estimated at \$575,000. Sources and uses of funds for the Project are as follows:

SOURCES

Proceeds of the Series 2007 A Bonds	\$ 265,000
Infrastructure Council Grant	260,000
Partnership Grant	50,000
Total Sources	<u>\$ 575,000</u>

USES

Costs of Project	\$ 564,500
Costs of Issuance	\$ 10,500
Total Uses	<u>\$ 575,000</u>

9. Pursuant to Article V of the Bond Ordinance, the following special funds or accounts have been created or continued relative to the Series 2007 A Bonds:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Series 2007 A Bonds Construction Trust Fund;
- (4) Series 2007 A Bonds Sinking Fund; and
- (5) Series 2007 A Bonds Reserve Account.

10. Pursuant to Article VI of the Bond Ordinance, the proceeds of the Bonds will be deposited as follows:

- (1) The proceeds of the Series 2007 A Bonds will be deposited in the Series 2007 A Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of the Project, including costs of issuance of the Series 2007 A Bonds and related costs.

11. Moneys held in the Series 2007 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 2007 A Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on moneys in the Series 2007 A Bonds Sinking Fund and Series 2007 A Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Series 2007 A Bonds Construction Trust Fund during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

12. Work with respect to the acquisition and construction of the Project will proceed with due diligence to completion. The acquisition and construction of the Project is expected to be completed within 9 months of the date hereof.

13. The Issuer will take such steps as requested by the Authority to ensure that the Authority's bonds meet the requirements of the Code.

14. With the exception of the amount deposited in the Series 2007 A Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Project within 12 months from the date of issuance thereof.

15. The Issuer does not expect to sell or otherwise dispose of the Project in whole or in part prior to the last maturity date of the Bonds.

16. The amount designated as costs of issuance of the Bonds consists only of costs which are directly related to and necessary for the issuance of the Bonds.

17. All property financed with the proceeds of the Bonds will be owned and held by (or on behalf of) a qualified governmental unit.

18. No proceeds of the Bonds will be used, directly or indirectly, in any trade or business carried on by any person who is not a governmental unit.

19. The original proceeds of the Bonds will not exceed the amount necessary for the purposes of the issue.

20. The Issuer shall use the Bond proceeds solely for the costs of the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the Issuer.

21. The Bonds are not federally guaranteed.

22. The Issuer has retained the right to amend the Bond Ordinance authorizing the issuance of the Bonds if such amendment is necessary to assure that the Bonds remain public purpose bonds.

23. The Issuer has either (a) funded the Series 2007 A Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Series 2007 A Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2007 A Bonds Reserve Account hold an amount equal to the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year. Moneys in the Series 2007 A Bonds Reserve Account and the Series 2007 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

24. There are no other obligations of the Issuer which (a) are to be issued at substantially the same time as the Bonds, (b) are to be sold pursuant to a common plan of financing together with the Bonds and (c) will be paid out of substantially the same sources of funds of funds or will have substantially the same claim to be paid out of substantially the same sources of funds as the Bonds.

25. To the best of my knowledge, information and belief, there are no other facts, estimates and circumstances which would materially change the expectations herein expressed.

26. The Issuer will comply with instructions as may be provided by the Authority, at any time, regarding use and investment of proceeds of the Bonds, rebates and rebate calculations.

27. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

[Remainder of Page Intentionally Blank]

WITNESS my signature as of the date first written above.

CITY OF KINGWOOD

By:   
Its: Mayor

485090.00004



The Town of Kingwood was created by the Assembly of Virginia by an act passed March 22, 1853, by which there was created a town to have all the powers conferred by Chapter 54 of the Code of Virginia, in force at that time.

This act to incorporate the Town of Kingwood was Chapter 511 of the Acts of the Virginia Assembly, 1852-1853.

By Chapter 102, passed March 2, 1868, the Legislature of West Virginia amended the prior act by providing for the election of officers, their duties and the like.

Chapter 76, passed March 2, 1870 by the Legislature of West Virginia, extended the limits of the town and provided for the burial of the dead.

The town has been operated under Chapter 54 of the Code of Virginia in force at the time of the incorporation, which later became Chapter 47 after West Virginia was formed and which was made Chapter 8 by the 1931 Code revisors.

The appointive officers in Kingwood are the town chief of police and a police officer, and at times part time police officers. The mayor, five men council and recorder are all elected. Council approval is required for appointments. The mayor also appoints, subject to the approval of council, the street superintendent and any assistants.

We have a separate board of water commissioners originally appointed by the council for terms of office, which expire every two years, and the successors to the members of this board are also appointed by the mayor, usually at the suggestion of the remaining members of the board and subject to the approval of council.

There are no charter provisions relative to removal, this being covered by Chapter 8 of the Code. Actually there is no charter other than the Acts of Assembly and acts of the legislature creating the town and subsequently making certain changes in its government.

The mayor is not ipso facto a member of council. He does preside over the meetings. The qualifications for mayor are as set out in Chapter 8, and the qualifications of council are as set out in Chapter 8, specifically in section 9, article 3 of that chapter.

Nominations for the offices are made by candidates filing with the recorder, prior to an election, a certificate of the intention to run, very much like that for state offices, and payment of a small fee therewith. Prior to this year nominations were made at a mass meeting of the town's citizens. This method proved to be very unsatisfactory.

The council is what would be called nonpartisan, that is, there are no specifically designated political parties involved.

The mayor receives \$250.00 a year for his services together with any fees he may collect as an ex officio justice of the peace, and the council received ~~\$5.00~~ <sup>2.50</sup> per meeting, meetings being held twice each month. <sup>60<sup>00</sup> per year</sup>

There are no specific provisions for intensive referendum or recall other than as designated in chapter 8 of the Code of the general law of the state.

I am very happy to reciprocate with your Bureau by supplying this information as we have found in the past that you have been very cooperative with the undersigned and the council whenever any matter came up about which we desired information.

A couple of years ago we looked into the possibility of becoming a home ruled city and used your publications in regard to this inquiry. We found, however, that the powers of the town are much greater than those of a home ruled city, principally because the legislature has seen fit to grant many of the home rule powers to non-home rule cities, and of course our charter goes back to 1853 and any municipal legislation passed since then has been cumulative and not limiting or diminishing any municipal powers which we have.

Acts of Assembly, 1852-1853

Chap. 511. - An ACT to incorporate the Town of Kingwood  
Passed March 22, 1853.

1. Be it enacted by the general assembly, that the Town of Kingwood in the County of Preston, as the same has heretofore been, laid off into lots, streets and alleys, and as the same may be hereafter laid off into lots, streets and alleys, shall be and the same is hereby made a town corporate by the name of "The Town of Kingwood;" and by that name shall have and exercise the powers conferred upon towns by the fifty-fourth chapter of the Code of Virginia.
2. The officers of said Town shall consist of seven trustees, who shall compose the council, (and four of whom can act), and a sergeant.
3. James C. McGrew, William G. Browne and Isreal Baldwin, or any two of them are hereby authorized to hold an election, agreeably to the Chapter aforesaid, for said officers on the first Monday in June next, and annually thereafter an election shall be held in conformity to the said fifty-fourth chapter of the Code of Virginia.
4. This Act shall be in force from its passage.

CHAPTER 102.—An ACT to amend "An Act to incorporate the town of Kingwood", passed March 22, 1853.

Passed March 2, 1868.

Be it enacted by the Legislature of West Virginia:

1. Section two of an act entitled "An Act to incorporate the town of Kingwood," is hereby amended and re-enacted so as to read as follows:

"2. The qualified voters of said town shall on the third Saturday of April next, and on the same day in every year thereafter, elect a mayor and six trustees. Said election shall be held under the supervision of the present mayor and secretary of the board of trustees, who shall give notice of such election by posting at the front door of the court house and post office, written or printed notices of the same; such election shall be held at the recorder's office in said town, and shall be by ballot. Before such officers shall enter upon the duties of their offices, they shall take the oath required of county officers."

2. That said act be further amended by adding thereto the following, as sections five, six and seven:

"5. The mayor shall be the chief executive officer of the town; he shall take care that the orders, by-laws, ordinances, acts and resolutions of the council are faithfully executed; he shall be ex officio a justice and conservator of the peace within the town, and shall within the same possess and exercise all the powers and duties vested by law in a justice of a township, except that he shall have no jurisdiction as such in civil cases; he shall have control of the police of the town, and may appoint special police officers whenever he deems it necessary; and it shall be his duty especially, to see that the peace and good order of the town are preserved, and that persons property therein are protected, and to this end he may cause the arrest of

detention of all riotous and disorderly persons in the town before issuing his warrant therefor; he shall have power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment, he may commit the party in default to the jail of Preston county until the fine or penalty and costs shall be paid; but the term of imprisonment in such case shall not exceed thirty days.

\*6. Whenever anything for which a State license is required is to be done in said town, the council may require a town license therefor, and may impose a tax thereon for the use of said town. But no license to sell strong or spiritous liquors, wine, beer, ale, porter, or drinks of like nature, within said town, shall be granted by the board of supervisors of the county of Preston, unless the person applying therefor shall produce to said board of supervisors the certificate of the council of said town of its consent to the granting of such license. The council may require from a person so licensed a bond, with sureties, payable to said town, in such penalty and with such conditions as it may think proper, and may revoke such license at any time, if the conditions of said bond be broken.\*

\*7. Whenever the mayor and trustees of said town shall fail in any one year to cause to be levied a tax upon the property, both real and personal, of said town, for the purpose of keeping in repair the streets and alleys thereof, or shall fail in any way to carry out the provisions of the original act of incorporation or this amendatory act, all such acts of incorporation shall be null and void, and the property of the citizens of said town shall be liable to be assessed with county taxes for all purposes, as well as road tax.\*

CHAPTER 76.— An ACT to extend and prescribe the limits of the Town of Kingwood, and to provide for the burial of the dead.

Passed March 2, 1870.

Be it enacted by the Legislature of West Virginia:

1. The corporate limits and boundaries of the town of Kingwood, in the County of Preston, shall be as follows:  
Beginning at the Herndon spring at the north end of Price street in said town, and running thence north eighty-seven and one-half degrees west ninety poles to a stone in the Kelso line, west of the turnpike road leading to Morgantown; thence south thirteen degrees east thirteen poles to a spring in Herndon field; thence, continuing the same bearing, fifty-two poles to a stone in John R. Stone's field; thence south eighty-seven and one-half degrees east to the southwest corner of lot numbered fifteen of Price's addition to said town; thence, continuing with same bearing, parallel to and with the south ends of the lots at the south side of said town, to a stake in James W. Parks' field, and in a direct line with the east side of lots numbered twenty and forty of the original plan of said town; thence north two and one-half degrees, east sixty-two and one-half poles, with the eastern line of said lots numbered twenty and forty, and extending beyond

the same to a stake in Elijah Shafer's field; thence north eighty-seven and one-half degrees west one hundred and twenty-four poles to the beginning.

2. The powers, duties, and obligations of the municipal authorities of said town shall be and remain as heretofore prescribed by law, and shall hereafter extend to and be exercised within the boundaries specified in section one of this act.

2. The trustees of said town shall have power to provide for the burial of the dead; and for this purpose may purchase and hold in their corporate capacity the necessary land for a cemetery near or convenient to said town, and to provide for its improvement and security.

CITY OF KINGWOOD

RESOLUTION ON OPEN GOVERNMENTAL PROCEEDINGS RULES

Pursuant to Chapter 6, Article 9A, Section 3 of the West Virginia Code, the Council of the City of Kingwood does hereby adopt the following rules to make available, in advance, the date, time, place and agenda of all regularly scheduled meetings of the Council, and the date, time, place and purpose of all special meetings of the Council to the public and news media (except in the case of an emergency requiring immediate action) as follows:

1. Regular Meetings. A notice shall be posted and maintained by the City Clerk at the front door or bulletin board of the City Hall of the date, time and place fixed and entered of record by Council for the holding of regularly scheduled meetings. In addition, a copy of the agenda for each regularly scheduled meeting shall be posted at the same location by the City Clerk not less than 72 hours before such regular meeting is to be held. If a particular regularly scheduled meeting is canceled or postponed, a notice of such cancellation or postponement shall be posted at the same location as soon as feasible after such cancellation or postponement has been determined.

2. Special Meetings. A notice shall be posted by the City Clerk at the front door or bulletin board of the City Hall not less than 72 hours before a specially scheduled meeting is to be held, stating the date, time, place and purpose for which such special meeting shall be held. If the special meeting is canceled, a notice of such cancellation shall be posted at the same location as soon as feasible after such cancellation has been determined.

These rules regarding notice of meetings shall replace any and all previous rules heretofore adopted by Council.

Adopted this 24<sup>th</sup> day of Oct., 2006.

Fred R. Rouds  
Mayor

ATTEST:

MARLA E. HUGH  
City Clerk

CERTIFICATION

I, Martha Hoyle, duly appointed City Clerk of the City of Kingwood do hereby certify that the foregoing is a true and accurate copy of a Resolution adopted by the City Council of the City of Kingwood at a regular meeting of City Council held Oct. 24, 2006, pursuant to proper notice, at which meeting a quorum was present and acting throughout.

Dated this 25<sup>th</sup> day of Oct., 2006.

[SEAL]

Martha E. Hoyle  
City Clerk

8/21/06  
485090.00004





## CORRECTION LIST

<b>Fred C Peddicord III, Mayor</b>	<b>July 1, 2005 to June 30, 2007</b>
<b>William Robertson, Recorder</b>	“ “
<b>Jeffrey Zigray, Council</b>	“ “
<b>David Estep, Council</b>	“ “
<b>James Maier, Council</b>	“ “
<b>David Toothman, Council</b>	“ “
<b>Franklin Ryan, Council</b>	<b>July 1, 2005 to August 31, 2005</b>
<b>Bruce Wiley, Council</b>	<b>September 1, 2005 to June 30, 2007</b>

**Franklin Ryan resigned effective August 31, 2005. Bruce Wiley was appointed by Council effective September 1, 2005 to complete Mr. Ryan's term.**

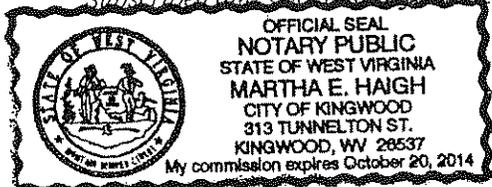
STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, Fred C. Peddicord III, do solemnly swear that I will support  
the Constitution of the United States and the Constitution of this State; and that I will faithfully  
discharge the duties of my office of Mayor

of Preston County, for the Two Year term commencing on the 1st  
day of July, 2005, to the best of my skill and judgment. So help me God.

(Sign Here) Fred Peddicord III

Subscribed and sworn to before the undersigned this 1st day of July, 2005



County Clerk  
Kingwood, W. VA.

My commission expires October 20, 2014

Martha E. Haigh

STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, William Robertson, do solemnly swear that I will support

the Constitution of the United States and the Constitution of this State; and that I will faithfully

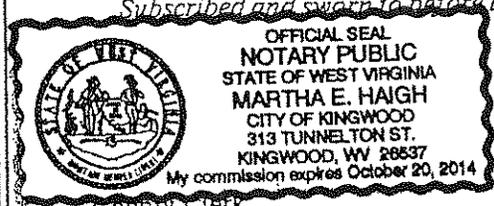
discharge the duties of my office of Recorder

of Preston County, for the Two Year term commencing on the 1st

day of July, 2005, to the best of my skill and judgment. So help me God.

(Sign Here) Will Robertson

Subscribed and sworn to before the undersigned this 1st day of July, 2005



County Clerk  
Kingwood, W. VA.

My commission expires

Martha E. Haigh

STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, David Estep, do solemnly swear that I will support

the Constitution of the United States and the Constitution of this State; and that I will faithfully

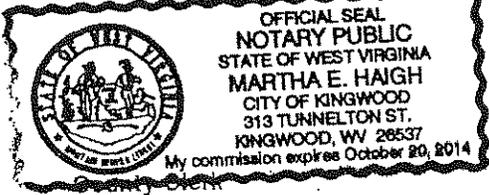
discharge the duties of my office of Council

of Preston County, for the Two Year term commencing on the 1st

day of July 2005, to the best of my skill and judgment. So help me God.

(Sign Here) David E. Estep

Subscribed and sworn to before the undersigned this 1st day of July, 2005



Kingwood, W. VA.

My commission expires October 20, 2014

Martha E. Haigh

STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, James L Maier, do solemnly swear that I will support

the Constitution of the United States and the Constitution of this State; and that I will faithfully

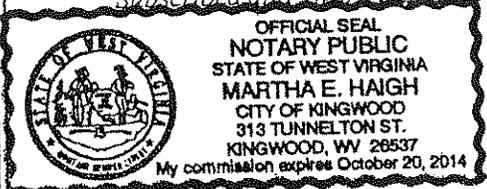
discharge the duties of my office of Council

of Preston County, for the Two Year term commencing on the 1st

day of July 2005 to the best of my skill and judgment. So help me God.

(Sign Here) James L. Maier

Subscribed and sworn to before the undersigned this 1st day of July, 2005



County Clerk  
Kingwood, W. VA.

My commission expires October 20, 2014

Martha E. Haigh

STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, Franklin P. Ryan, do solemnly swear that I will support  
the Constitution of the United States and the Constitution of this State; and that I will faithfully  
discharge the duties of my office of Council

of Preston County, for the Two Year term commencing on the 1st  
day of July, 2005, to the best of my skill and judgment. So help me God.

(Sign Here) Franklin P. Ryan

Subscribed and sworn to before the undersigned this 1st day of July, 2005



OFFICIAL SEAL  
NOTARY PUBLIC  
STATE OF WEST VIRGINIA  
MARTHA E. HAIGH  
CITY OF KINGWOOD  
313 TUNNELTON ST.  
KINGWOOD, WV 26537  
My commission expires October 20, 2014

County Clerk  
Kingwood, W. VA.

My commission expires \_\_\_\_\_

Resigned 8/31/05

STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, Jeff Zigray, do solemnly swear that I will support  
the Constitution of the United States and the Constitution of this State; and that I will faithfully  
discharge the duties of my office of Council

of Preston County, for the Two Year term commencing on the 1st  
day of July to the best of my skill and judgment. So help me God.

(Sign Here) Jeff Zigray

Subscribed and sworn to before the undersigned this 1st day of July, 2005



OFFICIAL SEAL  
NOTARY PUBLIC  
STATE OF WEST VIRGINIA  
MARTHA E. HAIGH  
CITY OF KINGWOOD  
313 TUNNELTON ST.  
KINGWOOD, WV 26537  
My commission expires October 20, 2014

County Clerk  
Kingwood, W. VA.

My commission expires Oct. 20, 2014

Martha E. Haigh

STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, Dave Toothman, do solemnly swear that I will support

the Constitution of the United States and the Constitution of this State; and that I will faithfully

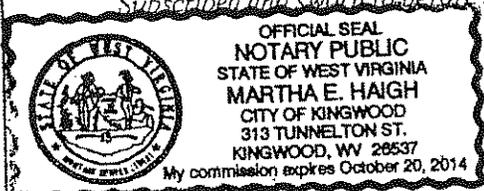
discharge the duties of my office of Council

of Preston County, for the Two Year term commencing on the 1st

day of July 2005, to the best of my skill and judgment. So help me God.

(Sign Here) *Dave Toothman*

Subscribed and sworn to before the undersigned this 1st day of July, 2005



County Clerk  
Kingwood, W. VA.

My commission expires Oct. 20, 2014

*Martha E. Haigh*

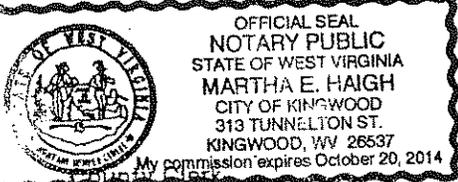
STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, Bruce Wiley, do solemnly swear that I will support  
the Constitution of the United States and the Constitution of this State; and that I will faithfully  
discharge the duties of my office of Council

of Preston County, for the 22 Months term commencing on the 1st  
day of September, 2005, to the best of my skill and judgment. So help me God.

(Sign Here) Bruce Wiley

Subscribed and sworn to before the undersigned this 1st day of September, 2005



Kingwood, W. VA.

My commission expires

Oct. 20, 2014

Martha E. Haigh



Effective 1/15/05

AN AMENDMENT TO AND RE-ENACTMENT OF AN ORDINANCE ESTABLISHING AND FIXING A NEW ORDINANCE SETTING FORTH NEW WATER RATES AND ASSOCIATED RATES, DELETING WATER RATES AND ASSOCIATED RATES FROM A PRIOR ORDINANCE WHICH SET FORTH WATER RATES AND ALL OTHER RATES CHARGED BY THE WATER SYSTEM, ALL SUCH RATES FOR SERVICE TO CUSTOMERS OF THE WATER SYSTEM OF THE MUNICIPALITY OF KINGWOOD, WEST VIRGINIA

WHEREAS, by the adoption of the prior Ordinance of similar title, the water rates and associated water rates for the Municipality of Kingwood were fixed and set within said Ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE MUNICIPALITY OF KINGWOOD HEREBY ORDAINS: The following schedule of water rates and rates associated thereto are hereby fixed and determined as the water rates and associated rates to be charged to customers of the water system of the Municipality of Kingwood and does adopt these rates as set forth herein, and by adoption hereof, sets for h rates to be charged to customers of the waterworks system of the City of Kingwood throughout the territory served and does amend and re-enact the prior Ordinance:

SECTION 1. SCHEDULE OF RATES

APPLICABILITY

Applicable to entire area served.

AVAILABILITY OF SERVICE

Available for general domestic, commercial, industrial and resale water service.

RATES

Customers with metered water supply:

<u>Number of Gallons/Month</u>	<u>Rate</u>
First 2,000 gallons	\$7.53 per 1000 gallons
Next 3,000 gallons	\$7.53 per 1000 gallons
Next 35,000 gallons	\$5.03 per 1,000 gallons
All Over 40,000 gallons	\$4.75 per 1,000 gallons

MINIMUM CHARGE

No bill shall be rendered for less than \$15.06 which is the equivalent to 2,000 gallons or the following minimum amounts according to the size of meter installed:

5/8 inch meter, or less	\$ 15.06 per month
3/4 inch meter	\$ 22.59 per month

1 inch meter	\$ 37.65 per month
1 1/2 inch meter	\$ 75.30 per month
2 inch meter	\$120.48 per month
3 inch meter	\$225.90 per month
4 inch meter	\$376.50 per month
6 inch meter	\$753.00 per month
8 inch meter	\$1,204.80 per month

RE SALE RATE

All water for resale to Preston County Public Service District No. 2 and the Town of Albright shall be billed at \$3.98 per 1,000 gallons used per month.

MINIMUM CHARGE FOR RESALE

No bill shall be rendered for less than the following minimum amounts according to the size of meter installed:

5/8 inch meter, or less	\$ 12.14 per month
3/4 inch meter	\$ 18.21 per month
1 inch meter	\$ 30.35 per month
1 1/2 inch meter	\$ 60.70 per month
2 inch meter	\$ 97.12 per month
3 inch meter	\$182.10 per month
4 inch meter	\$303.50 per month
6 inch meter	\$607.00 per month
8 inch meter	\$971.20 per month

DELAYED PAYMENT PENALTY

The above schedule of rates is net. On all current accounts not paid in full when due, within twenty (20) days of date of bill, a ten percent (10%) penalty will be added to the net current amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

WATER CONNECTION CHARGE (TAP FEE)

A charge of \$300.00 will be made for every new subscriber requiring a new connection for meters of one inch or less.

Where new connections involve meters larger than one inch, the new connection will be \$350.00 or actual cost, whichever is greater.

RECONNECTION SERVICE CHARGE

(a) Whenever the supply of water is turned off for violation of rules and regulations, non-payment of bills, or fraudulent use of water, a reconnection charge in the amount of Twenty Dollars (\$20.00) shall be paid as tariff for reconnecting service.

(b) If service is discontinued at the request of a customer, the <sup>Kingwood</sup>~~Terra Alta~~ Water Works may refuse service to such customer, at the same premises, within eight (8) months, unless said Water Works shall first receive payment in the amount of Twenty Dollars (\$20.00) as a tariff for reconnecting services.

#### RETURNED CHECKS FOR INSUFFICIENT FUNDS

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

#### LEAK ADJUSTMENT

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

#### SECURITY DEPOSIT

Not to exceed one-sixth (1/6) of the annual estimated charge for residential service or \$50.00, whichever is greater or one-sixth (1/6) of annual estimated charge for commercial service.

#### SECTION 2. EFFECTIVE DATE

The rates, charges and delayed payment penalty provided herein shall become effective forty-five (45) days after final enactment hereof.

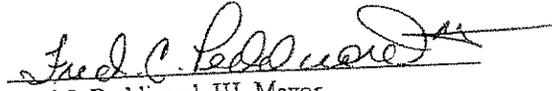
#### SECTION 3. SEPARABILITY; REPEAL OF CONFLICTING ORDINANCES

The provisions of this Ordinance are separable, and if any clause, provision or section hereof shall be held void or unenforceable by the West Virginia Public Service Commission or any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. Upon the effective date hereof, all ordinances, resolutions, order or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflicts, hereby repealed.

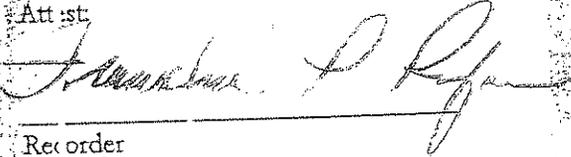
#### SECTION 4. STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the City Clerk shall cause to be published a copy of this Ordinance once a week for two (2) successive weeks within a period of fourteen (14) consecutive days, with at least six (6) days between each publication, in a qualified newspaper of general circulation in the City of Kingwood, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before the Council at the Kingwood City Hall, Tunnelton Street, Kingwood, West Virginia, on the 14th day of September, 2004, at 7:00 p.m., which date is not less than ten (10) days after the date of the first publication of the Ordinance and notice, and present any comment or protest thereto, following which hearing Council shall take such action as it shall deem proper. Copies of this Ordinance shall be available to the public for inspection at the office of the City Clerk, City Hall,

Turnelton Street, Kingwood, West Virginia, during regular office hours.

  
Fred C. Peddicord, III, Mayor

Att:st

  
Recorder

First Reading: August 24, 2004

Second Reading: September 14, 2004

Third Reading: 9/28/04



## COUNCIL CHAMBERS

August 24, 2004

The Kingwood City Council met in regular session on Tuesday, August 24, 2004 at 7:00 pm.

Those present were: Acting Mayor; Dave Estep, Acting Recorder; Bill Robertson, and Council members: Claude Waugerman, James Maier, Jeff Zigray and Paul Ryan.

Mr. Zigray moved and Mr. Maier seconded to approve the minutes of the August 10, 2004 meeting. Motion carried.

The bills were presented. Mr. Robertson moved and Mr. Zigray seconded for the bills to be allowed and paid. Motion carried.

The building permits were presented. Mr. Waugerman moved and Mr. Zigray seconded to approve building permits provided they conform to all zoning regulations. Motion carried.

### Other Business:

-Tammy Johnston talked about "cat ordinance". The neighborhood is complaining with trouble from cats. No action taken.

-Dave Toothman with Main Street Kingwood informed Council that the Veteran's Plaza clock will be coming soon.

-Russ Smiley with GlaxoSmithKline Co. discussed the cost of drugs.

-Mr. Ryan moved and Mr. Zigray seconded to approve the First Reading of the Water Rate Ordinance. Motion carried.

-Council went into Executive Session at 7:33 p.m. and returned to Regular Session at 8:34 p.m.

-Mr. Ryan moved and Mr. Robertson seconded to give Francis Hyre a \$.50 per hour raise. He will be moving out of the cemetery house, which was part of his pay. Motion carried.

-Mr. Robertson moved and Mr. Maier seconded to not act on the resignation letter of Mike Peddicord from the Parks & Recreation Board. However, he is not to attend any meetings. The Parks & Recreation Board is to attend the next City Council meeting, which will be held on September 14, 2004. It will be discussed at that time new members and the direction of the Parks & Recreation in the future. Motion carried.

-Mr. Ryan moved and Mr. Zigray seconded to fix Derrick Drive with gravel. Motion carried.

Mr. Zigray moved and Mr. Robertson seconded to adjourn at 8:44 p.m. to meet in regular session on September 14, 2004. Motion carried.

COUNCIL CHAMBERS

September 28, 2004

The Kingwood City Council met in regular session on Tuesday, September 28, 2004 at 6:15 pm.

Those present were: Mayor-Fred Peddicord, III; Recorder-Franklin P. Ryan; and Council members-Dave Estep, Claude Waugerman and William Robertson.

Mr. Ryan moved and Mr. Estep seconded to approve the minutes of the September 14, 2004 meeting. Motion carried.

The bills were presented. Mr. Ryan moved and Mr. Estep seconded for the bills to be allowed and paid. Motion carried.

The building permits were presented. Mr. Ryan moved and Mr. Estep seconded to approve building permits provided they conform to all zoning regulations. Motion carried.

Other Business

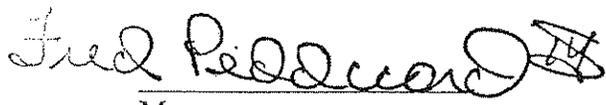
-Mr. Estep moved to approve the 3<sup>rd</sup> and Final Reading of the Water Rate Ordinance. Mr. Waugerman seconded. Motion carried.

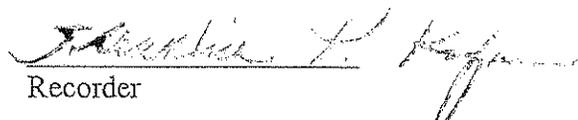
-Mr. Ryan moved to approve Martha Haigh as City Clerk as Tammy Harper resigned effective September 30, 2004. Mr. Waugerman seconded. Motion carried.

-Mr. Estep moved to change signature cards on all accounts from Tammy Harper to Martha Haigh. Mr. Ryan seconded. Motion carried.

-Trick or Treat hours for the City of Kingwood will be the same as the County.

-Mr. Ryan moved to adjourn at 6:30 pm and Mr. Estep seconded. Motion carried.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Recorder



# Certificate of Publication

## LEGAL NOTICE

AN AMENDMENT TO AND RE-ENACTMENT OF AN ORDINANCE ESTABLISHING AND FIXING A NEW ORDINANCE SETTING FORTH NEW WATER RATES AND ASSOCIATED RATES, DELETING WATER RATES AND ASSOCIATED RATES FROM A PRIOR ORDINANCE WHICH SET FORTH WATER RATES AND ALL OTHER RATES CHARGED BY THE WATER SYSTEM, ALL SUCH RATES FOR SERVICE TO CUSTOMERS OF THE WATER SYSTEM OF THE MUNICIPALITY OF KINGWOOD, WEST VIRGINIA

WHEREAS, by the adoption of the prior Ordinance of similar title, the water rates and associated water rates for the Municipality of Kingwood were fixed and set within said Ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE MUNICIPALITY OF KINGWOOD HEREBY ORDAINS: The following schedule of water rates and rates associated thereto are hereby fixed and determined as the water rates and associated rates to be charged to customers of the water system of the Municipality of Kingwood and does adopt these rates as set forth herein, and by adoption hereof, sets forth rates to be charged to customers of the waterworks system of the City of Kingwood throughout the territory served and does amend and re-enact the prior Ordinance:

### SECTION 1. SCHEDULE OF RATES

#### APPLICABILITY

Applicable to entire area served.

#### AVAILABILITY OF SERVICE

Available for general domestic, commercial, industrial and resale water service.

#### RATES

Customers with metered water supply.

Number of Gallons/Month	Rate
First 2,000 gallons	\$7.53 per 1000 gallons
Next 3,000 gallons	\$7.53 per 1000 gallons
Next 35,000 gallons	\$5.03 per 1000 gallons
All Over 40,000 gallons	\$4.75 per 1000 gallons

#### MINIMUM CHARGE

No bill shall be rendered for less than \$15.06 which is the equivalent to 2,000 gallons or the following minimum amounts according to the size of meter installed.

5/8 inch meter, or less	\$15.06 per month
3/4 inch meter	\$22.59 per month
1 inch meter	\$37.65 per month
1 1/2 inch meter	\$75.30 per month
2 inch meter	\$120.48 per month
3 inch meter	\$225.90 per month
4 inch meter	\$376.50 per month
6 inch meter	\$753.00 per month
8 inch meter	\$1,204.80 per month

#### RESALE RATE

All water for resale to Preston County Service District No. 2 and the Town of Albright shall be billed at \$3.98 per 1,000 gallons used per month.

#### MINIMUM CHARGE FOR RESALE

No bill shall be rendered for less than the following minimum amounts according to the size of meter installed:

5/8 inch meter, or less	\$12.14 per month
3/4 inch meter	\$18.21 per month
1 inch meter	\$30.35 per month
1 1/2 inch meter	\$60.70 per month
2 inch meter	\$97.12 per month
3 inch meter	\$182.10 per month
4 inch meter	\$303.50 per month
6 inch meter	\$607.00 per month
8 inch meter	\$971.20 per month

#### DELAYED PAYMENT PENALTY

The above schedule of rates is net. On all current accounts not paid in full when due, within twenty (20) days of date of bill, a ten percent (10%) penalty will be added to the net current amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

#### WATER CONNECTION CHARGE (TAP FEE)

A charge of \$300.00 will be made for every new subscriber requiring a new connection for meters of one inch or less.

Where new connections involve meters larger than one inch, the new connection will be \$350.00 or actual cost, whichever is greater.

I, **Carol Peters**, the undersigned Advertising Manager of The Preston County Journal, a weekly newspaper of general circulation, published at Kingwood, Preston County, West Virginia, do hereby certify that

the notice

New Water Rates - Municipality of Kingwood

a copy of which notice is hereto annexed, was published in said paper for <sup>TWO</sup> successive weeks, beginning with its issue of 9/1/07

and expiring with its issue of 9/8/07

And, I do further certify that on 9/8/07

I posted and left posted, a copy of said notice at the front door of the Courthouse of said county.

*Carol Peters*

ADVERTISING MANAGER

Subscribed and sworn to before me this the 12th day of June, 2007

*Dennis E. Peters*

NOTARY PUBLIC

My commission expires 6/29/2014



I, WV \_\_\_\_\_

or publishing notice hereto \$ \_\_\_\_\_

ADVERTISING MANAGER

#### RECONNECTION SERVICE CHARGE

- (c) Whenever the supply of water is turned off for violation of rules and regulations, nonpayment of bills, or fraudulent use of water, a reconnection charge in the amount of Twenty Dollars (\$20.00) shall be paid as tariff for reconnecting service.
- (d) If service is discontinued at the request of a customer, the Kingwood Water Works may refuse service to such customer, at the same premises, within eight (8) months, unless said Water Works shall first receive payment in the amount of Twenty Dollars (\$20.00) as a tariff for reconnecting services.

#### RETURNED CHECKS FOR INSUFFICIENT FUNDS

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

#### LEAK ADJUSTMENT

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

#### SECURITY DEPOSIT

Not to exceed one-sixth (1/6) of the annual estimated charge for residential service or \$50.00, whichever is greater or one-sixth (1/6) of annual estimated charge for commercial service.

#### SECTION 2. EFFECTIVE DATE

The rates, charges and delayed payment penalty provided herein shall become effective forty-five (45) days after final enactment hereof.

#### SECTION 3. SEPARABILITY; REPEAL OF CONFLICTING ORDINANCES

The provisions of this Ordinance are separable, and if any clause, provision or section hereof shall be held void or unenforceable by the West Virginia Public Service Commission or any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. Upon the effective date hereof, all ordinances, resolutions, order or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflicts, hereby repealed.

#### SECTION 4. STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the City Clerk shall cause to be published a copy of this Ordinance once a week for two (2) successive weeks within a period of fourteen (14) consecutive days, with at least six (6) days between each publication, in a qualified newspaper of general circulation in the City of Kingwood, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before the Council at the Kingwood City Hall, Tunnelton Street, Kingwood, West Virginia, on the 14<sup>th</sup> day of September, 2004, at 7:00 p.m., which date is not less than ten (10) days after the date of the first publication of the Ordinance and notice, and present any comment or protest thereto, following which hearing Council shall take such action as it shall deem proper. Copies of this Ordinance shall be available to the public for inspection at the office of the City Clerk, City Hall, Tunnelton Street, Kingwood, West Virginia, during regular office hours.

#### CERTIFICATION AND NOTICE

The foregoing Ordinance was introduced and adopted on first reading at a meeting of the Council held on August 24, 2004. Any person interested may appear before the Council of the City of Kingwood, at the Kingwood City Hall, Tunnelton Street, Kingwood, West Virginia, on the 14<sup>th</sup> day of September, 2004, at 7:00 p.m., being the date, time and place of the proposed final adoption of this Ordinance, and be heard with respect thereto. Following such public hearing, the Council will then take such action as it shall deem proper. The proposed Ordinance may be inspected by the public at the office of the City Clerk, Kingwood City Hall, Tunnelton Street, Kingwood, West Virginia.

Fred C. Peddicord, III, Mayor

9/1/8

# Certificate of Publication

## LEGAL NOTICE

### PUBLIC NOTICE OF CHANGE IN WATER RATES BY CITY OF KINGWOOD

Notice is hereby given that the City of Kingwood, a municipal utility has adopted by ordinance on September 14, 2004, a tariff containing increased rates, tolls and charges for furnishing water service to the customers of the City of Kingwood water system in Preston County, West Virginia.

The proposed increased rates and charges will become effective October 30, 2004, unless otherwise ordered by the Public Service Commission ("the Commission") and will produce approximately \$127,293.00 annually in additional revenue, an overall increase of 17%. The average monthly bill for the various classes of customers will be changed as follows:

	(\$) <u>INCREASE</u>	<u>INCREASE (%)</u>
Residential	\$2.92	19%
Commercial	\$17.10	16%
Industrial	N/A	N/A
Resale	\$2,000.00	12%
Other	N/A	N/A

The increase shown is based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a proposal and are subject to change (increases or decreases) by the Commission in its review of this filing. The Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates or charges, by:

- (1) Any customer aggrieved by the changed rates or charges who presents to the Commission a petition signed by not less than 25% of the customers served by the City of Kingwood; or
- (2) Any customer who is served by the City of Kingwood and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries. Said petition shall be accompanied by evidence of discrimination; or
- (3) Any customer or group of customers who are affected by said change in rates who reside within the municipal boundaries and who present a petition to the Commission alleging discrimination between said customer or group of customers and other customers of the City of Kingwood. Said petition shall be accompanied by evidence of discrimination.

All petitions should be addressed to the Executive Secretary, Public Service Commission of West Virginia, 201 Brooks Street, P.O. Box 812, Charleston, West Virginia 25323.

A complete copy of the proposed rates is available for public inspection in the Kingwood City Hall, Kingwood, West Virginia.

A copy of the proposed rates is available for public inspection at the office of the Secretary of the Public Service Commission at 201 Brooks Street, Charleston, West Virginia.

9/18,25

I, **Carol Peters**, Advertising Manager of The Preston County News, a weekly newspaper of general circulation, published at Kingwood, Preston County, West Virginia, do hereby certify that the annexed public notice

Change In Water Rates By City of Kingwood

has been published for Two successive weeks in said newspaper, beginning with its issue of 9/18/04

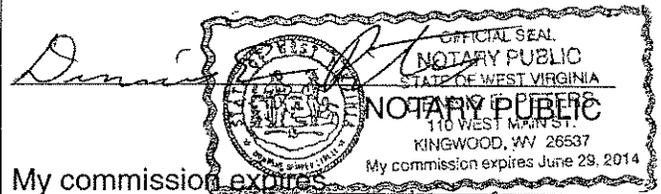
and expiring with the issue of 9/25/04

And, I do further certify that on 9/25/04

*Carol Peters*

ADVERTISING MANAGER

Sworn to and subscribed before me this the 12th day of June, 2007



My commission expires

6/29/2014

# Certificate of Publication

## LEGAL NOTICE

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<u>Commercial</u>	\$17.10	16%
<u>Industrial</u>	N/A	N/A
<u>Resale</u>	\$2,000.00	12%
<u>Other</u>	N/A	N/A

The increase shown is based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a proposal and are subject to change (increases or decreases) by the Commission in its review of this filing. The Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates or charges, by:

- (1) Any customer aggrieved by the changed rates or charges who presents to the Commission a petition signed by not less than 25% of the customers served by the City of Kingwood; or
- (2) Any customer who is served by the City of Kingwood and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries. Said petition shall be accompanied by evidence of discrimination; or
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A complete copy of the proposed rates is available for public inspection in the Kingwood City Hall, Kingwood, West Virginia.

A copy of the proposed rates is available for public inspection at the office of the Secretary of the Public Service Commission at 201 Brooks Street, Charleston, West Virginia.

9/22,29

I, **Carol Peters**, the undersigned Advertising Manager of The Preston County Journal, a weekly newspaper of general circulation, published at Kingwood, Preston County, West Virginia, do hereby certify that the notice

Change In Water Rates By City of Kingwood

a copy of which notice is hereto annexed, was published in said paper for <sup>Two</sup> successive weeks, beginning with its issue of 9/22

and expiring with its issue of 9/29/04

And, I do further certify that on 9/29/04

I posted and left posted, a copy of said notice at the front door of the Courthouse of said county.

*Carol Peters*

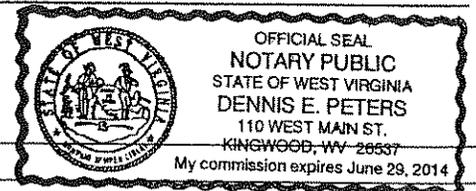
ADVERTISING MANAGER

Subscribed and sworn to before me this the 12th day of June, 2007

*Dennis E. Peters*

NOTARY PUBLIC

My commission expires 6/29/2014



Kingwood, WV \_\_\_\_\_  
 Received of \_\_\_\_\_  
 Amount for publishing notice hereto \$ \_\_\_\_\_

ADVERTISING MANAGER



CITY OF KINGWOOD

Water Revenue Bonds, Series 2007 A  
(West Virginia Infrastructure Fund)

EXCERPT OF MINUTES ON ADOPTION OF BOND ORDINANCE,  
SUPPLEMENTAL RESOLUTION AND FIRST DRAW RESOLUTION

The undersigned Recorder of the City of Kingwood (the "City") hereby certifies that the following is a true and correct excerpt of the minutes of a special meeting of the Council of the City.

\* \* \*

\* \* \*

\* \* \*

The Council of the City met in special session, pursuant to notice duly given, on the 23rd day of May, 2007, in Kingwood, West Virginia, at the hour of 7:00 p.m.

PRESENT:	Fred Peddicord, III	-	Mayor
	William Robertson	-	Recorder
	Bruce Wiley	-	Councilman
	David Toothman	-	Councilman
	James Maier	-	Councilman
	David Estep	-	Councilman
	Jeffrey Zigray	-	Councilman

ABSENT: None

Fred Peddicord, III, Mayor, presided, and William Robertson, acted as Recorder. The Mayor announced that a quorum of members was present and that the meeting was open for any business properly before it.

Thereupon, the Mayor stated that the proposed Bond Ordinance heretofore passed on first and second readings would be subject to protests and suggestions from any interested person at this time in accordance with the publication of an abstract of said Bond Ordinance and a Notice of Hearing, which publication has been duly made, and the Mayor called for protests and suggestions as to said Bond Ordinance and all persons desiring to protest the said Bond Ordinance or to make any suggestions with reference thereto were heard.

There being no protests or suggestions made as to said Bond Ordinance, the Mayor thereupon stated that it would be in order to consider the said Bond Ordinance for final enactment and the Mayor caused the said Bond Ordinance to be read as follows:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATER SYSTEM OF THE CITY OF KINGWOOD AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$500,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2007 A (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

and caused the same to be read and there was discussion. Thereupon, upon motion duly made by David Estep and seconded by Bruce Wiley, it was unanimously ordered that the said Bond Ordinance be adopted and be in full force and effect on and from the date hereof.

The Mayor presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE WATER REVENUE BONDS, SERIES 2007 A (WEST VIRGINIA INFRASTRUCTURE FUND), OF THE CITY OF KINGWOOD; RATIFYING AND APPROVING A LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; APPROVING A BOND ORDINANCE; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

and caused the same to be read and there was discussion. Thereupon, upon motion duly made by David Estep and seconded by Bruce Wiley, it was unanimously ordered that the said Supplemental Resolution be adopted and be in full force and effect on and from the date hereof.

Thereupon, the Mayor presented First Draw Resolution for consideration and there was discussion. Thereupon, on motion duly made by David Estep and seconded by Bruce Wiley, it was unanimously ordered that the said First Draw Resolution be adopted and be in full force and effect 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.

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the City of Kingwood and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 23rd day of May, 2007.

  
\_\_\_\_\_  
Recorder

485090.00004



# Certificate of Publication

## LEGAL NOTICE

### NOTICE OF PUBLIC HEARING ON CITY OF KINGWOOD BOND ORDINANCE

A public hearing will be held on the following-entitled Ordinance at a regular meeting of the Council of the City of Kingwood (the "City") to be held on Wednesday, May 23, 2007, at 7:00 pm. at the City of Kingwood City Hall, 313 Tunnelton Street, Kingwood, West Virginia, and at such hearing any person interested may appear before the City and present protests, and all protests and suggestions shall be heard by the City and it shall then take such actions as it shall deem proper in the premises upon an Ordinance entitled:

### BOND ORDINANCE

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATER SYSTEM OF THE CITY OF KINGWOOD AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$500,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2007 A (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

The above-quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bonds contemplated thereby. The City contemplates the issuance of the Bonds described in the Ordinance. The proceeds of the Bonds will be used to provide permanent financing of the costs of acquisition and construction of certain additions, betterments and improvements to the municipal water system of the City of Kingwood and to pay certain costs of issuance of the Bonds and related costs. The Bonds are payable solely from revenues to be derived from the ownership and operation of the water system of the City. No taxes may at any time be levied for the payment of the Bonds or the interest thereon.

The above-entitled Ordinance was adopted by the Council of the City of Kingwood on May 8, 2007. A certified copy of the above-entitled Ordinance is on file with the City for review by interested parties during regular office hours.

Following the public hearing, the City intends to enact the Ordinance upon final reading.

Dated: May 9, 2007

/s/ Fred Peddicord  
Mayor  
5/9, 16

I, **Carol Peters**, the undersigned Advertising Manager of The Preston County Journal, a weekly newspaper of general circulation, published at Kingwood, Preston County, West Virginia, do hereby certify that the notice

Notice of Public Hearing  
City of Kingwood - Bond Ordinance

a copy of which notice is hereto annexed, was published in said paper for Two successive weeks, beginning with its issue of 5/9/07

and expiring with its issue of 5/16/07

And, I do further certify that on 5/16/07

I posted and left posted, a copy of said notice at the front door of the Courthouse of said county.

*Carol Peters*

ADVERTISING MANAGER

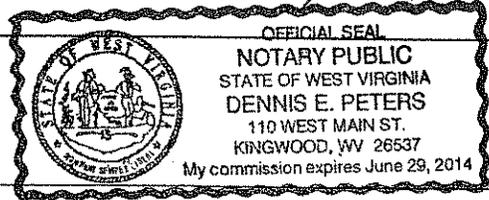
Subscribed and sworn to before me this the

17th day of May, 2007

*Dennis E. Peters*

NOTARY PUBLIC

My commission expires 6/29/2014



Kingwood, WV

Received of \_\_\_\_\_

Amount for publishing notice hereto \$ \_\_\_\_\_

ADVERTISING MANAGER



WV MUNICIPAL BOND COMMISSION  
#8 Capitol Street  
Terminal Building, Suite 500  
Charleston, WV 25301  
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: June 14, 2007

(See Reverse for Instructions)

ISSUE: City of Kingwood Water Revenue Bonds, Series 2007 A (West Virginia Infrastructure Fund)

ADDRESS: 313 Tunnelton Street, Kingwood, West Virginia 26537 COUNTY: Preston

PURPOSE OF ISSUE: New Money: X  
Refunding: \_\_\_\_\_ REFUNDS ISSUE(S) DATED: N/A

ISSUE DATE June 14, 2007 CLOSING DATE: June 14, 2007

ISSUE AMOUNT: \$ 265,000 RATE: 0%

1ST DEBT SERVICE DUE: December 1, 2008 1ST PRINCIPAL DUE: December 1, 2008

1ST DEBT SERVICE AMOUNT: \$ 1,710 PAYING AGENT: Municipal Bond Commission

BOND  
COUNSEL: Step toe & Johnson PLLC  
Contact Person: John C. Stump, Esquire  
Phone: 304.353.8196

UNDERWRITERS  
COUNSEL: Jackson Kelly, PLLC  
Contact Person: Samme Gee  
Phone: 304.340.1318

CLOSING BANK: WesBanco Bank  
Contact Person: Thomas Harper  
Phone: 304.329.0585

ESCROW TRUSTEE: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Phone: \_\_\_\_\_

KNOWLEDGEABLE ISSUER CONTACT  
Contact Person: Martha Haigh  
Position: Clerk  
Phone: 304.329.1225

OTHER:  
Infrastructure & Jobs Development Council  
Contact Person: Jefferson Brady, P.E.  
Function: Executive Director  
Phone: 304.558.4607

DEPOSITS TO MBC AT CLOSE:  
By: \_\_\_\_\_ Wire \_\_\_\_\_  
\_\_\_\_\_ Check \_\_\_\_\_  
Accrued Interest: \$ \_\_\_\_\_  
Capitalized Interest: \$ \_\_\_\_\_  
Reserve Account: \$ \_\_\_\_\_  
Other: \$ \_\_\_\_\_

REFUNDS & TRANSFERS BY MBC AT CLOSE  
By: \_\_\_\_\_ Wire \_\_\_\_\_  
\_\_\_\_\_ Check \_\_\_\_\_  
\_\_\_\_\_ IGT \_\_\_\_\_  
To Escrow Trustee: \$ \_\_\_\_\_  
To Issuer: \$ \_\_\_\_\_  
To Cons. Invest. Fund: \$ \_\_\_\_\_  
To Other: \$ \_\_\_\_\_

NOTES: The Series 2007 A Bonds Reserve Account will be funded over 10 years.

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 basic 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 West Virginia 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 closing are required, please submit this form before closing. If no significant facts change by closing, no resubmission at closing is required. If, however, there are changes, please submit an updated form, with changes noted, at closing.

If you should have any questions concerning this form, please call the Commission.

05.21.07  
485090.00004



CITY OF KINGWOOD

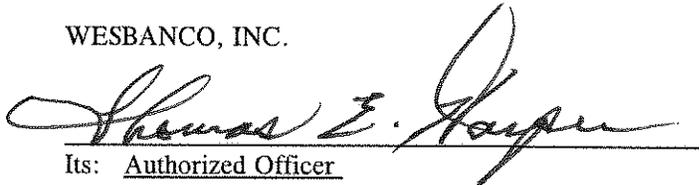
Water Revenue Bonds, Series 2007 A  
(West Virginia Infrastructure Fund)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

WesBanco, Inc., Kingwood, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Ordinance of the City of Kingwood (the "Issuer") enacted by the Issuer on May 23, 2007, and a Supplemental Resolution adopted by the Issuer on May 23, 2007 (collectively, the "Bond Legislation"), authorizing issuance of the Issuer's Water Revenue Bonds, Series 2007 A (West Virginia Infrastructure Fund), dated June 14, 2007, in the aggregate principal amount of \$265,000 (the "Series 2007 A Bonds"), and agrees to serve as Depository Bank in connection with the Series 2007 A Bonds, all as set forth in the Bond Legislation.

WITNESS my signature on this 14th day of June, 2007.

WESBANCO, INC.

  
Its: Authorized Officer

485090.00004



CITY OF KINGWOOD

Water Revenue Bonds, Series 2007 A  
(West Virginia Infrastructure Fund)

ACCEPTANCE OF DUTIES AS REGISTRAR

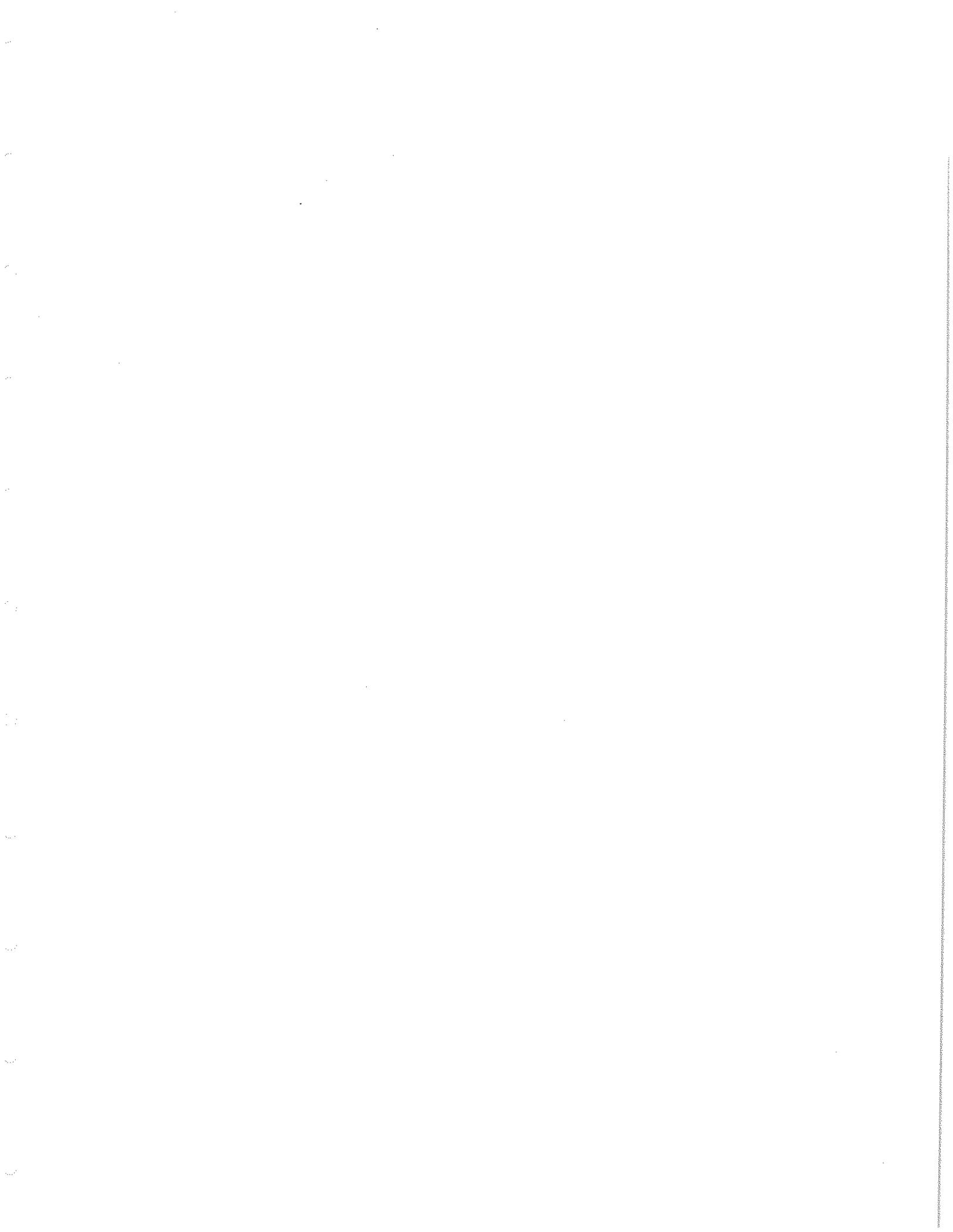
THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the City of Kingwood Water Revenue Bonds, Series 2007 A (West Virginia Infrastructure Fund), dated June 14, 2007, in the principal amount of \$265,000 (the "Bonds"), and agrees to perform all duties of Registrar in connection with the Bonds, all as set forth in the Bond Legislation authorizing issuance of the Bonds.

WITNESS my signature on this 14th day of June, 2007.

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

485090.00004



CITY OF KINGWOOD

Water Revenue Bonds, Series 2007 A  
(West Virginia Infrastructure Fund)

CERTIFICATE OF REGISTRATION OF BONDS

THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, as Registrar under the Bond Legislation and Registrar's Agreement providing for the above-captioned bond issue of the City of Kingwood (the "Issuer"), hereby certifies that on the date hereof, the single, fully registered City of Kingwood Water Revenue Bond, Series 2007 A (West Virginia Infrastructure Fund), of the Issuer, dated June 14, 2007, in the principal amount of \$265,000, numbered AR-1, was registered as to principal only in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of The Huntington National Bank, as Registrar.

WITNESS my signature on this 14th day of June, 2007.

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

485090.00004



CITY OF KINGWOOD

Water Revenue Bonds, Series 2007 A  
(West Virginia Infrastructure Fund)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 14th day of June, 2007, by and between the CITY OF KINGWOOD, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$265,000 principal amount of Water Revenue Bonds, Series 2007 A (West Virginia Infrastructure Fund), dated the date hereof, in fully registered form (the "Bonds"), pursuant to a Bond Ordinance of the Issuer duly enacted May 23, 2007, and a Supplemental Resolution of the Issuer duly adopted May 23, 2007 (collectively, the "Bond Legislation");

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 Bond Legislation, a copy of which is attached as EXHIBIT A hereto and incorporated herein by reference;

WHEREAS, the Bond Legislation provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Bond Legislation and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Bond Legislation and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out

the powers and duties of Registrar for the Bonds, all as set forth in the Bond Legislation, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the 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 Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation for services rendered as provided in the annexed schedule.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Bond Legislation with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Bond Legislation, the terms of the Bond Legislation shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Bond Legislation will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER: City of Kingwood  
313 Tunnelton Street  
Kingwood, West Virginia 26537  
Attention: Mayor

REGISTRAR: The Huntington National Bank  
One Huntington Square  
Charleston, West Virginia 25301  
Attention: Corporate Trust Department

8. The Registrar is hereby requested and authorized to authenticate, register and deliver the Bonds in accordance with the Bond Legislation.

9. This document may be executed in one or more counterparts each of which shall be deemed an original and all of which shall constitute but one and the same document.

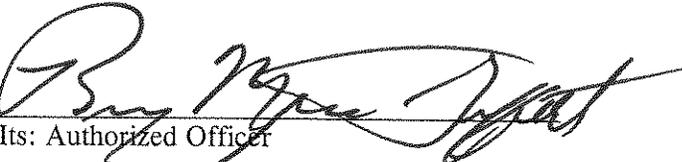
[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the date first written above.

CITY OF KINGWOOD

By:   
Its: Mayor

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

485090.00004

EXHIBIT A

Included in transcript as Documents No. 1 and No. 2

SCHEDULE OF COMPENSATION

Private Financial Group  
P.O. Box 633 - WE3013  
Charleston, West Virginia 25322-0633



STATEMENT OF TRUSTEE'S FEES  
Invoice Date June 14, 2007

City of Kingwood  
Account Number 6089001809

City of Kingwood  
Water Revenue Bonds, Series 2007 A  
C/o John C. Stump  
Steptoe & Johnson, PLLC  
P.O. Box 1588  
Charleston, WV 25326-1588

SUMMARY OF ACCOUNT

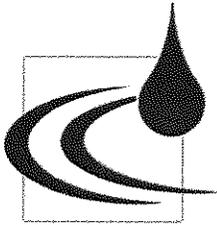
\*\*\*\*\*  
FEE CALCULATION FOR June, 2007  
\*\*\*\*\*

TOTAL AMOUNT	\$	500.00
TOTAL DUE	\$	<u>500.00</u>

- \* FEE INVOICES ARE PAYABLE WITHIN 30 DAYS. IF PAYMENT \*
- \* IS NOT RECEIVED, FEES WILL BE DEDUCTED FROM THE PLAN \*
- \* .. MAIL CHECK TO: HUNTINGTON NATIONAL BANK, ATTN: BARRY. . \*
- \* .. GRIFFITH, PO BOX 633, CHARLESTON, WV 25322-0633 . . . . . \*

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT  
Barry Morgan Griffith at (304)348-5035





WEST VIRGINIA  
**Water Development Authority**

*Celebrating 33 Years of Service 1974 - 2007*

June 14, 2007

City of Kingwood  
Water Revenue Bonds, Series 2007 A  
(West Virginia Infrastructure Fund)

TO WHOM IT MAY CONCERN:

In reliance upon a certificate of Hardesty and Associates, an independent certified public accountant, and an opinion of Steptoe & Johnson PLLC, as bond counsel, stating that the coverage and parity requirements have been met, the undersigned duly authorized representative for the West Virginia Water Development Authority, the registered owner of the entire outstanding aggregate principal amount of the Series 1987 A Bonds, the Series 1987 B Bonds and the Series 2001 Bonds, hereinafter defined and described, hereby consents to (i) the issuance of the Water Revenue Bonds, Series 2007 A (West Virginia Infrastructure Fund) (the "Bonds"), in the original aggregate principal amount of \$265,000 by the City of Kingwood (the "Issuer"), under the terms of the bond ordinance authorizing the Bonds, on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's outstanding Water Revenue Bonds, Series 1987 A (West Virginia Water Development Authority), dated January 7, 1987, issued in the original aggregate principal amount of \$2,810,612 (the "Series 1987 A Bonds"); and Water Revenue Bonds, Series 2001 (West Virginia Water Development Authority), dated January 18, 2001, issued in the original aggregate principal amount of \$1,139,214 (the "Series 2001 Bonds") and (ii) the issuance of the Bonds senior and prior to the Issuer's outstanding Water Revenue Bonds, Series 1987 B (West Virginia Water Development Authority), dated January 7, 1987, issued in the original aggregate principal amount of \$689,388 (the "Series 1987 B Bonds").

  
Authorized Representative

485090.00004



IC-2

(7/30/01)

## GRANT AGREEMENT

This Grant Agreement entered into by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority"), on behalf of the WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL (the "Council") and the CITY OF KINGWOOD (the "Governmental Agency").

### RECITALS

WHEREAS, the Council has authorized the Authority to make a grant to the Governmental Agency in the amount not to exceed \$260,000 (the "Grant") for the purposes of the design, acquisition or construction of a project for which a preliminary application has been submitted and approved by the Council;

WHEREAS, the Governmental Agency wishes to accept the Grant upon such terms and conditions as are hereinafter set forth for the purposes of designing, acquiring or constructing the project described in Exhibit A attached hereto and incorporated herein by reference (the "Project");

WHEREAS, this Grant Agreement sets forth the Council, the Authority and the Governmental Agency's understandings and agreements with regard to the Grant.

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

### TERMS

1. Prior to the distribution of the Grant, the Governmental Agency shall provide the Authority with a Project budget and an anticipated monthly draw schedule reflecting the receipt dates and amounts from other funding sources.

2. The Authority shall advance the Council's share of the Project costs from the Grant from time to time upon receipt of a requisition evidencing the costs incurred, which requisition must be satisfactory to the Authority.

3. The monthly requisition will also set forth (i) the amounts requested for that requisition period from all other funding agencies, and (ii) the amounts advanced for the Project to date from all other funding agencies.

4. The Governmental Agency will use the proceeds of the Grant only for the purposes specifically set forth in Exhibit A.

5. The Governmental Agency shall comply with and is bound by the Council's rules set forth as Title 167, Series 1 and more particularly Section 5.9 with respect to the sale of the Project.

6. The Governmental Agency acknowledges that the Grant may be reduced, from time to time, to reflect actual Project costs and availability of other funding.

7. The Governmental Agency shall list the Grant provided by the Authority and the Council in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any groundbreaking or dedication of the Project.

8. This Grant Agreement shall be governed by the laws of the State of West Virginia.

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

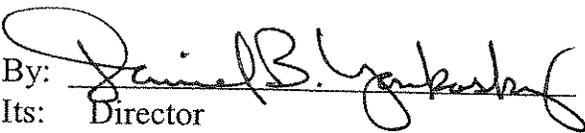
CITY OF KINGWOOD

By:   
Its: Mayor  
Date: June 14, 2007

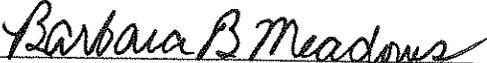
(SEAL)

Attest:  
  
\_\_\_\_\_  
Its: Recorder

WEST VIRGINIA WATER  
DEVELOPMENT AUTHORITY

By:   
Its: Director  
Date: June 14, 2007

(SEAL)

Attest:  
  
\_\_\_\_\_  
Its: Secretary-Treasurer

## **Exhibit A**

### **Project Description**

The Project consists of 11,000 linear feet of water line, five fire hydrants, one tie-in to the existing water distribution system, new meters, together with all appurtenant facilities.



# ACORD™ CERTIFICATE OF PROPERTY INSURANCE

DATE (MM/DD/YY)  
06/05/2007

PRODUCER (304) 329-2161 FAX (304) 329-2170  
Hartley Insurance  
PO Box 459  
420 E. Main Street  
Kingwood, WV 26537

Attn Pamela Albright Ext

INSURED City Of Kingwood  
313 Tunnelton Street  
Kingwood, WV 26537

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE  
Travelers Ins. Co.  
COMPANY A  
COMPANY B  
COMPANY C  
COMPANY D

## COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	COVERED PROPERTY	LIMITS
	PROPERTY CAUSES OF LOSS BASIC BROAD SPECIAL EARTHQUAKE FLOOD				BUILDING PERSONAL PROPERTY BUSINESS INCOME EXTRA EXPENSE BLANKET BUILDING BLANKET PERS PROP BLANKET BLDG & PP	\$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$
X	INLAND MARINE TYPE OF POLICY	GP09312838	07/01/2006	07/01/2007	X water project	\$ 575,000
A	CAUSES OF LOSS NAMED PERILS OTHER					\$ \$ \$
	CRIME TYPE OF POLICY					\$ \$ \$
	BOILER & MACHINERY					\$
	OTHER					\$

LOCATION OF PREMISES/DESCRIPTION OF PROPERTY  
NEW WATER PROJECT LOCATED WHEATSELL SETTLEMENT KINGWOOD, WV 26537

SPECIAL CONDITIONS/OTHER COVERAGES

### CERTIFICATE HOLDER

FAX: (304) 624-7831

ADD'L INSURED & LOSS PAYEE  
WV WATER DEVELOPMENT AUTHORITY  
KATY  
180 ASSOCIATION DR.  
CHARLESTON, WV 25311

### CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

*P. Albright*

# ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)

8/01/06

**PRODUCER**

Acordia of WV-Charleston  
 One Hillcrest Drive, East  
 PO Box 1551  
 Charleston WV 25326-1551  
 (304) 346-0511

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

**COMPANIES AFFORDING COVERAGE**

- COMPANY  
**A** ST PAUL TRAVELERS
- COMPANY  
**B**
- COMPANY  
**C**
- COMPANY  
**D**

**INSURED**

City of Kingwood  
 313 Tunnelton Street  
 Kingwood, WV 26537

**RECEIVED**  
 DATE 8/4/06  
 CITY OF KINGWOOD

**COVERAGES**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOT WITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT	6P09312838	7/01/06	7/01/07	GENERAL AGGREGATE \$ 2,000,000 PRODUCTS-COMP/OP AGG \$ 2,000,000 PERSONAL & ADV INJURY \$ 1,000,000 EACH OCCURRENCE \$ 1,000,000 FIRE DAMAGE (Any one fire) \$ 500,000 MED EXP (Any one person) \$ Not Covered
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	6P09312838	7/01/06	7/01/07	COMBINED SINGLE LIMIT \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EACH ACCIDENT \$ AGGREGATE \$
A	EXCESS LIABILITY <input checked="" type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM	6P09312838	7/01/06	7/01/07	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY THE PROPRIETOR/PARTNERS/EXECUTIVE OFFICERS ARE: <input type="checkbox"/> INCL <input type="checkbox"/> EXCL				WC STATUTORY LIMITS OTH-ER EL EACH ACCIDENT \$ EL DISEASE-POLICY LIMIT \$ EL DISEASE-EA EMPLOYEE \$
A	OTHER AUTOMOBILE PHYSICAL DAMAGE COVERAGE	6P09312838	7/01/06	7/01/07	COMPREHENSIVE DEDUCTIBLE IS \$500. COLLISION DEDUCTIBLE IS \$1,000.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS THE CERTIFICATE HOLDER IS AN ADDITIONAL INSURED AND LOSS PAYEE AS RESPECTS: 1995 INTERNATIONAL PACKER, #1HTS0AAR45H664552 VALUED AT \$60,000; 2000 GMC STREET SWEEPER, #J8DC4B141Y7013064 VALUED AT \$24,000; 2000 KENWORTH TRACTOR, #1XKDDU9X1YJ841462 VALUED AT \$122,400; 2000 MAC TRAILER, #5MAMN4521YCO03691 VALUED AT \$27,000; 2000 MAC TRAILER, #5MAMN4523YCO03661 VALUED AT \$27,000; 2000 MAC TRAILER, #5MAMN4521YCO03612 VALUED AT \$27,000.

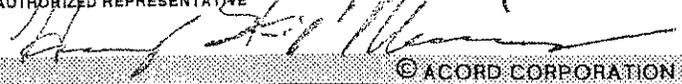
**CERTIFICATE HOLDER**

WESBANCO BANK, INC.  
 WENDY S. PAGOT, TRUST ADMIN.  
 ONE BANK PLAZA  
 WHEELING, WV 26003

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



## IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

# ACORD™ EVIDENCE OF PROPERTY INSURANCE

DATE (MM/DD/YY)

8/01/06

THIS IS EVIDENCE THAT INSURANCE AS IDENTIFIED BELOW HAS BEEN ISSUED, IS IN FORCE, AND CONVEYS ALL THE RIGHTS AND PRIVILEGES AFFORDED UNDER THE POLICY.

<b>PRODUCER</b> Acordia of WV-Charleston One Hillcrest Drive, East PO Box 1551 Charleston WV 25326-1551		<b>PHONE</b> (A/C, No, Ext): (304) 346-0611		<b>COMPANY</b> ST PAUL TRAVELERS	
<b>CODE:</b> AGENCY CUSTOMER ID #: 119566		<b>SUB CODE:</b>			
<b>INSURED</b> City of Kingwood 313 Tunnelton Street Kingwood, WV 26537		<b>LOAN NUMBER</b>		<b>POLICY NUMBER</b> GP09312838	
		<b>EFFECTIVE DATE</b> 7/01/06		<b>EXPIRATION DATE</b> 7/01/07	
				<input type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED	
<b>THIS REPLACES PRIOR EVIDENCE DATED:</b>					

**PROPERTY INFORMATION**

LOCATION/DESCRIPTION

WV ROUTE 7  
 KINGWOOD, WV 26537

SEWAGE TREATMENT/WATER PLANT

**COVERAGE INFORMATION**

COVERAGE/PERILS/FORMS

AMOUNT OF INSURANCE

DEDUCTIBLE

SPECIAL PROPERTY FORM  
 BUILDING  
 BUSINESS PERSONAL PROPERTY

\$4,504,000  
 \$115,000

\$1,000  
 \$1,000

**REMARKS (Including Special Conditions)**

**CANCELLATION**

THE POLICY IS SUBJECT TO THE PREMIUMS, FORMS, AND RULES IN EFFECT FOR EACH POLICY PERIOD. SHOULD THE POLICY BE TERMINATED, THE COMPANY WILL GIVE THE ADDITIONAL INTEREST IDENTIFIED BELOW 30 DAYS WRITTEN NOTICE, AND WILL SEND NOTIFICATION OF ANY CHANGES TO THE POLICY THAT WOULD AFFECT THAT INTEREST, IN ACCORDANCE WITH THE POLICY PROVISIONS OR AS REQUIRED BY LAW.

**ADDITIONAL INTEREST**

NAME AND ADDRESS

WESBANCO BANK, INC.  
 WENDY S. PAGOT, TRUST ADMN.  
 ONE BANK PLAZA  
 WHEELING, WV 26003

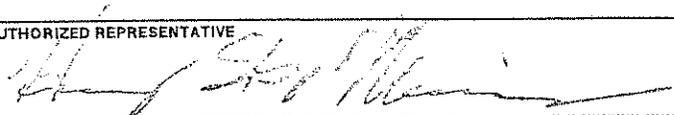
MORTGAGEE  
 LOSS PAYEE

ADDITIONAL INSURED

Loss Payee/Add'l Insured

LOAN #

AUTHORIZED REPRESENTATIVE





CITY OF KINGWOOD  
WATER REVENUE BONDS, SERIES 1987 A AND SERIES 1987 B  
AND  
SEWERAGE SYSTEM INTERIM FINANCING

BOND AND NOTES ORDINANCE

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01/06/87  
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CITY OF KINGWOOD

ORDINANCE

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS FOR THE EXISTING WATERWORKS SYSTEM OF THE CITY OF KINGWOOD, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$3,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 1987 A, NOT MORE THAN \$1,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 1987 B; AND NOT MORE THAN \$1,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES OR BOTH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 8, Article 19 of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law.

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

A. The City of Kingwood (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Preston County of said State.

B. The Issuer presently owns and operates a public waterworks system, but such existing system is inadequate for present and anticipated future needs of the Issuer. It is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be constructed certain additions, betterments and improvements for the existing waterworks facilities of the Issuer, consisting of a new water treatment plant, water lines, booster pumps and all necessary appurtenances (the "Project") (the existing waterworks facilities, the Project and any further additions thereto or extensions thereof is herein called the "System") at an estimated cost of \$4,745,000, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The estimated revenues to be derived in each year after the enactment hereof from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Bonds (as hereinafter defined) and all Sinking Fund, Reserve Account and other payments provided for herein.

D. It is deemed necessary for the Issuer to issue its Water Revenue Bonds in the total aggregate principal amount of not more than \$4,000,000 in two series, being the Series 1987 A Bonds in the aggregate principal amount of not more than \$3,000,000, and the Series 1987 B Bonds in the aggregate principal amount of not more than \$1,000,000 (collectively, the "Bonds"), in order to permanently finance costs of construction and acquisition of the Project and (at the option of the Issuer) to issue contemporaneously therewith, or as soon as practicable thereafter, its sewerage system grant anticipation notes, or a note or notes evidencing a line of credit, or both (collectively, the "Notes") in the aggregate principal amount of not more than \$1,000,000 to temporarily finance costs of construction and acquisition of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Notes during the term thereof and upon the Bonds prior to and during construction or acquisition and for 6 months after completion of construction of the Project; engineering, and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Bonds and Notes

and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof, including, with respect to the Notes, any fees for the providing of a letter of credit, and any costs of obtaining insurance thereon; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bonds or Notes or the repayment of indebtedness incurred by the Issuer for such purposes, shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 40 years.

F. It is in the best interests of the Issuer that its Original Bonds (as hereinafter defined) be sold to the Authority (as hereinafter defined) pursuant to the terms and provisions of a loan agreement and a supplemental loan agreement (collectively, the "Loan Agreement") heretofore entered into between the Issuer and the Authority, in form satisfactory to the Issuer and the Authority.

G. There are not outstanding any obligations of the Issuer which will rank prior to or on a parity with the Bonds as to lien and source of and security for payment. The Series 1987 B Bonds shall be junior and subordinate to the Series 1987 A Bonds as set forth herein. The Notes, if issued, will not be payable from the Net Revenues, but shall be payable from Grant Receipts, Surplus Revenues, and proceeds of a letter of credit, all as shall be set forth in the Indenture or the Supplemental Resolution authorizing the Notes.

H. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Bonds and the Notes, 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 West Virginia by final order, the time for rehearing and appeal of which have expired.

I. The Issuer has general taxing powers to finance operations of or facilities of the nature of the System, and the Issuer and all subordinate entities reasonably expect to issue less than \$5,000,000 of tax-exempt obligations during the calendar year in which the Bonds are to be issued.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Bonds and the Notes by those

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

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

"Act" means Chapter 8, Article 19 of the West Virginia Code of 1931, as amended and in effect on the date of enactment hereof.

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

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

"Bond Construction Trust Fund" means the Bond Construction Trust Fund established by Section 5.01 hereof.

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

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

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

"Bonds" means the Original Bonds, and any bonds on a parity therewith authorized to be issued hereunder.

"City Clerk" or "Recorder" means the Recorder of the Issuer.

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

"Consulting Engineers" means Chester Engineers, Pittsburgh, Pennsylvania, or any engineer or firm of engineers that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

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

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

"EDA" means the United States Economic Development Administration and any successor to the functions of the EDA.

"EDA Grant" means the grant from the EDA pursuant to the commitment therefor.

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

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

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

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

"Grant Agreement" means a written commitment for the payment of the EDA Grant or any of the Other Grants, specifying the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which Grant is to be paid to the Issuer; provided that, "EDA Grant Agreement" means only the Grant Agreement relating to the EDA Grant and "Other Grant Agreements" means only those Grant Agreements relating to the Other Grants.

"Grant Receipts" means all moneys received by the Issuer on account of any Grant after the date of issuance of the Notes;

provided that "EDA Grant Receipts" means only Grant Receipts on account of the EDA Grant, and "Other Grant Receipts" means only Grant Receipts on account of any or all of the Other Grants.

"Grants" means, collectively, the EDA Grant and the Other Grants, as hereinafter defined.

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

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

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

"Indenture" or "Trust Indenture" means the Trust Indenture which may be entered into between the Issuer and the Trustee relating to the Notes and all supplements or amendments thereto.

"Issuer" means the City of Kingwood, in Preston County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" shall mean, collectively, the Loan Agreement and the Supplemental Loan Agreement, both dated March 10, 1986, heretofore entered into between the Authority and the Issuer providing for the purchase of the Original Bonds from the Issuer by the Authority, the forms of which shall be approved, and the execution and delivery by the Issuer authorized by, this Ordinance or an ordinance or resolution enacted or adopted by the Issuer prior to the enactment of this Ordinance.

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

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

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

"Notes" or "GAN" means collectively, the not more than \$1,000,000 in aggregate principal amount of Waterworks System Grant Anticipation Notes, originally authorized hereby, or the not more than \$1,000,000 in aggregate principal amount of a note or notes evidencing a line of credit originally authorized hereby, and unless the context clearly indicates otherwise, the terms "Notes" or "GAN" includes any refunding Notes or GAN of the Issuer.

"Notes Construction Trust Fund" means the Notes Construction Trust Fund which may be established pursuant to the Indenture.

"Notes Debt Service Fund" means the Notes Debt Service Fund which may be established pursuant to the Indenture.

"Notes Registrar" means the bank to be designated as such in the Indenture or the Supplemental Resolution and its successors and assigns.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, fees and expenses of the authority, fiscal agents, the Trustee, Depository Bank, Registrar and Paying Agent (all as herein defined), other than those capitalized as part of the Costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds or Notes, 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.

"Original Bonds" or "Bonds originally authorized hereby" or similar phrases mean, collectively, the not more than \$3,000,000 in aggregate principal amount of Series 1987 A Bonds and the not more than \$1,000,000 in aggregate principal amount of Series 1987 B

Bonds, issued for the purpose of paying a portion of the Costs of the Project and for such other purposes permitted and authorized by this Bond Legislation.

"Original Notes Purchaser" means, in the event grant anticipation notes are issued, G. L. Cottrill & Company, Inc. of Morgantown, West Virginia, or such other original purchaser of the Notes as shall be named in a resolution supplemental hereto, and, in the event a note or notes evidencing a line of credit are issued, such bank or banks as shall be named in a resolution supplemental hereto.

"Other Grants" means collectively, any grant, other than the EDA Grant, hereafter received by the Issuer to aid in financing any Costs.

"Outstanding;" when used with reference to Bonds or Notes and as of any particular date, describes all Bonds theretofore and thereupon being delivered or all Notes theretofore and thereupon being authenticated and delivered except (i) any Bond or Note cancelled by the Bond Registrar, or Notes Registrar, at or prior to said date; (ii) 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 hereunder or under the Indenture; as applicable, and set aside for such payment (whether upon or prior to maturity); (iii) any Bond or Note deemed to have been paid as provided in Article X hereof or Article VIII of the Indenture, as applicable; and (iv) for purposes of consents or other action by a specified percentage of Bondholders or Noteholders, any Bonds or Notes registered to the Issuer.

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

"Paying Agent" means the bank or banks or other entity designated as such for the Bonds and/or the Notes in the Supplemental Resolution or in the Indenture, or such entity or authority as may hereafter be designated by the Issuer.

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

"Project" means the acquisition and construction of additions, betterments and improvements for the existing waterworks

facilities of the Issuer consisting of a new water treatment plant, water lines, booster pumps, and all necessary appurtenances.

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

(a) Government Obligations;

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

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

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

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

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

(h) The Investment Agreement which may be entered into by and between the Trustee and the bank designated as "Investment Bank" in the Supplemental Resolution;

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

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

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

"Registrar" means, as appropriate, either the Bond Registrar or the Notes Registrar, or both.

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

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

"Series 1987 A Bonds" or "Series A Bonds" means the not more than \$3,000,000 in aggregate principal amount of Water Revenue Bonds, Series 1987 A, of the Issuer.

"Series 1987 A Bonds Reserve Account" means the Series 1987 A Bonds Reserve Account established in the Series 1987 A Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1987 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1987 A Bonds in any year.

"Series 1987 A Bonds Sinking Fund" means the Series 1987 A Sinking Fund established by Section 5.02 hereof.

"Series 1987 B Bonds" or "Series B Bonds" means the not more than \$1,000,000 in aggregate principal amount of Water Revenue Bonds, Series 1987 B, of the Issuer.

"Series 1987 B Bonds Reserve Account" means the Series 1987 B Bonds Reserve Account established in the Series 1987 B Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1987 B Bonds Reserve Requirement" means, as of the date of calculation, the maximum amount of principal which will become due on the Series 1987 B Bonds in any year.

"Series 1987 B Bonds Sinking Fund" means the Series 1987 B Bonds Sinking Fund established by Section 5.02 hereof.

"State" means the State of West Virginia.

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

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or

security for the Bonds or any other obligations of the Issuer, including the Renewal and Replacement Fund and the Reserve Accounts, the proceeds of which Bonds or other obligations are to be used to pay Costs of the Project.

"System" means the complete properties of the Issuer for the treatment and transportation of water, in its entirety or any integral part thereof, and shall include the existing waterworks facilities of the Issuer, the Project and any further additions, betterments and improvements thereto hereafter constructed or acquired for said system from any sources whatsoever.

"Trustee" means the banking institution designated as trustee for the Noteholders under the Indenture, if any, its successors and assigns.

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

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

ARTICLE II

AUTHORIZATION OF CONSTRUCTION  
AND ACQUISITION OF THE PROJECT

Section 2.01. Authorization of Construction and Acquisition of the Project. There is hereby authorized the construction and acquisition of the Project, at an estimated cost of \$4,745,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Notes and the Bonds hereby authorized shall be applied as provided in the Indenture, if any, and Article VI hereof, respectively.

### ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Bonds, funding a reserve account for each series of Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance and related costs, or any of such purposes there shall be issued negotiable Original Bonds of the Issuer, in an aggregate principal amount of not more than \$4,000,000. Said Bonds shall be issued in two series, to be designated respectively, "Water Revenue Bonds, Series 1987 A," in the aggregate principal amount of not more than \$3,000,000, and "Water Revenue Bonds, Series 1987 B," in the aggregate principal amount of not more than \$1,000,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. Such Bonds shall be issued contemporaneously with or prior to the issuance of the Notes, if any. The proceeds of the Bonds remaining after funding of the Reserve Accounts, capitalization of interest, if any, shall be deposited in the Bond Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of Bonds. The Bonds shall bear interest at such rate or rates, not exceeding the then legal maximum, payable semiannually on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution. The Bonds shall be payable as to principal at the office of the Paying Agent for the Bonds, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bonds shall be paid by check or draft of the Paying Agent mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Original Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a payment record attached, representing the aggregate principal amount of each series, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Bonds of each series shall be exchangeable at the option and expense of the Holder for other fully registered Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable,

corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form, in the denomination of \$5,000 or any integral multiple thereof, all 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. Execution of Bonds. The Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

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

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

Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value in the manner provided hereinafter in the form of said Bonds.

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

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

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

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost.  
In any case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a

substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

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

Section 3.08. Bonds Secured by Pledge of Gross Revenues; Series 1987 B Bonds to be Junior and Subordinate to Series 1987 A Bonds. The payment of the debt service of all the Series 1987 A Bonds shall be secured forthwith equally and ratably with each other, by a first lien on the Gross Revenues derived from the System. The payment of the debt service of all the Series 1987 B Bonds shall also be secured forthwith equally and ratably with each other by a lien on the Gross Revenues derived from the System, but junior and subordinate to the lien on such Gross Revenues in favor of the Holders of the Series 1987 A Bonds. Such Gross Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and to make the payments into the Sinking Funds, the Reserve Accounts therein and the Renewal and Replacement Fund hereinafter established, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due.

Section 3.09. Form of Original Bonds. The text of the Bonds shall be in substantially the following forms, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

[Form of Series 1987 A Bond]

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF KINGWOOD  
WATER REVENUE BOND, SERIES 1987 A

No. AR-\_\_\_\_\_

\$\_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF KINGWOOD, a municipal corporation of the State of West Virginia in Preston County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of \_\_\_\_\_ (\$\_\_\_\_\_), in installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest rate on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning \_\_\_\_\_ 1, 19\_\_\_\_. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of Kanawha Valley Bank, N.A., Charleston, West Virginia, as registrar (the "Registrar") on the 15th day of the month preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with the Loan Agreement between the Issuer and the Authority, dated \_\_\_\_\_, 198\_\_.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of additions, betterments and improvements for the existing waterworks facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance and Supplemental Resolution, duly enacted and adopted, respectively, by the Issuer on \_\_\_\_\_, 1986, and \_\_\_\_\_, 1986 (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

This Bond is issued contemporaneously with the Water Revenue Bonds, Series 1987 B, of the Issuer (the "Series 1987 B Bonds"), issued in the aggregate principal amount of \$ \_\_\_\_\_, which Series 1987 B Bonds are junior and subordinate with respect to liens and sources of and security for payment to the Bonds.

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1987 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose and to pay all operating expenses of the System. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Gross Revenues, the moneys in the Series 1987 A Bonds Reserve Account and unexpended Bond proceeds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any year of principal of and interest on the Bonds, the Series 1987 B Bonds, and all other obligations secured by or payable from such revenues prior to or on a parity with the Bonds or the Series 1987 B Bonds,

provided however, that so long as there exists in the Series 1986 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in any year, and in the reserve account established for the Series 1987 B Bonds or any other obligations outstanding prior to or on a parity with the Bonds or the Series 1987 B Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

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

IN WITNESS WHEREOF, the CITY OF KINGWOOD has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed hereon and attested by its Recorder, and has caused this Bond to be dated \_\_\_\_\_, 1986.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1987 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above.

Date: \_\_\_\_\_

KANAWHA VALLEY BANK, N.A.,  
as Registrar

By \_\_\_\_\_  
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

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

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

Dated: \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
In the presence of:  
  
\_\_\_\_\_

[Form of Series 1987 B Bond]

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF KINGWOOD  
WATER REVENUE BOND, SERIES 1987 B

No. BR-\_\_\_\_\_

\$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF KINGWOOD, a municipal corporation of the State of West Virginia in Preston County of said State, (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of \_\_\_\_\_ (\$ \_\_\_\_\_), in annual installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference, without interest.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part at any time, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with the Supplemental Loan Agreement between the Issuer and the Authority, dated \_\_\_\_\_, 198\_\_.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of additions, betterments and improvements for the existing waterworks facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance and Supplemental Resolution, duly enacted and adopted, respectively, by the Issuer on \_\_\_\_\_, 1986, and \_\_\_\_\_, 1986 (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond

Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System after there has first been paid from said Gross Revenues all payments then due and owing on account of the Series 1987 A Bonds herein described, moneys in the Reserve Account created under the Bond Legislation for the Bonds of this Series (the "Series 1987 B Bonds Reserve Account"), and unexpended proceeds of the Bonds of this series (the "Bonds"). Such Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose and to pay all operating expenses of the System. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the moneys in the Series 1987 B Bonds Reserve Account and unexpended Bond proceeds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any year of principal of and interest, if any, on the Bonds, the Series 1987 A Bonds and all other obligations secured by or payable from such revenues prior to or on a parity with the Series 1987 A Bonds or the Bonds, provided however, that so long as there exists in the Series 1987 B Bonds Reserve Account and the reserve account established for the Series 1987 A Bonds, amounts at least equal to the maximum amount of principal and interest which will become due on the Bonds and the Series 1987 A Bonds in any year, and any reserve account for any such prior or parity obligations is funded at least at the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only

upon the books of Kanawha Valley Bank, N.A., Charleston, West Virginia, as registrar (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or its attorney duly authorized in writing.

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owners of the Bonds, which lien is subordinate to the lien in favor of the registered owners of the Series 1987 A Bonds.

THIS BOND IS JUNIOR AND SUBORDINATE WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT TO THE OUTSTANDING WATER REVENUE BONDS, SERIES 1987 A, OF THE ISSUER (THE "SERIES 1987 A BONDS"), ISSUED CONCURRENTLY HEREWITH AND DESCRIBED IN THE BOND LEGISLATION.

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

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

IN WITNESS WHEREOF, the CITY OF KINGWOOD has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed hereon and attested by its Recorder, and has caused this Bond to be dated \_\_\_\_\_, 1986.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1987 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above.

Date: \_\_\_\_\_

KANAWHA VALLEY BANK, N.A.,  
as Registrar

By \_\_\_\_\_  
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

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

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

Dated: \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
In the presence of:  
\_\_\_\_\_

Section 3.10. Sale of Original Bonds; Execution of Loan Agreement with Authority. The Original Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Mayor is specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "Exhibit A" and made a part hereof, and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority.

## ARTICLE IV

### INTERIM CONSTRUCTION FINANCING

Section 4.01. Authorization and General Terms. In order to pay certain Costs of the Project pending receipt of the Grant Receipts, the Issuer may issue and sell its Notes in the aggregate principal amount of not to exceed \$1,000,000. The Notes may be in the form of grant anticipation notes or as evidence of a line of credit from a commercial bank or other lender, at the discretion of the Issuer, and as shall be set forth in a resolution supplemental hereto. The Notes 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 Indenture or supplemental resolution, as applicable.

Section 4.02. Terms of and Security for Notes; Trust Indenture. The Notes shall be issued in fully registered form, in the denomination of \$5,000 or any integral multiple thereof, with such terms and secured in the manner set forth in the Indenture, if applicable (which Indenture in the form to be executed and delivered by the Issuer shall be approved by a supplemental resolution), or supplemental resolution, if no Indenture is used.

Section 4.03. Notes are Special Obligations. The Notes shall be special obligations of the Issuer payable as to principal and interest solely from the respective sources described in the Indenture or supplemental resolution. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power of the Issuer is pledged for the payment of the Notes. The Holders of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as set forth in the Indenture.

Section 4.04. Letters of Credit. As additional security for the Notes, the Issuer may obtain a letter or letters of credit from a bank or banks, pursuant to which such bank or banks would agree to pay to the Trustee, upon presentation by the Trustee of certain certificates, the sum or sums set forth therein but not to exceed \$300,000 in the aggregate. In the event of a draw under any such letter of credit, the Issuer shall issue its refunding notes to the bank issuing such letter of credit. Any such letter of letter

of credit shall be authorized and shall have such terms as shall be set forth in a resolution supplemental hereto.

ARTICLE V

SYSTEM REVENUES AND APPLICATION THEREOF

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

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

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

- (1) Series 1987 A Bonds Sinking Fund;
  - (a) Within the Series 1987 A Bonds Sinking Fund, the Series 1987 A Bonds Reserve Account.
- (2) Series 1987 B Bonds Sinking Fund;
  - (a) Within the Series 1987 B Bonds Sinking Fund, the Series 1987 B Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided.

- (1) The Issuer shall first pay from the Revenue Fund, on the first day of each month, commencing 7 months prior to the first date of payment of interest on the Series 1987 A Bonds for which interest has not been capitalized, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1987 A Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said Series 1987 A Bonds on the next ensuing semiannual interest payment date, less any earnings transferred from

the Series 1987 A Bonds Reserve Account for the purpose of making interest payments on the Series 1987 A Bonds; provided, that, in the event the period to elapse between the date of such initial deposit in the Series 1987 A Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date.

(2) The Issuer shall also, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1987 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1987 A Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1987 A Bonds on the next ensuing principal payment date, less any earnings transferred from the Series 1987 A Bonds Reserve Account for the purpose of making principal payments on the Series 1987 A Bonds; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1987 A Bonds Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(3) The Issuer shall also, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Series 1987 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1987 A Bonds Reserve Account, an amount equal to 1/120 of the Series 1987 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1987 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1987 A Bonds Reserve Requirement.

(4) From the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing with the month succeeding the first full calendar month after commencement of operation of the System, transfer to the Renewal and Replacement Fund a sum equal to 2 1/2% of the Gross Revenues each month;

exclusive of any payments for account of the Series 1987 A Bonds Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the Series 1987 A Bonds Reserve Account [except to the extent such deficiency exists because the required payments into such account has not, as of the date of determination of a deficiency, funded such account to the maximum extent required by Subsection 5.03(A)(4)] shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

(5) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1987 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1987 B Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1987 B Bonds on the next ensuing principal payment date, less any moneys transferred from the Series 1987 B Bonds Reserve Account for the purpose of making principal payments on the Series 1987 B Bonds.

(6) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Series 1987 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1987 B Bonds Reserve Account, an amount equal to 1/120 of the Series 1987 B Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1987 B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1987 B Bonds Reserve Requirement.

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

Moneys in the Series 1987 A Bonds Sinking Fund and the Series 1987 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the respective series of Bonds as the same shall

become due. Moneys in the Series 1987 A Bonds Reserve Account and the Series 1987 B Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the respective series of Bonds, as the same shall come due, when other moneys in the attendant Sinking Fund are insufficient therefor, and for no other purpose.

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 Issuer, for deposit in the Revenue Fund, and such amounts shall be applied in full, first to the next ensuing interest payments, if any, due on the respective Series of Bonds, and then to the next ensuing principal payments due thereon.

Any withdrawals from the Series 1987 A Bonds Reserve Account which result in a reduction in the balance of the Series 1987 A Bonds Reserve Account to below the Series 1987 A Bonds Reserve Requirement shall be subsequently restored from the first Revenues available after all required payments to the Series 1987 A Bonds Sinking Fund for payment of debt service on the Bonds have been made in full.

Any withdrawals from the Series 1987 B Bonds Reserve Account which result in a reduction in the balance of the Series 1987 B Bonds Reserve Account to below the Series 1987 B Bonds Reserve Requirement shall be subsequently restored from the first Revenues available after all required payments to the Series 1987 A Bonds Sinking Fund, the Series 1987 A Bonds Reserve Account, the Renewal and Replacement Fund and the Series 1987 B Bonds Sinking Fund have been made in full.

As and when additional Bonds ranking on a parity with the Series 1987 B Bonds are issued, provision shall be made for additional payments into the Series 1987 B Sinking Fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the Series 1987 B Reserve Account in an amount equal to the maximum provided and required to be paid into the Series 1987 B Sinking Fund in any Fiscal Year for account of all the Series 1987 B Bonds, including such additional Series 1987 B Bonds which by their terms are payable from such Sinking Fund.

The Issuer shall not be required to make any further payments into the Series 1987 A Bonds Sinking Fund, or the Series 1987 B Bonds Sinking Fund or into the Reserve Accounts therein when the aggregate amount of funds in said respective Sinking Funds and Reserve Accounts are at least equal to the aggregate principal amount of the respective Bonds issued pursuant to this Bond Legislation then Outstanding.

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

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

Moneys in the Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

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

B. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Sinking Funds, including the Reserve Accounts therein, and the Renewal and Replacement Fund during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System, including, but not limited to, payment to the Trustee for deposit in the Notes Debt Service Fund, as defined in the Indenture.

C. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank,

on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay the Depository Bank's charges and the Paying Agent fees then due.

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

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

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

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

H. All Tap Fees shall be deposited by the Issuer, as received, in the Bond Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System, provided that, in the event Notes are issued, Tap Fees may, with the written consent of the Authority be deposited otherwise.

ARTICLE VI

BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of any or all of the Original Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 1987 A Bonds, there shall be deposited with the Commission in the Series 1987 A Bonds Sinking Fund, the amount specified in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 1987 A Bonds for the period commencing on the date of issuance of the Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 1987 A Bonds, there shall be deposited with the Commission in the Series 1987 A Reserve Account and from the proceeds of the Series 1987 B Bonds, there shall be deposited with the Commission in the Series 1987 B Reserve Account the respective sums set forth in the Supplemental Resolution for funding the Reserve Accounts.

C. The remaining moneys derived from the sale of the Bonds shall be deposited with the Depository Bank in the Bond Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02.

D. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Fund set forth in the Bond Legislation and Indenture, if any. Moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so expended, are hereby pledged as additional security for the Bonds. In the event that Notes are issued, the disposition of funds in the Bonds Construction Trust Fund may be modified from that set forth herein, with the written consent of the Authority.

Section 6.02. Disbursements From the Bond Construction Trust Fund. Payments for Costs of the Project shall be made monthly.

Disbursements from the Bond Construction Trust Fund, except for the costs of issuance thereof which shall be made upon

request of the Issuer, 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 Bond Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Bond Construction Trust Fund shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and the Depository Bank shall not be required to monitor the application of disbursements from the Bond Construction Trust Fund. The Consulting Engineers shall from time to time file with the Depository Bank written statements advising the Depository Bank of its then authorized representative.

Pending such application, moneys in the Bond Construction Trust Fund, including any accounts therein, shall be invested and reinvested in qualified investments at the direction of the Issuer.

After completion of the Project, as certified by the Consulting Engineers, the Depository Bank shall transfer any moneys remaining in the Bond Construction Trust Fund to the Series 1987 A Bonds Reserve Account, and when fully funded to the Series 1987 B Bonds Reserve Account, and when both Reserve Accounts are fully funded, shall return such remaining moneys to the Issuer for deposit in the Revenue Fund. The Issuer shall thereafter, apply such moneys in full, first to the next ensuing interest payments, if any, due on the respective Series of Bonds and thereafter to the next ensuing principal payments due thereon.

## ARTICLE VII

### ADDITIONAL COVENANTS OF THE ISSUER

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

Until the payment in full of the principal of and interest on the Notes when due, the covenants, agreements and provisions contained in this Bond Legislation shall, where applicable, also inure to the benefit of the Holders of the Notes and the Trustee therefor and constitute valid and legally binding covenants of the Issuer, enforceable in any court of competent jurisdiction by the Trustee or any Holder or Holders of said Notes as prescribed in the Indenture; provided, that Section 7.04 and Section 7.09 shall not be applied to the Notes.

Section 7.02. Bonds and Notes not to be Indebtedness of the Issuer. Neither the Bonds nor the Notes shall be or constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Bonds or Notes shall ever have the right to compel the exercise of the taxing power of the Issuer to pay said Bonds or Notes or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Gross Revenues. The payment of the debt service of the Series 1987 A Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Gross Revenues derived from the operation of the System and payment of the debt service of the Series 1987 B Bonds issued hereunder shall be secured forthwith equally and ratably by a lien on said Gross Revenues, but such lien shall be junior and subordinate to the lien on said Gross Revenues in favor of the Holders of the Series 1987 A Bonds. The revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds and to make the payments into the Sinking Funds, including the Reserve Accounts therein, and all other payments provided for in the Bond Legislation are hereby irrevocably pledged,

in the manner provided herein, to the payment of the principal of and interest on the Bonds as the same become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the ordinance of the Issuer enacted April 8, 1986, as amended by the ordinance of the Issuer enacted December 2, 1986.

Section 7.05. Sale of the System. The System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Bonds and Notes, if any, Outstanding, or to effectively defease this Ordinance in accordance with Section 10.01 hereof and, if entered into and not previously defeased, the Indenture in accordance with the terms thereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Bonds, immediately be remitted to the Commission for deposit in the Sinking Funds, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Bonds about to mature. Any balance remaining after the payment of all the Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System. With respect to the Notes, such proceeds in an amount sufficient to pay the Notes in full shall be applied to the payment of the Notes, either at maturity or, if allowable under the Supplemental Resolution or Indenture, prior thereto.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such

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

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. The Issuer shall not issue any obligations whatsoever with a lien on or otherwise payable from any source of payment pledged originally to the Notes issued under the Indenture or supplemental resolution prior to or on a parity with the lien on behalf of such Notes until such Notes have been defeased in accordance with the provisions of the Indenture and the Bond Legislation; and, so long as any of the Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that additional Bonds on a parity with the Series 1987 B Bonds only may be issued as provided for in Section 7.07 hereof. All obligations issued by the Issuer after the issuance of the Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of

and security for payment from such revenues and in all other respects, to the Series 1987 A Bonds and the Series 1987 B Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the Reserve Accounts and the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current.

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

Section 7.07. Parity Bonds. A. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Bond Legislation, 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 1987 B Bonds. No Parity Bonds shall be issued which shall be payable out of the revenues of the System prior to or on a parity with the Series 1987 A Bonds.

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

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

- (A) The Bonds then Outstanding;

(B) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Ordinance then Outstanding; and

(C) 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 enacted by the Issuer 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 Recorder prior to the issuance of such Parity Bonds.

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

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

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. All the Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments

required for Bonds theretofore issued pursuant to this Bond Legislation.

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

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Series 1987 A Bonds and the Series 1987 B Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 1987 A Bonds or the Series 1987 B Bonds.

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

B. Notwithstanding the foregoing, or any provision of Section 7.06 to the contrary, additional Bonds may be issued solely for the purpose of completing the Project as described in the application to the Authority submitted as of the date of the Loan Agreement without regard to the restrictions set forth in this Section 7.07, if there is first obtained by the Issuer the written consent of the Authority to the issuance of bonds on a parity with the Series 1987 A Bonds.

Section 7.08. Books and Records. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds or of a Note or Notes issued pursuant to this Bond Legislation or the Trustee shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia. Separate control accounting records shall be

maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Governing Body shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Consulting Engineers, the Trustee and the Authority, or any other original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of Bonds or Notes, as the case may be, requesting the same, an annual report containing the following:

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

B. A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation and the Indenture with respect to said Bonds or Notes, as the case may be, and the status of all said funds and accounts.

C. The amount of any Bonds, Notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds or Notes, as the case may be, and shall file said report with the Trustee and the Authority, or any other original purchaser of the Bonds.

Section 7.09. Rates. Equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated

reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient (i) to provide for all reasonable expenses of operation, repair and maintenance of the System and (ii) to leave a balance each Fiscal Year equal to at least 115% of the maximum amount required in any Fiscal Year for payment of principal of and interest on the Bonds and all other obligations secured by or payable from such revenues; provided that, in the event that an amounts equal to or in excess of the Reserve Requirements are on deposit in the Reserve Accounts or reserve accounts for bonds prior to or on a parity with the Bonds are funded at least at the requirement therefor, such balance each Fiscal Year need only equal at least 110% of the maximum amount required in any Fiscal Year for payment of principal of and interest on the Bonds and all other obligations secured by or payable from such revenues.

Section 7.10. Operating Budget and Audit. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated expenditures for operation and maintenance of the System during the succeeding Fiscal Year. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Trustee and the Authority and to any Holder of any Bonds or Notes, as the case may be, who shall file his or her address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him or her and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Trustee and to any Holder of any Bonds or Notes, as the case may be, or anyone acting for and in behalf of such Holder of any Bonds or Notes, as the case may be.

In addition, the Issuer shall annually cause the records of the System to be audited by an independent certified public accountant, the report of which audit shall be submitted to the Authority and which audit report shall include a statement that the

Issuer is in compliance with the terms and provisions of this Bond Legislation and the Loan Agreement.

Section 7.11. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.12. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules of the Issuer, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

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

Section 7.13. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. The revenues so

received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.14. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as any of the Bonds or the Notes remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(A) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

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

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

(D) FLOOD INSURANCE, to the extent obtainable at reasonable cost to the Issuer.

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

Section 7.15. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near 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, after a 30 day notice of the availability of the System, pay the rates and charges established therefor.

Section 7.16. Completion of Project. The Issuer will complete the Project and operate and maintain the System in good condition.

Section 7.17. 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 Bonds, provided however, that the statutory mortgage lien in favor of the Holders of the Series 1986 A Bonds shall be senior to the statutory mortgage lien in favor of the Holders of the Series 1986 B Bonds.

## ARTICLE VIII

### INVESTMENT OF FUNDS; NON ARBITRAGE

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

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

Section 8.02. Restrictions as to Arbitrage Bonds. The Issuer hereby covenants, and hereby so instructs the Bond Commission, the Trustee and the Depository Bank that they shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause any Bond to be an "arbitrage bond" as defined in Section 148 of the Internal Revenue Code of 1986 (or any successor provision)

and an Authorized Officer shall deliver his certificate, based upon this covenant, with regard thereto to the purchaser of the Original Bonds.

Section 8.03. Rebates of Excess Arbitrage Earnings. The Issuer hereby covenants to rebate to the United States Government the amounts, if any, required by Section 148 of the Internal Revenue Code of 1986, and to take all steps necessary to make such rebates. In the event the Issuer fails to make such rebates as required, the Issuer shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the tax-exempt status of the interest on the Bonds.

## ARTICLE IX

### DEFAULT AND REMEDIES

Section 9.01. Events of Default. A. Each of the following events shall constitute an "Event of Default" with respect to the Notes:

(A) If default occurs in the due and punctual payment of the principal of or interest on any Notes; or

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Notes set forth in this Bond Legislation, any supplemental resolution, the Indenture or in the Notes, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Trustee, any other bank or banking association holding any fund or account hereunder or a Holder of a Note; or

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

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Note or Bond, as the case may be, may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System (iii) bring suit upon the Notes or Bonds, as the case may be, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Notes or Bonds, as the case may be, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Notes or Bonds, or the rights of such Registered Owners, provided however, that no remedy herein stated may be exercised by a Noteholder in a manner which adversely affects any remedy available to the Bondholders, and provided further, that all rights and remedies of the Holders of the Series 1987 B Bonds shall be subject to those of the Holders of the Series 1987 A Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the Issuer with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

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

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

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

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

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance of Series 1987 A Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1987 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 1987 A Bonds only, the pledge of Gross Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 1987 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1987 A Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due the principal installments of and interest on such Series 1987 A Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1987 A Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on said Series 1987 A Bonds on and prior to the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Series 1987 A Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Bonds on and prior to the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any

trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

Section 10.02. Defeasance of Series 1987 B Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1987 B Bonds, the principal due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 1987 B Bonds only, the pledge of Gross Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 1987 B Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1987 B Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due the principal installments of and interest on such Series 1987 B Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1987 B Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on said Series 1987 B Bonds on and prior to the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Series 1987 B Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Bonds on and prior to the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

Section 10.03. Defeasance of Notes. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Notes, the principal of and interest due or to become due thereon, at the times and in the manner set forth in the Indenture, then with respect to the Notes only, this Bond Legislation, the Indenture, if any, and the pledges of Grant Receipts and other moneys and securities pledged thereby, and all covenants, agreements and other obligations of the Issuer to the Holders of the Notes shall thereupon cease, terminate and become void and be discharged and satisfied.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. No material modification or amendment of this Bond Legislation, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Notes or Bonds shall be made without the consent in writing of the Registered Owners of 66-2/3% or more in principal amount of the Notes or Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or Note or Notes or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein respectively pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds or Notes, respectively, required for consent to the above-permitted amendments or modifications.

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

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

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

Section 11.05. Amendments to Maintain Tax Exemption. The Issuer hereby covenants to make any amendment or supplements to this Ordinance and to the Indenture authorized hereby to enable the interest on the Bonds to be and remain exempt from federal income taxation, and to preserve such tax exemption until the maturity or redemption thereof without further consent of the Holders of the Bonds or the Notes.

Section 11.06. Conflicting Provisions Repealed. All ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 11.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the enactment of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the Recorder and members of the the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 11.08. Effective Date. This Ordinance shall take effect immediately following public hearing hereon.

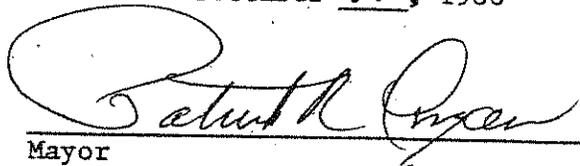
Section 11.09. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Bond Legislation determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in The Preston County Journal, a qualified newspaper published in the City of Kingwood, West Virginia, together with a notice stating that this Bond Legislation has been adopted and that the Issuer contemplates the issuance of the Bond, and that any person interested may appear before the Governing Body upon a date certain, not less than ten days subsequent to the date of the first publication of this Bond Legislation and notice, and present protests, and that a certified copy of the Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the

Governing Body shall take such action as it shall deem proper in the premises.

Passed on First Reading - November 3, 1986

Passed on Second Reading - November 11, 1986

Passed on Final Reading  
Following Public  
Hearing - December 2, 1986

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Recorder

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the City of Kingwood following a public hearing thereon on this 2nd day of December, 1986.

[SEAL]

  
Recorder

01/06/87  
KGWD2-A

"EXHIBIT A"

[Included as Document Nos. 3 and 4 of Bond Transcript]

CITY OF KINGWOOD

Water Revenue Bonds,  
Series 1987 A and Series 1987 B

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITIES, INTEREST RATES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE WATER REVENUE BONDS, SERIES 1986 A AND SERIES 1986 B OF THE CITY OF KINGWOOD; AUTHORIZING, APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; CHANGING SERIES DESIGNATION AND MAKING OTHER PROVISIONS AS TO THE BONDS

WHEREAS, the city council (the "Governing Body") of the City of Kingwood (the "Issuer"), has duly and officially enacted a bond ordinance, effective December 2, 1986 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS FOR THE EXISTING WATERWORKS SYSTEM OF THE CITY OF KINGWOOD, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$3,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 1986 A, NOT MORE THAN \$1,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 1986 B; AND NOT MORE THAN \$1,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES OR BOTH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND

PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING  
OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Bond Ordinance provides for the issuance of Water Revenue Bonds of the Issuer (the "Bonds"), in an aggregate principal amount of not to exceed \$4,000,000, to be issued in two series, the Series 1986 A Bonds to be in an aggregate principal amount of not more than \$3,000,000 (the "Series 1986 A Bonds") and the Series 1986 B Bonds to be in an aggregate principal amount of not more than \$1,000,000 (the "Series 1986 B Bonds"), and has authorized the execution and delivery of a loan agreement relating to the Series 1986 A Bonds dated March 10, 1986, and a supplemental loan agreement relating to the Series 1986 B Bonds, also dated March 10, 1986 (sometimes collectively referred to herein as the "Loan Agreement"), by and between the Issuer and West Virginia Water Development Authority (the "Authority"), all in accordance with West Virginia Code, 1931, as amended, Chapter 8, Article 19 (the "Act"); and in the Bond Ordinance it is provided that the exact principal amounts, maturity dates, interest rates, interest and principal payment dates, sale prices and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Bonds were originally intended to be issued in 1986, but now are intended to be issued in 1987, and the Governing Body wishes to change the Series designation from "Series 1986 A and Series 1986 B" to "Series 1987 A and Series 1987 B;"

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

WHEREAS, the Kingwood Board of Water Commissioners has delivered to the Governing Body its recommendation of and approval for issuance of the Bonds; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the Loan Agreement be entered into and ratified by the Issuer, that the exact principal amounts, the prices, the maturity dates, the redemption provisions, the interest rates and the interest and principal payment dates of the Bonds be

fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF KINGWOOD:

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued:

(A) The Water Revenue Bonds, Series 1987 A, of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of \$2,810,612. The Series 1987 A Bonds shall be dated the date of delivery thereof, shall finally mature October 1, 2026, shall bear interest at the rate of 8.38% per annum, payable semiannually on April 1 and October 1 of each year, first interest payable April 1, 1987, shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, as long as the Authority shall be the registered owner of the Series 1987 A Bonds, and shall be payable in installments of principal on October 1 of each of the years and in the amounts as set forth in "Schedule X," attached thereto and to the Loan Agreement and incorporated therein by reference.

(B) The Water Revenue Bonds, Series 1987 B, of the Issuer, originally represented by a single Bond, numbered BR-1, in the principal amount of \$689,388. The Series 1987 B Bonds shall be dated the date of delivery thereof, shall finally mature October 1, 2026, shall be interest free, shall be subject to redemption upon the written consent of the Authority, and otherwise in compliance with the Loan Agreement, as long as the Authority shall be the registered owner of the Series 1987 B Bonds, and shall be payable in installments of principal on October 1 of each of the years and in the amounts as set forth in "Schedule X," attached thereto and to the Supplemental Loan Agreement and incorporated therein by reference.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the forms provided in the Bond Ordinance, except that the Series designation set forth in the Ordinance shall be changed from "Series 1986 A and Series 1986 B" to "Series 1987 A and Series 1987 B."

Section 3. The Issuer does hereby approve, accept and ratify the Loan Agreement, copies of which are incorporated herein by reference, and the execution and delivery by the Mayor of the Loan Agreement, and the performance of the obligations contained therein, on behalf of the Issuer are hereby ratified and approved. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon.

Section 4. The Issuer does hereby appoint and designate Kanawha Valley Bank, N.A., Charleston, 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 Issuer and Kanawha Valley Bank, N.A., in substantially the form attached hereto, and the execution and delivery by the Mayor of the Registrar's Agreement, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, approved and directed.

Section 5. The Issuer does hereby appoint and direct the West Virginia Municipal Bond Commission, Charleston, West Virginia, as Paying Agent for the Bonds.

Section 6. The Issuer does hereby appoint Albright National Bank of Kingwood, Kingwood, West Virginia, as Depository Bank under the Bond Ordinance.

Section 7. Series 1987 A Bond Proceeds in the amount of \$-0- shall be deposited in the Series 1987 A Sinking Fund, as capitalized interest.

Section 8. Series 1987 A Bond proceeds in the amount of \$-0- and Series 1987 B Bond proceeds in the amount of \$-0- shall be deposited in the Series 1987 A Bonds Reserve Account and the Series 1987 B Bonds Reserve Account, respectively.

Section 9. The Mayor and Recorder are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about January 7, 1987, to the Authority pursuant to the Loan Agreement.

Section 10. The financing of the Project in part with proceeds of the Bonds is in the public interest, serves a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 11. The Issuer hereby determines that it is in the best interest of the Issuer to invest all moneys in the funds

and accounts established by the Bond Ordinance in the West Virginia "Consolidated Fund," and therefore the Issuer 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 the Consolidated Fund.

Section 12. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, when and as amended, and any regulations promulgated thereunder (the "Code"), by reason of the classification of the Bonds as a "private activity bonds" within the meaning of the Code. They will take all actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

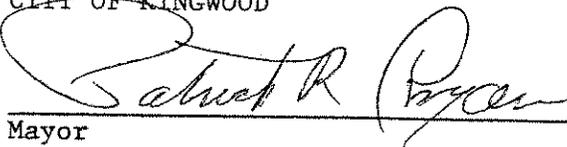
Section 13. The Issuer has general taxing powers to finance operations of or facilities of the nature of the System, and the Issuer and all subordinate entities reasonably expect to issue less than \$5,000,000 of tax-exempt obligations during the calendar year 1987, being the calendar year in which the Bonds are to be issued.

Section 14. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 9th day of December, 1986.

[SEAL]

~~CITY OF KINGWOOD~~

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Recorder

01/06/87  
KGWD1-D

THE CITY OF KINGWOOD  
WATER REVENUE BONDS, SERIES 2001  
(WEST VIRGINIA WATER DEVELOPMENT AUTHORITY)

BOND ORDINANCE

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THE CITY OF KINGWOOD

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE CITY OF KINGWOOD AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$1,250,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2001 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01.      Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 8, Article 19 and Chapter 22C, Article 1 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

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

A.      The City of Kingwood (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Preston County of said State.

B. The Issuer presently owns and operates a public waterworks system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain additions, betterments, and improvements to the existing public waterworks facilities of the Issuer, consisting of replacement of approximately 118 feet of 12-inch raw water line, a raw water intake screen, new automated controls at the treatment plant, 414 feet of 10-inch, 342 feet of 8-inch, 4,000 feet of 6-inch, 20 feet of 4-inch and 2,800 feet of 2-inch water lines to replace undersized and leaking galvanized lines, refurbishing an existing 300,000 gallon storage tank and constructing a new 255,000 gallon storage tank and an 8 -inch water line to meet the Camp Dawson demands, together with all appurtenant facilities (collectively, the "Project") (the existing public waterworks facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all costs of operation and maintenance of the System and the principal of and interest on the Series 2001 Bonds and the Prior Bonds, and to make payments into all funds and accounts and other payments provided for herein.

D. It is deemed necessary for the Issuer to issue its Water Revenue Bonds, Series 2001 (West Virginia Water Development Authority), in the total aggregate principal amount of not more than \$1,250,000 (the "Series 2001 Bonds"), to permanently finance the costs of acquisition and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Series 2001 Bonds prior to and during acquisition and construction of the Project and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Reserve Accounts (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority (as hereinafter defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2001 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2001 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 25 years.

F. It is in the best interests of the Issuer that its Series 2001 Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement to be entered into between the Issuer and the Authority, in form satisfactory to the Issuer and the Authority, as shall be approved by supplemental resolution of the Issuer.

G. There are outstanding obligations of the Issuer which will rank either on a parity with or junior and subordinate to the Series 2001 Bonds as to liens, pledge and source of and security for payment, being the Water Revenue Bonds, Series 1987 A and Series 1987 B, both dated January 7, 1987, issued in the respective original aggregate principal amounts of \$2,810,612 and \$689,388 (collectively, the "Prior Bonds" or individually the "Series 1987 A Bonds" and the "Series 1987 B Bonds").

The Series 2001 Bonds shall be issued on a parity with the Series 1987 A Bonds, and senior and prior to the Series 1987 B Bonds with respect to liens, pledge and source of security for payment and in all other respects. Prior to the issuance of the Series 2001 Bonds, the Issuer will obtain a certificate of an Independent Certified Public Accountant stating that the parity test of the Series 1987 A Bonds is met and the written consent of the Holders of the Prior Bonds to the issuance of the Series 2001 Bonds on a parity with the Series 1987 A Bonds and senior and prior to the Series 1987 B Bonds. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with the covenants of the Prior Bonds and the Prior Ordinance.

H. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 2001 Bonds, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, the obtaining of a certificate of public convenience and necessity and approval of this financing and necessary user rates and charges described herein from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 2001 Bonds or such final order will not be subject to appeal or rehearing.

I. The Issuer is a governmental unit which has general taxing powers to finance operations of or facilities of the nature of the Project and the System; 95% or more of the Net Proceeds of the Series 2001 Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and the Issuer, all subordinate entities, all entities which issue obligations on behalf of the Issuer, and all entities formed or, to the extent provided under Section 148 of the Code, herein defined, availed of, to avoid the purposes of

Section 148(f)(4)(D) of the Code and all other entities benefitting thereby reasonably expect to issue less than \$5,000,000 aggregate principal amount of tax-exempt obligations (other than private activity bonds) during the calendar year in which the Series 2001 Bonds are to be issued.

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

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2001 Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Series 2001 Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

"Act" means, collectively, Chapter 8, Article 19 and Chapter 22C, Article 1 of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2001 Bonds, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the Mayor of the Issuer or any other officer of the Issuer specifically designated by resolution of the Governing Body.

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

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

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

"Bonds" means, collectively, the Series 2001 Bonds, the Prior Bonds, and any bonds on a parity therewith subsequently authorized to be issued hereunder or by another resolution of the Issuer.

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

"Closing Date" means the date upon which there is an exchange of the Series 2001 Bonds for the proceeds representing the purchase price of the Series 2001 Bonds from the Authority.

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

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

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

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

"Council" means the Council of the Issuer or any other governing body of the Issuer that succeeds to the functions of the Council as presently constituted.

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

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

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

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

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

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

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

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

"Investment Property" means

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

(B) any obligation,

(C) any annuity contract,

(D) any investment-type property, or

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

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

"Issuer" means The City of Kingwood, a municipal corporation and political subdivision of the State of West Virginia in Preston County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" means the Loan Agreement to be entered into between the Authority and the Issuer, providing for the purchase of the Series 2001 Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

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

"Net Proceeds" means the face amount of the Series 2001 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 2001 Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2001 Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

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

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

"Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered, except (i) any Bond cancelled by the Bond Registrar at or prior to said date; (ii) any Bond for the payment of which moneys, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have

been paid as provided in Article X hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any Bonds registered to the Issuer.

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

"Paying Agent" means the Commission or other entity designated as such for the Series 2001 Bonds in the Supplemental Resolution.

"Prior Bonds" means, collectively, the Series 1987 A Bonds and the Series 1987 B Bonds.

"Prior Ordinance" means, the bond ordinance of the Issuer duly enacted December 2, 1986, authorizing the Prior Bonds.

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

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

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

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

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
- (c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

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

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

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

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

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

"Recorder" means the Recorder of the Issuer.

"Registrar" means the Bond Registrar.

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

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by Prior Ordinance and continued by Section 5.02 hereof.

"Reserve Accounts" means, collectively, the respective reserve accounts established for the Series 2001 Bonds and the Prior Bonds.

"Reserve Requirement" means, collectively, the respective amounts required to be on deposit in any reserve account for the Series 2001 Bonds and the Prior Bonds.

"Revenue Fund" means the Revenue Fund established by the Prior Ordinance and continued hereby.

"Series 1987 Bonds" means, collectively, the Series 1987 A Bonds and the Series 1987 B Bonds.

"Series 1987 A Bonds" means, the Water Revenue Bonds, Series 1987 A, of the Issuer as described in Section 1.02G hereof.

"Series 1987 A Bonds Reserve Account" means the Series 1987 A Bonds Reserve Account established by the Prior Ordinance and continued by Section 5.02 hereof.

"Series 1987 A Bonds Sinking Fund" means the Series 1987 A Bonds Sinking Fund established by the Prior Ordinance and continued by Section 5.02 hereof.

"Series 1987 B Bonds" means the Water Revenue Bonds, Series 1987 B, of the Issuer as described in Section 1.02G hereof.

"Series 1987 B Bonds Reserve Account" means the Series 1987 B Bonds Reserve Account established by the Prior Ordinance and continued by Section 5.02 hereof.

"Series 1987 B Bonds Sinking Fund" means the Series 1987 B Bonds Sinking Fund established by the Prior Ordinance and continued by Section 5.02 hereof.

"Series 2001 Bonds" means the Water Revenue Bonds, Series 2001 (West Virginia Water Development Authority), of the Issuer, authorized by this Ordinance.

"Series 2001 Bonds Construction Trust Fund" means the Series 2001 Bonds Construction Trust Fund established by Section 5.01 hereof.

"Series 2001 Bonds Reserve Account" means the Series 2001 Bonds Reserve Account established in the Series 2001 Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 2001 Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2001 Bonds in the then current or any succeeding year.

"Series 2001 Bonds Sinking Fund" means the Series 2001 Bonds Sinking Fund established by Section 5.02 hereof.

"Sinking Funds" means, collectively, the respective Sinking Funds established for the Series 2001 Bonds and the Prior Bonds.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution or order of the Issuer supplementing or amending this Resolution and, when preceded by the article "the," refers specifically to the supplemental resolution or resolutions authorizing the sale of the Series 2001 Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 2001 Bonds, and not so included, may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Series 2001 Bonds, the Prior Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund, Sinking Funds and the Reserve Accounts.

"System" means the complete public waterworks system of the Issuer, as presently existing in its entirety or any integral part thereof, and all waterworks facilities owned by the Issuer and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the waterworks system, and shall include the Project and any additions, improvements and extensions thereto hereafter constructed or acquired for said system from any sources whatsoever.

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

Additional terms and phrases are defined in this Ordinance as they are used. Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION  
OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of \$1,250,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2001 Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, in an amount and otherwise compatible with the financing plan submitted to the Authority.

The cost of the Project is estimated to be \$1,250,000, which will be obtained from proceeds of the Series 2001 Bonds.

### ARTICLE III

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

Section 3.01.      Authorization of Bonds. For the purposes of capitalizing interest on the Series 2001 Bonds, funding a reserve account for the Series 2001 Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2001 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued negotiable Series 2001 Bonds of the Issuer. The Series 2001 Bonds shall be issued as a single bond, designated as "Water Revenue Bonds, Series 2001 (West Virginia Water Development Authority)," in the principal amount of not more than \$1,250,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2001 Bonds, remaining after funding of the Series 2001 Bonds Reserve Account (if funded from Bond proceeds), and capitalizing interest on the Series 2001 Bonds, shall be deposited in or credited to the Series 2001 Bonds Construction Trust Fund established by Section 5.01 hereof and applied as set forth in Article VI hereof.

Section 3.02.      Terms of Bonds. The Series 2001 Bonds shall be issued in such principal amounts; shall bear interest at such rate or rates, not exceeding the then legal maximum, payable semiannually on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution. The Series 2001 Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 2001 Bonds shall be paid by check or draft of the Paying Agent mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 2001 Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of the Series 2001 Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 2001 Bonds shall be exchangeable at the option and expense of the Holder for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

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

Section 3.03. Execution of Bonds. The Series 2001 Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed the Series 2001 Bonds shall cease to be such officer of the Issuer before the Series 2001 Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 2001 Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 2001 Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 2001 Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2001 Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting the Series 2001 Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 2001 Bonds remain outstanding, the Issuer, through the Bond Registrar as its agent, shall keep and maintain books for the registration and transfer of the Bonds.

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

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

Section 3.06.      Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07.      Bonds not to be Indebtedness of the Issuer. The Series 2001 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Gross Revenues derived from the operation of the System as herein provided. No holder or holders of the Series 2001 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2001 Bonds or the interest thereon.

Section 3.08.      Bonds Secured by Pledge of Gross Revenues; Lien Positions with respect to Prior Bonds. The payment of the debt service of the Series 2001 Bonds shall be secured by a first lien on the Gross Revenues derived from the System, on a parity with

the lien on such Gross Revenues in favor of the Holders of the Series 1987 A Bonds and senior and prior to the lien on such Gross Revenues in favor of the Holders of the Series 1987 B Bonds. Such Gross Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Prior Bonds and the Series 2001 Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 3.09.      Delivery of Bonds. The Issuer shall execute and deliver the Series 2001 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2001 Bonds to the original purchasers upon receipt of the documents set forth below:

- A. If other than the Authority, a list of the names in which the Series 2001 Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;
- B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2001 Bonds to the original purchasers;
- C. An executed and certified copy of the Bond Legislation;
- D. An executed copy of the Loan Agreement; and
- E. The unqualified approving opinion of bond counsel on the Series 2001 Bonds.

Section 3.10.      Form of Bonds. The text of the Series 2001 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF KINGWOOD  
WATER REVENUE BOND, SERIES 2001  
(WEST VIRGINIA WATER DEVELOPMENT AUTHORITY)

No. R-\_\_\_\_\_

\$\_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF KINGWOOD, a municipal corporation and political subdivision of the State of West Virginia in Preston County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_), in annual installments on October 1 of each year, commencing October 1, \_\_\_\_\_, as set forth on the "Debt Service Schedule" attached as Exhibit A hereto and incorporated herein by reference, with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, such interest shall be payable semiannually on April 1 and October 1 in each year, commencing \_\_\_\_\_ 1, \_\_\_\_\_. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of Branch Banking and Trust Company, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority, dated \_\_\_\_\_, 20\_\_\_\_.

This Bond is issued (i) to pay the costs of acquisition and construction of certain additions, betterments, and improvements to the existing public waterworks facilities of the Issuer (the "Project"); (ii) to capitalize interest on the Bonds of this Series ("the Bonds") for the construction period and not more than 6 months thereafter; (iii) to fund a reserve account for the Bonds; and (iv) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 22C, Article 1 of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on \_\_\_\_\_, 20\_\_\_\_, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 20\_\_\_\_ (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, TO THE ISSUER'S WATER REVENUE BONDS, SERIES 1987 A, DATED JANUARY 7, 1987, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,810,612 (THE "SERIES 1987 A BONDS"), AND SENIOR AND PRIOR WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, TO THE ISSUER'S WATER REVENUE BONDS, SERIES 1987 B, DATED JANUARY 7, 1987, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$689,388 (THE "SERIES 1987 B BONDS") ("COLLECTIVELY THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on parity with the pledge of Gross Revenues in favor of the holders of the Series 1987 A Bonds, and senior to the pledge of Gross Revenues in favor of the holders of the Series 1987 B Bonds, and from moneys in the reserve account created under the Bond Legislation for the Bonds (the "Series 2001 Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Gross Revenues, the moneys in the Series 2001 Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the

services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds; provided however, that so long as there exists in the Series 2001 Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

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

IN WITNESS WHEREOF, THE CITY OF KINGWOOD has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated \_\_\_\_\_, 2001.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2001 Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_, 2001.

BRANCH BANKING AND TRUST COMPANY,  
as Registrar

\_\_\_\_\_  
Authorized Officer

EXHIBIT A  
DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto  
\_\_\_\_\_  
the within Bond and does hereby irrevocably constitute and appoint  
\_\_\_\_\_, Attorney to transfer the said Bond  
on the books kept for registration of the within Bond of the said Issuer with full power of  
substitution in the premises.

Dated: \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

Section 3.11.      Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Series 2001 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Mayor is specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "EXHIBIT A" and made a part hereof, and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The Loan Agreement, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Bond Legislation.

Section 3.12.      "Amended Schedule A" Filing. Upon completion of acquisition and construction of the Project, the Issuer will file with the Authority a schedule, the form of which will be provided by the Authority, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

## ARTICLE V

### FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

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

- (1) Revenue Fund (established by the Prior Ordinance and continued hereby);
- (2) Renewal and Replacement Fund (established by the Prior Ordinance and continued hereby); and
- (3) Series 2001 Bonds Construction Trust Fund.

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

- (1) Series 1987 A Bonds Sinking Fund (established by the Prior Ordinance and continued hereby);
- (2) Within the Series 1987 A Bonds Sinking Fund, the Series 1987 A Bonds Reserve Account (established by the Prior Ordinance and continued hereby);
- (3) Series 1987 B Bonds Sinking Fund (established by the Prior Ordinance and continued hereby);
- (4) Within the 1987 B Bonds Sinking Fund, the Series 1987 B Bonds Reserve Account (established by the Prior Ordinance and continued hereby);
- (5) Series 2001 Bonds Sinking Fund; and
- (6) Within the Series 2001 Bonds Sinking Fund, the Series 2001 Bonds Reserve Account.

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

(1) The Issuer shall first, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Series 1987 A Bonds Sinking Fund the amount required under the Prior Ordinance to pay the interest on the Series 1987 A Bonds; and (ii) commencing 7 months prior to the first date of payment of interest on the Series 2001 Bonds for which interest has not been capitalized or as required in the Loan Agreement, for deposit in the Series 2001 Bonds Sinking Fund, an amount equal to 1/6th of the amount of interest which will become due on the Series 2001 Bonds on the next ensuing semiannual interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2001 Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next semiannual interest payment date, the required amount of interest coming due on such date.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Series 1987 A Bonds Sinking Fund the amount required under the Prior Ordinance to pay the principal of the Series 1987 A Bonds; and (ii) commencing 13 months prior to the first date of payment of principal of the Series 2001 Bonds, for deposit in the Series 2001 Bonds Sinking Fund, an amount equal to 1/12th of the amount of principal which will mature and become due on the Series 2001 Bonds on the next ensuing annual principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2001 Bonds Sinking Fund and the next annual principal payment date is less than 13 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Series 1987 A Bonds Reserve Account the amount required by the Prior

Ordinance to be deposited therein; and (ii) commencing 13 months prior to the first date of payment of principal of the Series 2001 Bonds, if not fully funded upon issuance of the Series 2001 Bonds, for deposit in the Series 2001 Bonds Reserve Account, an amount equal to 1/120th of the Series 2001 Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2001 Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2001 Bonds Reserve Requirement.

(4) The Issuer shall next, each month, pay from the Revenue Fund the current Operating Expenses of the System.

(5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Except as otherwise provided in the Prior Ordinance, so long as the Series 1987 A Bonds are outstanding, withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in any Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

(6) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission for deposit in the Series 1987 B Bonds Sinking Fund, the amount required by the Prior Ordinance to pay the principal on the Series 1987 B Bonds.

(7) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission for deposit in the Series 1987 B Bonds Reserve Account, the amount required under the Prior Ordinance to be deposited therein.

Moneys in the Series 2001 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 2001 Bonds as the same shall become due. Moneys in the Series 2001 Bonds Reserve Account shall be used only for the purpose of paying principal of and interest on the

Series 2001 Bonds as the same shall come due, when other moneys in the Series 2001 Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2001 Bonds Sinking Fund and the Series 2001 Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2001 Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment due on the Series 2001 Bonds, and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2001 Bonds Reserve Account which result in a reduction in the balance of the Series 2001 Bonds Reserve Account to below the Series 2001 Bonds Reserve Requirement shall be subsequently restored from the first Gross Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the Series 2001 Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the appropriate reserve account in an amount equal to the maximum amount of principal and interest which will become due in any year for account of the Bonds of such series, including such additional parity Bonds.

The Issuer shall not be required to make any further payments into the Series 2001 Bonds Sinking Fund or the Series 2001 Bonds Reserve Account therein when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2001 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

Interest, principal or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 2001 and the Series 1987 A Bonds, thereafter, with respect to the Series 1987 B Bonds, all in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2001 Bonds Sinking Fund and the Series 2001

iBonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Authority at anytime, the Issuer shall make the necessary arrangements whereby required payments into said accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Moneys in the Series 2001 Bonds Sinking Fund and the Series 2001 Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2001 Bonds Sinking Fund and the Series 2001 Bonds Reserve Account shall be used solely and only for, and hereby pledged for the purpose of servicing the Series 2001 Bonds Outstanding under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required principal, interest and reserve account payments with respect to the Series 2001 Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. The Issuer shall complete the "Monthly Payment Form", a form of which is attached to the Loan Agreement and submit a copy of said form, together with a copy of its payment check to the Authority by the 5th day of such calendar month.

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

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

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

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

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

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

I. All Tap Fees shall be deposited by the Issuer, as received, in the Series 2001 Bonds Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System.

## ARTICLE VI

### BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01.      Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of the Series 2001 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2001 Bonds, there shall first be deposited with the Commission in the Series 2001 Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 2001 Bonds for the period commencing on the date of issuance of the Series 2001 Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 2001 Bonds, there shall be deposited with the Commission in the Series 2001 Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding the Series 2001 Bonds Reserve Account.

C. The remaining moneys derived from the sale of the Series 2001 Bonds shall be deposited with the Depository Bank in the Series 2001 Bonds Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02.

D. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Series 2001 Bonds Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Series 2001 Bonds Construction Trust Fund set forth in the Bond Legislation. Moneys in the Series 2001 Bonds Construction Trust Fund shall be used solely to pay Costs of the Project and until so transferred or expended, are hereby pledged as additional security for the Series 2001 Bonds.

Section 6.02.      Disbursements From the Series 2001 Bonds Construction Trust Fund. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 2001 Bonds Construction Trust Fund shall be made only after submission to the Depository Bank of a certificate, signed by an Authorized Officer and the Consulting Engineers, stating that:

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

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

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

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

In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Series 2001 Bonds Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Series 2001 Bonds 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 Series 2001 Bonds 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 Series 2001 Bonds Construction Trust Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

After completion of the Project, as certified by the Consulting Engineers, and all Costs of the Project have been paid, the Depository Bank shall transfer any moneys remaining in the Series 2001 Bonds Construction Trust Fund to the Series 2001 Bonds Reserve Account, provided that, in no event shall more than 10% of the proceeds from the sale of the Series 2001 Bonds be deposited in the Series 2001 Bonds Reserve Account, and when such Reserve Account is fully funded, shall return such remaining moneys to the Issuer for deposit in the Revenue Fund. The Issuer shall thereafter, apply such moneys in full, first to the next ensuing interest payment due on the Series 2001 Bonds and thereafter to the next ensuing principal payment due thereon. The Issuer shall expend all proceeds of the Series 2001 Bonds within 3 years of the date of issuance of the Authority's Bonds, the proceeds of which were used to make the loans to the Issuer.

## ARTICLE VII

### ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2001 Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 2001 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2001 Bonds or the interest thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2001 Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of the Series 2001 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2001 Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Gross Revenues; Lien Positions with respect to Prior Bonds. The payment of the debt service of the Series 2001 Bonds shall be secured by a first lien on the Gross Revenues derived from the System, on a parity with the lien on such Gross Revenues in favor of the Holders of the Series 1987 A Bonds and senior and prior to the lien on such Gross Revenues in favor of the Holders of the Series 1987 B Bonds. The Gross Revenues in an amount sufficient to pay the principal of and interest on the Prior Bonds and the Series 2001 Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreement. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the water rate ordinance of the Issuer enacted March 21, 2001, which rates are incorporated herein by reference as a part hereof.

So long as the Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions

necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the Loan Agreement. In the event the schedule of rates, fees and charges initially established for the System in connection with the Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of the System, or any part thereof, except as provided in the Prior Ordinance and with the written consent of the Authority. Additionally, so long as the Series 2001 Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Bonds Outstanding, or to effectively defease this Bond Legislation in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2001 Bonds, immediately be remitted to the Commission for deposit in the Series 2001 Bonds Sinking Fund, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest on the Series 2001 Bonds. Any balance remaining after the payment of the Series 2001 Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

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

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2001 Bonds. All obligations issued by the Issuer after the issuance of the Series 2001 Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Series 2001 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2001 Bonds, and the interest thereon, upon any or all of the income and revenues of the System pledged for payment of the Series 2001 Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

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

Section 7.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinance shall be applicable. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2001 Bonds pursuant to this Bond Legislation, except

under the conditions and in the manner herein provided (unless less restrictive than the provisions of the Prior Ordinance) and with the prior written consent of the Authority.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2001 Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the acquisition or construction of extensions and improvements to the System or refunding the Series 2001 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 Recorder a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

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

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

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

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on revenues of the System is subject to the prior and superior liens of the Series 2001 Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from 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 2001 Bonds.

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

Notwithstanding the foregoing, or any provision of Section 7.06 to the contrary, additional Parity 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 7.07, if there is first obtained by the Issuer the written consent of the Authority to the issuance of the Parity Bonds.

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

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

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

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

The Issuer shall file with the Authority, or any other original purchaser of the Series 2001 Bonds, and shall mail in each year to any Holder or Holders of the Series 2001 Bonds, requesting the same, an annual report containing the following:

- (A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.
- (B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation, and the status of all said funds and accounts.
- (C) The amount of any Bonds, notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto, to the extent legally required, and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 2001 Bonds, and shall submit said report to the Authority, or any other original purchaser of the Series 2001 Bonds. Such audit report

submitted to the Authority shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the Loan Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

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

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

Section 7.09. Rates. Prior to the issuance of the Series 2001 Bonds, equitable rates or charges for the use of and service rendered by the System shall be established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System; and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Series 2001 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2001 Bonds, including the Prior Bonds; provided that, in the event that an amount equal to or in excess of the reserve requirement is on deposit respectively in the Series 2001 Bonds Reserve Account and any reserve accounts for obligations on a parity with the Series 2001 Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest on the Series 2001 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the

Series 2001 Bonds, including the Prior Bonds. In any event, subject to any requirements of law, the Issuer shall not reduce the rates or charges for services set forth in the rate Ordinance described in Section 7.04 hereof.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of a professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and to any Holder of any Bonds, within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Authority and to any Holder of any Bonds, or anyone acting for and in behalf of such Holder of any Bonds.

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

Section 7.11. Engineering Services and Operating Personnel. The Issuer shall obtain a certificate of the Consulting Engineers in the form attached to the Loan Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Authority, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate 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 engineer shall certify to the Authority and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall employ qualified operating personnel properly certified by the State to operate the System during the entire term of the Loan Agreement.

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

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

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

Section 7.14. No Free Services. The Issuer shall not render or cause to be rendered any free services of any nature by the System, nor shall any preferential rates

be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

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

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

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

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS; such bonds to be in the amounts

of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

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

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

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

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

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

Section 7.16. Connections. To the extent permitted by the laws of the State and rules and regulations of the Public Service Commission of West Virginia, the Issuer shall require every owner, tenant or occupant of any house, dwelling or building intended to be served by the System to connect thereto.

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

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

Section 7.18.      Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A.    PRIVATE BUSINESS USE LIMITATION. The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Series 2001 Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 2001 Bonds during the term thereof is, under the terms of the Series 2001 Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Series 2001 Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 2001 Bonds during the term thereof is, under the terms of the Series 2001 Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 2001 Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the Series 2001 Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of the portion of the Project to which such Private Business Use is related. All of the foregoing shall be determined in accordance with the Code.

B.    PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of the lesser of 5% or \$5,000,000 of the Net Proceeds of the Series 2001 Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C.    FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 2001 Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

D. **INFORMATION RETURN.** The Issuer shall timely file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 2001 Bonds and the interest thereon including, without limitation, the information return required under Section 149(e) of the Code.

E. **FURTHER ACTIONS.** The Issuer shall take any and all actions that may be required of it (including, without limitation, those deemed necessary by the Authority) so that the interest on the Series 2001 Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions or fail to take any actions (including, without limitation, those deemed necessary by the Authority), the result of which would adversely affect such exclusion.

Section 7.19. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2001 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 Series 2001 Bonds, and shall be on a parity with the statutory mortgage lien in favor of the Holders of the Series 1987 A Bonds and senior and prior to the statutory mortgage lien in favor of the Holders of the Series 1987 B Bonds.

Section 7.20. Compliance with Loan Agreement and Law. The Issuer shall perform, satisfy and comply with all the terms and conditions of the Act, the Loan Agreement and all applicable laws, rules and regulations issued by the Authority, or other State, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

Section 7.21. Securities Laws Compliance. The Issuer shall provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

Section 7.22. Contracts; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2001 Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the Authority for written approval. The Issuer shall obtain the written approval of the Authority before expending any proceeds of the Series 2001 Bonds held in "contingency" as set forth in the schedule attached to the Certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the Authority before expending any proceeds of the Series 2001 Bonds made available due to bid or construction or project underruns.

C. The Issuer shall list the funding as being provided by the Authority in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any ground breaking or dedication of the Project.

## ARTICLE VIII

### INVESTMENT OF FUNDS; NON ARBITRAGE

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

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

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2001 Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest on the Series 2001 Bonds from gross income for federal income tax purposes.

Section 8.02.      Arbitrage and Tax Exemption. The Issuer covenants that (i) it shall not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Series 2001 Bonds which would cause the Series 2001 Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) it will take any and all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Series 2001 Bonds) so that the interest on

the Series 2001 Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Tax Certificate; Small Issuer Exemption from Rebate of Excess Investment Earnings to the United States. The Issuer shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of the Series 2001 Bonds. In addition, the Issuer covenants to comply with all Regulations from time to time in effect and applicable to the Series 2001 Bonds as may be necessary in order to fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of this Bond Legislation.

In accordance with Section 148 (f)(4)(D) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that no part of the Series 2001 Bonds are private activity bonds; that 95% or more of the Net Proceeds of the Series 2001 Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and that the aggregate face amount of all the tax-exempt obligations (other than private activity bonds) issued by the Issuer during the calendar year in which the Series 2001 Bonds are issued does not and will not exceed \$5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code and the Regulations from time to time in effect and applicable to the Series 2001 Bonds. For purposes of the first paragraph of Section 8.03 and for purposes of applying Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying this first paragraph of Section 8.03 and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this first paragraph of Section 8.03 and Section 148(f)(4)(D) of the Code to each other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(D) of the Code and all other entities benefitting thereby shall be treated as one issuer.

Notwithstanding the foregoing, if in fact the Issuer is subject to the rebate requirements of Section 148(f) of the Code, and not exempted from such requirements, the Issuer covenants to calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Authority, the Issuer shall deposit, or cause to be deposited, in the Rebate Fund such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which,

notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder and shall be used only for payment of rebatable arbitrage to the United States. The Issuer shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States in the time and at the address prescribed by the Regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor. In addition, the Issuer shall cooperate with the Authority in preparing rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the Issuer. To the extent not so performed by the Authority, the Issuer and the Depository Bank (at the expense of the Issuer) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer or the Depository Bank may deem appropriate in order to assure compliance with this Section 8.03. The Issuer shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 8.03 in accordance with the requirements of Section 148(f) of the Code and such Regulations. In the event the Issuer fails to make such rebates as required, the Issuer shall pay the required rebate amount, any and all penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, and take any other actions necessary, in order to maintain the exclusion of interest on the Series 2001 Bonds from gross income for federal income tax purposes.

The Issuer shall furnish to the Authority, annually, and at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information relating thereto as may be requested by the Authority. In addition, the Issuer shall cooperate with the Authority in preparing any required rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the Issuer.

The Issuer shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation and certificate with respect thereto or, if the Issuer qualifies for the small governmental issue exception to rebate, or any other exception thereto, then the Issuer shall submit to the Authority a certificate stating that it is

exempt from such rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Series 2001 Bonds subject to rebate. The Issuer shall also furnish to the Authority, at any time, such additional information relating to rebate as may be reasonably requested by the Authority including information with respect to earnings on all funds constituting "gross proceeds" of the Series 2001 Bonds (as such term "gross proceeds" is defined in the Code).

## ARTICLE IX

### DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2001 Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest on the Series 2001 Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2001 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2001 Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, Registrar or any other Paying Agent or a Holder of a Bond; or

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

(4) If the Issuer defaults on the Prior Bonds or the Prior Ordinance.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners, provided that, all rights and remedies of the Holders of the Series 2001 Bonds shall be on a parity with the Holders of the Series 1987 A Bonds and senior and prior to the Holders of the Series 1987 B Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project and after

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

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

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

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

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

Legislation, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

## ARTICLE X

### DEFEASANCE

Section 10.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of the Series 2001 Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Gross Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2001 Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest on the Series 2001 Bonds from gross income for federal income tax purposes.

Series 2001 Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Commission at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date, the principal installments of and interest on such Series 2001 Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 2001 Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on said Series 2001 Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Series 2001 Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2001 Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2001 Bonds, no material modification or amendment of this Bond Legislation, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2001 Bonds shall be made without the consent in writing of the Registered Owners of the Series 2001 Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds, required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest on the Series 2001 Bonds from gross income of the holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 2001 Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution, or the Series 2001 Bonds.

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

Section 11.05. Conflicting Provisions Repealed. Except for the Prior Ordinance, all ordinances, orders or resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed, provided

that, in the event of any conflict between this Ordinance and the Prior Ordinance, the Prior Ordinance shall control (unless less restrictive), so long as the Prior Bonds are Outstanding.

Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, Recorder and members of the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 11.07. Effective Date. This Ordinance shall take effect immediately following the public hearing and final reading hereof.

Section 11.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication, in the Preston County Journal and the Preston County News, two newspapers published and of general circulation in The City of Kingwood, together with a notice to all persons concerned, stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Bonds described in this Ordinance, and that any person interested may appear before the Council at a date certain, not less than ten days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Recorder for review by interested parties during the office hours of the Recorder. At such hearing all protests and suggestions shall be heard by the Council and it shall then take such action as it shall deem proper in the premises.

Passed on First Reading: - November 14, 2000

Passed on Second Reading: - November 28, 2000

Passed on Final Reading  
Following Public  
Hearing: - December 12, 2000

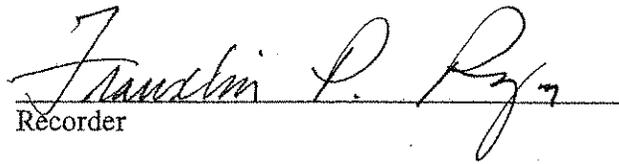
  
\_\_\_\_\_  
Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of THE CITY OF KINGWOOD on the 12th day of December, 2000.

Dated: January 18, 2001.

[SEAL]

  
Recorder

01/12/01  
485090/00001

EXHIBIT A

THE CITY OF KINGWOOD

Water Revenue Bonds, Series 2001  
(West Virginia Water Development Authority)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE WATER REVENUE BONDS, SERIES 2001 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), OF THE CITY OF KINGWOOD; AUTHORIZING AND APPROVING A LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the City Council (the "Governing Body") of The City of Kingwood (the "Issuer") has duly and officially enacted a bond ordinance, effective December 12, 2000 (the "Bond Ordinance" or the "Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE CITY OF KINGWOOD AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$1,250,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2000 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING AND

RATIFYING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Ordinance when used herein;

WHEREAS, the Bond Ordinance provides for the issuance of Water Revenue Bonds, Series 2000 (West Virginia Water Development Authority), of the Issuer, in an aggregate principal amount not to exceed \$1,250,000;

WHEREAS, the Water Revenue Bonds, Series 2000 (West Virginia Water Development Authority), were not issued in 2000, but will be issued in 2001;

WHEREAS, the Governing Body desires to redesignate the Water Revenue Bonds, Series 2000 (West Virginia Water Development Authority), as Water Revenue Bonds, Series 2001 (West Virginia Water Development Authority) (the "Bonds" or "Series 2001 Bonds");

WHEREAS, the Bond Ordinance has authorized the execution and delivery of a loan agreement relating to the Bonds (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), all in accordance with Chapter 8, Article 19 and Chapter 22C, Article 1 of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Bond Ordinance it is provided that the form of the Loan Agreement and the exact principal amount, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Loan Agreement has been presented to the Issuer at this meeting;

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

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Bonds be redesignated, that the Loan Agreement be approved and entered into by the Issuer, that the exact principal amount, the date, the maturity date, the redemption provision, the interest rate, the interest and principal payment dates and the sale price of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF KINGWOOD:

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted, the Water Revenue Bonds, Series 2000 (West Virginia Water Development Authority), are hereby redesignated as Water Revenue Bonds, Series 2001 (West Virginia Water Development Authority), and there are hereby authorized and ordered to be issued the Water Revenue Bonds, Series 2001 (West Virginia Water Development Authority), of the Issuer, originally represented by a single Bond, numbered R-1, in the principal amount of \$1,139,214. The Bonds shall be dated the date of delivery thereof, shall finally mature October 1, 2020, and shall bear interest at the rate of 5.8% per annum, payable semiannually on April 1 and October 1 of each year, commencing April 1, 2001. The Bonds shall be payable in annual installments of principal on October 1 of each year, commencing October 1, 2001, and maturing October 1, 2020, and in the amounts as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Bonds shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium on the Bonds and otherwise in compliance with the Loan Agreement, as long as the Authority shall be the registered owner of the Bonds.

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

Section 3. The Issuer does hereby authorize, approve and accept the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the application to the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon.

Section 4. The Issuer does hereby appoint and designate Branch Banking and Trust Company, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 5. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds under the Bond Ordinance.

Section 6. The Issuer does hereby appoint and designate WesBanco Bank, Fairmont, Incorporated, Kingwood, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 7. Series 2001 Bonds proceeds in the amount of -0- shall be deposited in the Series 2001 Bonds Sinking Fund as capitalized interest.

Section 8. Series 2001 Bonds proceeds in the amount of \$98,498 shall be deposited in the Series 2001 Bonds Reserve Account.

Section 9. The balance of the proceeds of the Series 2001 Bonds shall be deposited in the Series 2001 Bonds Construction Trust Fund for payment of Costs of the Project, including, without limitation, costs of issuance of the Series 2001 Bonds and related costs.

Section 10. The Mayor and Recorder are hereby authorized and directed to execute and deliver such other documents, agreements, instruments and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered to the Authority pursuant to the Loan Agreement on or about January 18, 2001.

Section 11. The acquisition and construction of the Project and the financing thereof with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 12. The Issuer hereby determines that it is in the best interest of the Issuer to invest all moneys in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or in time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such repurchase agreements and/or time accounts, until further directed in writing by the Issuer. Moneys in the Series 2001 Bonds Sinking Fund, including the Series 2001 Bonds Reserve Account therein, shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 13. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code and Treasury Regulations promulgated or to be promulgated thereunder.

Section 14. The Issuer is a governmental unit with general taxing powers to finance operations of or facilities of the nature of the Project and the System; no part of the Bonds are private activity bonds; 95% or more of the net proceeds of the Bonds are to be used for local governmental activities of the Issuer; and the Issuer reasonably expects to issue less than \$5,000,000 aggregate principal face amount of tax-exempt obligations (other than private activity bonds) during the calendar year 2001, being the calendar year in which the Bonds are to be issued. For purposes of this Section and for purposes of applying Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying this Section and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this Section and Section 148(f)(4)(D) of the Code to each other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(D) of the Code and all other entities benefitting thereby shall be treated as one issuer.

Section 15. The Issuer hereby approves, ratifies and accepts all contracts relating to the financing, acquisition and construction of the Project.

Section 16. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 9th day of January, 2001.

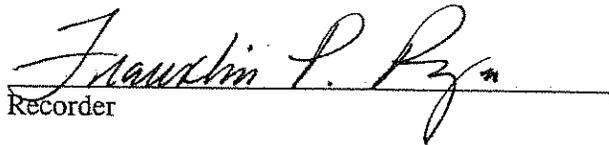
  
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Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of The City of Kingwood on the 9th day of January, 2001.

Dated: January 18, 2001.

[SEAL]

  
Recorder

01/12/01  
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you + me  
Matt B

PWSID#: WV3303908

THRASHER ENGINEERING, INC.  
CAPITOL and WASHINGTON STREETS

# State of West Virginia

## OFFICE OF ENVIRONMENTAL HEALTH SERVICES

1 DAVIS SQUARE, SUITE 200  
TELEPHONE 304-558-2981

CHARLESTON, WEST VIRGINIA 25301

### PERMIT

PROJECT: (Water) Whetsell Settlement Water Line Extension PERMIT NO.: 17,060

LOCATION: Kingwood COUNTY: Preston DATE: 5-17-2006

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

City of Kingwood  
Kingwood Water Board  
313 Tunnelton Street  
Kingwood, West Virginia 26537

is hereby granted approval to: install approximately 2,500 LF of 2" and 8,800 LF of 6" water line and all necessary valves and appurtenances.

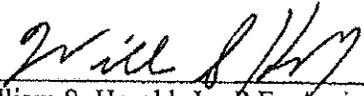
Facilities are to serve 38 customers in the Whetsell Settlement.

**NOTE:** This permit is contingent upon: 1) All new water line being disinfected, flushed and bacteriologically tested, prior to use; and 2) Maintaining a minimum ten (10) feet horizontal separation between sewer and water lines and a minimum 18" vertical separation between crossing sewer and water lines with the water line to be over the sewer line.

The Environmental Engineering Division of the OEHS-Philippi District Office, telephone (304) 457-2296, is to be notified when construction begins.

Validity of this permit is contingent upon conformity with plans, specifications, application forms, and other information submitted to the West Virginia Bureau for Public Health.

FOR THE DIRECTOR

  
William S. Herold, Jr., P.E., Assistant Manager  
Infrastructure and Capacity Development  
Environmental Engineering Division

WSH:emt

pc:  Thrasher Engineering, Inc.  
James W. Ellars, P.E.  
Amy Swann, PSC  
Preston County Health Department  
OEHS-EED Philippi District Office



January 26, 2006

The Honorable Fred Peddicord  
Mayor  
City of Kingwood  
313 Tunnelton Street  
Kingwood, West Virginia 26537

Dear Mayor Peddicord:

Congratulations on Governor Manchin's recent fiscal year 2006 Local Economic Development Assistance Program award, in the amount of \$50,000 to the City of Kingwood to extend wafer service to the Whetsell Settlement area of Kingwood near Camp Dawson. Enclosed with this correspondence is a state/local contract between the West Virginia Development Office and the City of Kingwood.

Please review this document carefully. As the grantee, the City of Kingwood is responsible for compliance with this contract, including all applicable laws referenced in the contract, such as those pertaining to prevailing wage rates and competitive bid procedures. These requirements apply to any and all grants, including those dedicated to sub-grantees, such as nonprofit organizations.

The contract period outlined in this contract will expire June 30, 2006, without written authorization from the West Virginia Development Office and the reappropriation of funds by the West Virginia Legislature.

**Once the City of Kingwood and legal counsel have reviewed the contract, the City of Kingwood must pass a formal resolution accepting the conditions of the contract and authorizing your signature on the last page. We will be unable to process a grant agreement until a signed contract and resolution are returned to this office.**

I am looking forward to working with you on this worthwhile project. If you have any questions, please contact me at (304) 558-4010.

Sincerely,

  
Brandi Blankenship  
Community Development Division

BB:kd

Enclosure

Project Number: 06LEDA0078



# CLOSING MEMORANDUM

**To:** Financing Team  
**From:** John C. Stump, Esquire  
**Date:** June 14, 2007  
**Re:** City of Kingwood Water Revenue Bonds, Series 2007 A (West Virginia Infrastructure Fund)

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## 1. DISBURSEMENTS TO THE CITY OF KINGWOOD

Payor: West Virginia Infrastructure & Jobs Development Council  
Amount: \$20,314  
Form: Wire  
Payee: City of Kingwood  
Routing No. 051500562  
Account No. 2807545537  
Contact: Thomas Harper (304.329.0585) WesBanco Inc.  
Account: Series 2007 A Bonds Construction Trust Fund

485090.00004

**City of Kingwood  
Whetsell Settlement Water Project  
Requisition #1**

Payee	IJDC Loan/Grant	Budget Digest	TOTAL
	<b>\$525,000.00</b>	<b>\$50,000.00</b>	<b>\$575,000.00</b>
Shelia Kae Williams Garden Towers, Suite 314 Kingwood, WV 26537	\$7,188.39		\$7,188.39
Region VI PDC 7003-C Mountain Park Drive Fairmont, WV 26554	\$2,624.78		\$3,317.42 2,624.78
Steptoe & Johnson	\$10,000.00		\$10,000.00
Bank	\$500.00		\$0.00 500.00
<b>TOTAL THIS REQUEST</b>	<b>\$20,313.17</b>	<b>\$0.00</b>	<b>\$20,505.81</b>
<b>PRIOR REQUEST</b>	<b>\$0.00</b>	<b>\$44,877.00</b>	<b>\$44,877.00</b>
<b>TOTAL REQUESTED TO DATE</b>	<b>\$20,313.17</b>	<b>\$44,877.00</b>	<b>\$65,382.81</b>
<b>REMAINING FUNDS</b>	<b>\$504,686.83</b>	<b>\$5,123.00</b>	<b>\$509,617.19</b>

*20,314.00*

Submitted By: Lea Wolfe, Project Administrator

Date: May 18, 2007

**RESOLUTION**

Whereas, the City of Kingwood and the Kingwood Water Works has reviewed the attached invoices in relation to the sewer project and finds as follows:

1. That none of the items for which payment is proposed under this requisition has formed the basis for any disbursement heretofore made.
2. 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.
3. That each of such costs has been otherwise properly incurred; and
4. That payment for each of the items proposed is then due and owing.

Now, therefore, be it resolved by the City of Kingwood and the Kingwood Water Works that the payment of the attached invoices as summarized, is hereby authorized and directed .

Adopted by the City of Kingwood on 23rd day of May, 2007.

Adopted by the Kingwood Water Works on 23rd day of May, 2007.

City of Kingwood

*Frederick P. ...*

Mayor

Kingwood Water Works

*K... NG...*

Chairman



## WATER PURCHASE CONTRACT

This CONTRACT for the sale and purchase of water is entered into as of this 23rd day of May, 1995, by and between the KINGWOOD WATER BOARD, a public utility and subsidiary of the City of Kingwood, West Virginia, a municipal corporation, hereinafter referred to as the "SELLER", and the PRESTON COUNTY PUBLIC SERVICE DISTRICT NO. 2, a public utility, hereinafter referred to as the "PURCHASER".

WITNESSETH: WHEREAS, by an agreement dated the 1st day of December, 1970, the City of Kingwood agreed to supply to the Public Service District No. 2 potable water at a price as stated in said contract; and,

WHEREAS, pursuant to said contract and the amendment to water prices as therein provided, PURCHASER (Public Service District No. 2) is presently accepting said water and PURCHASER has been serviced by SELLER in accordance therewith since the PURCHASER began service; and,

WHEREAS, during the interval of time between the original contract of December 1, 1970, and the present time, there have been substantial increases in the cost of electric power, water production and other expenses necessary for the processing and delivery of said water; and,

WHEREAS, the original contract dated the 1st day of December, 1970, must be modified to comply with rates to be charged for said water as set forth in an Ordinance adopted by the City of Kingwood, West Virginia, and filed of record with the West Virginia Public Service Commission; and,

WHEREAS, PURCHASER and SELLER, acting for and in behalf the City of Kingwood, now desire to modify the original contract. This contract dated the 23rd day of May, 1995, shall set forth the entire agreement between the SELLER and PURCHASER.

NOW THEREFORE, in consideration of the foregoing and the mutual agreements hereinafter set forth,

A. THE SELLER AGREES:

1. (Quality and Quantity) To furnish the PURCHASER at the points of delivery hereinafter specified, during the term of this

CONTRACT or any renewal or extension thereof, potable treated water meeting applicable purity standards of the West Virginia State Health Department in such quantity as may be required by the PURCHASER, not to exceed Ten million (10,000,000.00) gallons per month.

Although the SELLER is responsible to provide potable treated water meeting applicable purity standards as hereinbefore set forth, such agreement shall not relieve the PURCHASER of the responsibility for proper operation/maintenance of its water system. Further, this requirement shall not relieve the PURCHASER from the responsibility to verify the purity of its water and integrity of its lines on a regular basis. In that regard, the SELLER shall not be responsible for repairs and/or contamination that originates within the PURCHASER's system.

2. (Points of Delivery and Pressure) That for a period of eight to ten (8-10) hours per day, water will be furnished at a reasonable constant pressure calculated to be at least at twenty (20) pounds per square inch at a maximum use of 130 gallons per minute from the following two points: (1) From the master meter for the main supply line of SELLER at a point located at the city limits on Tunnelton Street (old Route 26); (2) from the master meter for the main supply line of SELLER at a point located at the end of the main supply line of SELLER's system to the New Sheidow Bronze Building (formerly Kinney Shoe Plant) outside the western boundary of the City of Kingwood, West Virginia. Constant pressure cannot be guaranteed at twenty (20) pounds per square inch during this period of eight to ten (8-10) hours per day for any usage in excess of 130 gallons per minute.

If a greater pressure than that normally available at the point of delivery is required by the PURCHASER, the cost of providing such greater pressure shall be borne by the PURCHASER. Emergency failures of pressure or supply due to main supply line breaks, power failure, flood, fire and use of water to fight fire, earthquake or other catastrophe shall excuse the SELLER from this provision for such reasonable period of time as may be necessary to restore service.

Due to the Department of Health regulations, SELLER will not guarantee water at a constant pressure as herein set forth in excess of eight to ten (8-10) hours per day. Upon completion of an upgrade to the system of BUYER which will reduce the pumping time for SELLER's pump located near the New Sheidow Bronze Building, the SELLER will consider negotiations to revise this portion of the Contract pertaining to the constant pressure to be provided.

PURCHASER may pump water from SELLER one (1) hour prior to SELLER starting its pumping process at its water plant and PURCHASER may continue to take water during the period of time that the SELLER has the water plant in operation and pumping. When SELLER's water plant is not engaged in the pumping process, PURCHASER may take water from SELLER in the maximum amount of Seventy-five Thousand (75,000) gallons per non pumping period, unless SELLER experiences an emergency situation, at which time SELLER may request the PURCHASER not to pump any additional water and such request shall be honored by PURCHASER. Should the PURCHASER require additional water in excess of the Seventy-five Thousand (75,000) gallons when SELLER is not engaged in the pumping process, PURCHASER shall make arrangements with SELLER to start-up SELLER's water plant to provide the additional water. In such a situation, PURCHASER shall pay to SELLER the amount of funds equal to the average hourly overtime rate paid to a water operator of the SELLER for the number of hours required and used to provide PURCHASER with the necessary requested water. In addition to the payment of the overtime hourly rate as hereinbefore provided, the PURCHASER shall pay the amount of Fifty Dollars (\$50.00) per occasion as a service charge for the costs incurred for starting up the water plant. The SELLER has the right to waive the overtime hourly rate payment and the service charge upon acceptance of the appropriate explanation of need made by PURCHASER for the additional requested service, which waiver shall be in the full discretion of the SELLER.

3. (Metering Equipment) The metering equipment (two meters located at each point of service) shall be read on the 15th day of each month. An appropriate official of the PURCHASER shall have

access to the meter for the purpose of verifying its readings, provided such verification is made during reasonable business hours, unless other arrangements are made.

4. (Billing Procedure) To furnish the PURCHASER at the address as provided to SELLER by PURCHASER, not later than ten (10) days following the date the meter was read, with an itemized statement of the amount of water furnished the PURCHASER during the period such reading covered.

B. THE PURCHASER AGREES:

1. (Rates and Payment Date) To pay to the SELLER, not later than the 10th day of each month, the total amount due as shown on SELLER's itemized statement for water delivered in accordance with the schedule of rates which have been adopted by Ordinance by the City of Kingwood, West Virginia, and any amendments thereto, all of which have been and will be, as amendments are approved, made of record and filed with the West Virginia Public Service Commission.

2. (Maintenance of System) To have proper operation/maintenance of its water system. To verify the purity of its water and integrity of its lines on a regular basis and to be responsible for repairs and/or contamination that originates within the PURCHSER's system.

3. (Policies) To abide by all policies and rates as established by the SELLER and as filed with the West Virginia Public Service Commission.

C. IT IS FURTHER MUTUALLY AGREED BETWEEN THE SELLER AND THE PURCHASER AS FOLLOWS:

1. (Term of Contract) That this contract shall extend for a term of twenty (20) years from the date of the execution of this CONTRACT and thereafter may be renewed or extended for such term or terms as may be agreed upon by the SELLER and PURCHASER.

2. (Failure to Deliver) That the SELLER will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the PURCHASER with quantities of water required by the PURCHASER. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event of an extended shortage of water, or the supply of water available to the SELLER is otherwise

diminished over an extended period of time, the supply of water to PURCHASER's consumers shall be reduced or diminished in the same ratio or proportion as the supply to SELLER's consumers is reduced or diminished.

3. (Modification of Contract) That the provisions of this CONTRACT pertaining to the schedule of rates to be paid by the PURCHASER for water delivered are subject to the Ordinance setting the water rates and to any and all Amendments to the Water Rate Ordinance as may be adopted by the City of Kingwood, West Virginia, and filed for record with the West Virginia Public Service Commission. Any Amendments to the Water Rate Ordinance as adopted by the City of Kingwood, West Virginia, and filed for record with the West Virginia Public Service Commission shall automatically apply to the rates applicable to be charged to PURCHASER by SELLER under this CONTRACT. Other provisions of this CONTRACT may be modified or altered by mutual agreement.

4. (Regulatory Agencies) That this CONTRACT is subject to such rules, regulations, or laws as may be applicable to similar agreements in this state and the SELLER and PURCHASER will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith, including approval of this CONTRACT by the Public Service Commission.

5. (Successor to the PURCHASER) That in the event of any occurrence rendering the PURCHASER incapable of performing under this CONTRACT, any successor of the PURCHASER, whether the result of legal process, assignment, or otherwise, shall succeed to the rights of the PURCHASER hereunder.

6. That this CONTRACT shall supersede and replace the two (2) previous contracts entered into by the parties herein both of which were dated December 1, 1970.

IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this CONTRACT to be duly executed in two (2) counterparts, each of which shall constitute an original.

KINGWOOD WATER BOARD, a Public Utility and a Subsidiary of the City of Kingwood, West Virginia, SELLER, by:

Daniel Kifer  
Daniel Kifer, its Chairman

ATTEST:

John A. Argen  
Secretary

PRESTON COUNTY PUBLIC SERVICE DISTRICT NO. 2, a West Virginia Public Service District, PURCHASER, by:

Floyd V. Myers  
its Chairman

ATTEST:

Louis V. Bernatowicz  
Secretary

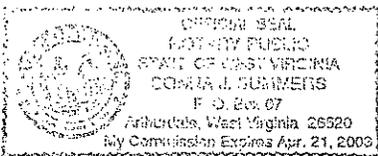
ATTEST:

Roger Weare  
Treasurer

STATE OF WEST VIRGINIA,  
COUNTY OF PRESTON, to-wit:

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of August, 1995, by Daniel Kifer, Chairman of the Kingwood Water Board, a public utility and subsidiary of the City of Kingwood, West Virginia.

My commission expires April 21, 2003.

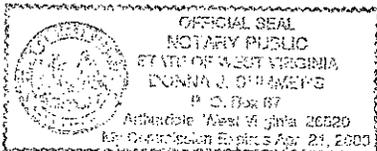


Donna J. Summers  
Notary Public

STATE OF WEST VIRGINIA,  
COUNTY OF PRESTON, to-wit:

The foregoing instrument was acknowledged before me this  
24<sup>th</sup> day of August, 1995, by Floyd V. Myers  
\_\_\_\_\_, Chairman of the Preston  
County Public Service District No. 2, a West Virginia Public  
Service District.

My commission expires April 21, 2003.



Donna J. Summers  
Notary Public

This document prepared by:

Sheila Kae Williams  
Attorney at Law  
Garden Towers, Suite 314  
202 Tunnelton Street  
Kingwood, WV 26537