

CITY OF KINGWOOD

Water Revenue Bonds,
Series 1987 A and Series 1987 B

Date of Closing: January 7, 1987

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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
KGWD2-B

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 money 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.

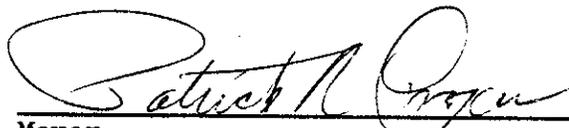
Section 11.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the enactment of this Ordinance do exist, have happened, have been performed and have been taken in regular 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.

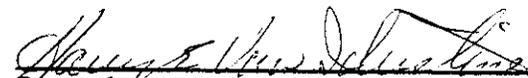
Section 11.09. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Bond Legislation determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen 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.

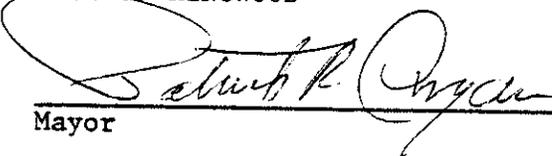
Section 13. The Issuer has general taxing powers to finance operations of or facilities of the nature of the System, and the Issuer and all subordinate entities reasonably expect to issue less than \$5,000,000 of tax-exempt obligations during the calendar year 1987, being the calendar year in which the Bonds are to be issued.

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

Adopted this 9th day of December, 1986.

CITY OF KINGWOOD

[SEAL]



Mayor



Recorder

01/06/87
KGWD1-D



WDA-5
(November 1985)

RECEIVED

MAR 11 1986

WATER DEVELOPMENT AUTHORITY

LOAN AGREEMENT

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

W I T N E S S E T H:

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

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

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

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

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

WHEREAS, having reviewed the Application and made all findings required by Section 5 of the Act and having available sufficient funds therefor, the Authority is willing to lend the Governmental Agency the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Governmental Agency with proceeds of certain water development revenue bonds of the State issued by the Authority pursuant to and in accordance with the provisions of the Act and a general resolution adopted by the Authority on May 22, 1985 (the "General Resolution"), as supplemented, subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Authority's water development loan program (the "Program") as hereinafter set forth.

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

ARTICLE I

Definitions

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

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

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

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

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

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

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

1.8 "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.

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

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

ARTICLE II

The Project and the System

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

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

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

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

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

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

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

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority. Until the Project facilities are completed and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Governmental Agency, the prime contractor and all subcontractors, as their interests may appear.

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

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

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

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

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

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

(c) The Governmental Agency shall have received bids for the construction of the Project which are in an amount

and otherwise compatible with the plan of financing described in the Application, and the Authority shall have received a certificate of the Consulting Engineers to such effect;

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

(e) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the issuance of the Local Bonds, construction of the Project and imposition of rates and charges and shall have taken any other action required for the imposition of such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project), and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel, to such effect;

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

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

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the Authority or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall make the Loan to the Governmental Agency and the Governmental Agency shall accept the Loan from the Authority, and in furtherance thereof it is agreed that the Governmental Agency shall sell to the Authority and the Authority shall make

the Loan by purchasing the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

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

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Governmental Agency by written notice to the Authority, which written notice shall be given not less than five (5) business days prior to the date designated; provided, however, that if the Authority is unable to accept delivery on the date designated, the Local Bonds shall be delivered to the Authority on a date as close as possible to the designated date and mutually agreeable to the Authority and the Governmental Agency. The date of delivery so designated or agreed upon is hereinafter referred to as the "Date of Loan Closing." Notwithstanding the foregoing, the Date of Loan Closing shall in no event occur more than ninety (90) days after the date of execution of this Loan Agreement by the Authority.

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Authority for loans to finance water development projects and that the obligation of the Authority to make any such loan is subject to the Governmental Agency's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing and to the right of the Authority to make such loans to other governmental agencies as in the aggregate will permit the fullest and most timely utilization of such proceeds to enable the Authority to pay debt service on the water development revenue bonds issued by it. The Governmental Agency specifically recognizes that the Authority will not execute this Loan Agreement unless and until it has available funds sufficient to purchase all the Local Bonds and that, prior to such execution, the Authority may commit to and purchase the revenue bonds of other governmental agencies for which it has sufficient funds available.

ARTICLE IV

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

4.1 The Governmental Agency shall, as one of the conditions of the Authority to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official

action of the Governmental Agency in accordance with the Local Statute, which shall, as enacted, contain provisions and covenants in substantially the form as follows:

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

(b) Covenants substantially as follows:

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

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

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

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

(v) That the Governmental Agency shall not issue any other obligations payable from the

revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by or payable from the revenues of the System prior to the Local Bonds; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

(vi) That the Governmental Agency will carry such insurance as is customarily carried with respect to works and properties similar to the System;

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

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

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

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

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

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

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

(xiv) That the proceeds of the Local Bonds, except for accrued interest and capitalized interest, if any, must be deposited in a construction fund on which the owner of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing for non-construction costs); and

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

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

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

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

4.4 The Loan shall bear interest from the date of the delivery to the Authority of the Local Bonds until the date of payment thereof, at the rate or rates per annum set forth on

Schedule X hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

4.5 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Governmental Agency.

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

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

ARTICLE V

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

5.1 The Governmental Agency hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Governmental Agency hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System, as

set forth in the Local Act and in compliance with the provisions of Subsection 4.1(b)(ii) hereof.

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

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

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

ARTICLE VI

Other Agreements of the Governmental Agency

6.1 The Governmental Agency hereby acknowledges to the Authority its understanding of the provisions of the Act, vesting in the Authority certain powers, rights and privileges with respect to water development projects in the event of default by governmental agencies in the terms and covenants of loan agreements, and the Governmental Agency hereby covenants and agrees that, if the Authority should hereafter have recourse to said rights and powers, the Governmental Agency shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Loan Agreement.

6.2 At the option of the Authority, the Governmental Agency shall issue and sell to the Authority additional, subordinate bonds to evidence the Governmental Agency's obligation to repay to the Authority any grant received by the Governmental Agency from the Authority in excess of the amount

to which the Governmental Agency is entitled pursuant to applicable policies or rules and regulations of the Authority. Also at the option of the Authority, the Governmental Agency may issue and sell to the Authority additional, subordinate bonds for such purposes as may be acceptable to the Authority.

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

ARTICLE VII

Miscellaneous

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

7.2 Schedules X, Y and Z shall be attached to this Loan Agreement at the time of execution hereof by the Authority and shall be approved by an official action of the Governmental Agency supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority.

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

7.4 This Loan Agreement may be executed in one or more counterparts, any of which shall be regarded for all

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

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

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

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

7.8 This Loan Agreement shall terminate upon the earlier of:

(i) the end of ninety (90) days after the date of execution hereof by the Authority if the Governmental Agency has failed to deliver the Local Bonds to the Authority;

(ii) termination by the Authority pursuant to Section 6.3 hereof; or

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

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be executed by their respective duly authorized officers as of the date executed below by the Governmental Agency, but this Loan Agreement shall not be binding on the Authority until executed by it.

City of Kingwood
[Proper Name of Governmental Agency]

(SEAL)

By [Signature]
Its [Signature]

Attest:

Date: _____

Its _____

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

(SEAL)

By

Director

Edwin N. Henry

Attest:

Date:

March 21, 1986

Daniel B. Yarbush
Secretary-Treasurer

WDA-5X
(August 1985)

SCHEDULE X
DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds	\$ <u>2,810,612</u>
Purchase Price of Local Bonds	\$ <u>2,810,612</u>

Interest on the Local Bonds is payable on April 1 and October 1 in each year, beginning with the first semi-annual interest payment date after delivery of the Local Bonds to the Authority, until the Local Bonds are paid in full, at the rate of ___% per annum. Principal of the Local Bonds is payable on October 1 in each year as set forth on Exhibit 1 attached hereto and incorporated herein by reference.

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

As of the date of the Loan Agreement, the Local Bonds are subordinate as to source of and security for payment to the following obligations:

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

CITY OF KINGWOOD
ANALYSIS OF 7.00% BORROWING COST

-----1986 SERIES A BONDS-----

MATURITY DATE	COUPON	PRINCIPAL	INTEREST	DEBT SERVICE
10/ 1/1987	0.000	0.00	172,721.47	172,721.47
10/ 1/1988	0.000	0.00	235,529.29	235,529.29
10/ 1/1989	8.380	11,610.00	235,529.29	247,139.29
10/ 1/1990	8.380	12,584.00	234,556.37	247,140.37
10/ 1/1991	8.380	13,639.00	233,501.83	247,140.83
10/ 1/1992	8.380	14,782.00	232,358.88	247,140.88
10/ 1/1993	8.380	16,020.00	231,120.15	247,140.15
10/ 1/1994	8.380	17,363.00	229,777.67	247,140.67
10/ 1/1995	8.380	18,818.00	228,322.65	247,140.65
10/ 1/1996	8.380	20,395.00	226,745.70	247,140.70
10/ 1/1997	8.380	22,104.00	225,036.60	247,140.60
10/ 1/1998	8.380	23,956.00	223,184.29	247,140.29
10/ 1/1999	8.380	25,964.00	221,176.78	247,140.78
10/ 1/2000	8.380	28,139.00	219,000.99	247,139.99
10/ 1/2001	8.380	30,498.00	216,642.94	247,140.94
10/ 1/2002	8.380	33,053.00	214,087.21	247,140.21
10/ 1/2003	8.380	35,823.00	211,317.37	247,140.37
10/ 1/2004	8.380	38,825.00	208,315.40	247,140.40
10/ 1/2005	8.380	42,079.00	205,061.87	247,140.87
10/ 1/2006	8.380	45,605.00	201,535.65	247,140.65
10/ 1/2007	8.380	49,427.00	197,713.95	247,140.95
10/ 1/2008	8.380	53,569.00	193,571.97	247,140.97
10/ 1/2009	8.380	58,058.00	189,082.88	247,140.88
10/ 1/2010	8.380	62,923.00	184,217.62	247,140.62
10/ 1/2011	8.380	68,196.00	178,944.68	247,140.68
10/ 1/2012	8.380	73,911.00	173,229.85	247,140.85
10/ 1/2013	8.380	80,104.00	167,036.11	247,140.11
10/ 1/2014	8.380	86,817.00	160,323.39	247,140.39
10/ 1/2015	8.380	94,092.00	153,048.13	247,140.13
10/ 1/2016	8.380	101,977.00	145,163.22	247,140.22
10/ 1/2017	8.380	110,523.00	136,617.55	247,140.55
10/ 1/2018	8.380	119,785.00	127,355.72	247,140.72
10/ 1/2019	8.380	129,823.00	117,317.74	247,140.74
10/ 1/2020	8.380	140,702.00	106,438.57	247,140.57
10/ 1/2021	8.380	152,493.00	94,647.74	247,140.74
10/ 1/2022	8.380	165,271.00	81,868.83	247,139.83
10/ 1/2023	8.380	179,121.00	68,019.12	247,140.12
10/ 1/2024	8.380	194,132.00	53,008.78	247,140.78
10/ 1/2025	8.380	210,400.00	36,740.52	247,140.52
10/ 1/2026	8.380	228,031.00	19,109.00	247,140.00
		<u>2,810,612.00</u>	<u>6,988,977.77</u>	<u>9,799,589.77</u>

SCHEDULE Y
REVENUES

In accordance with Subsection 4.1(a) of the Loan Agreement, the revenues generated from the operation of the System will be used monthly, in the order of priority listed, as follows:

(i) to the extent not otherwise limited by an outstanding local ordinance, indenture or other act or document, as reflected on Schedule X to the Loan Agreement, and beginning seven (7) months prior to the first date of payment of interest on the Local Bonds from revenues and thirteen (13) months prior to the first date of payment of principal of the Local Bonds, respectively, to provide debt service on the Local Bonds by depositing in a sinking fund one-sixth (1/6) of the interest payment next coming due on the Local Bonds and one-twelfth (1/12) of the principal payment next coming due on the Local Bonds and, if the Reserve Account was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof in an amount equal to the Reserve Requirement, by depositing in the Reserve Account an amount equal to one-twelfth (1/12) of one-tenth (1/10) of the amount necessary to fund the Reserve Account at 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;

(ii) 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;

(iii) to provide debt service on and requisite reserves for any subordinate indebtedness of the Governmental Agency held or owned by the Authority;

(iv) to pay Operating Expenses of the System; and

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

SCHEDULE Z

Additional and Supplemental Definitions

1. "Local Statute" means Chapter 8, Article 19, of the Code of West Virginia, 1931, as amended.

2. "System" means the waterworks system owned by the Governmental Agency in its entirety or any integral part thereof, including mains, hydrants, meters, valves, standpipes, storage tanks, pump tanks, pumping stations, intakes, wells, impounding reservoirs, pumps, machinery, purification plants, softening apparatus and all other facilities necessary, appropriate, useful, convenient or incidental in connection with or to a water supply system, and any additions, betterments or improvements thereto hereafter constructed or acquired from any sources whatsoever and includes the Project.

Additional Conditions and Covenants

1. As a condition precedent to the Authority's making the Loan, the Governmental Agency shall have obtained, among other permits required, a permit from the West Virginia Department of Health.

2. The Local Act shall contain a covenant substantially as follows:

That the Governmental Agency will, to the full extent permitted by applicable law and the rules and regulations of the PSC, discontinue and shut off the services and facilities of the System to all users of services of the System delinquent in payment of charges for the services of the System and will not restore the services of the System until all delinquent charges for the services of the System have been fully paid.

3. Subject to any prior or parity obligations described in Schedules X and Y attached to the Loan Agreement, the net revenues derived from the operation of the System are pledged to the payment of the principal of and interest on the Local Bonds.



RECEIVED

MAR 11 1986

WATER DEVELOPMENT AUTHORITY

WDA-Supp. 5
(November 1985)

SUPPLEMENTAL LOAN AGREEMENT

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

W I T N E S S E T H:

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

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

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

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

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

WHEREAS, on or prior to the date hereof, the Governmental Agency and the Authority entered a loan agreement with respect to the purchase by the Authority of certain Local Bonds of the Governmental Agency, all as more specifically described in Exhibit A attached hereto and incorporated herein by reference (the "Loan Agreement").

WHEREAS, having reviewed the Application and made all findings required by Section 5 of the Act, and having available sufficient funds therefore, the Authority is willing to lend the Governmental Agency the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of supplemental, subordinate revenue bonds of the Governmental Agency with certain available funds of the Authority (other than the proceeds of certain water development revenue bonds of the State issued by the Authority pursuant to and in accordance with the provisions of the Act and a general resolution adopted by the Authority on May 22, 1985, as supplemented), subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Authority's supplemental water development loan program (the "Supplemental Program") as hereinafter set forth.

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

ARTICLE I

Definitions; Loan Agreement

1.1 Capitalized terms used and not otherwise defined herein shall have the meanings respectively given them by the Loan Agreement.

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

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

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

1.5 "Supplemental Bonds" means the revenue bonds to be issued by the Governmental Agency pursuant to the provisions of the Local Statute, to evidence the Supplemental Loan and to be purchased by the Authority with certain available funds (other than the proceeds of its water development revenue bonds), the lien of which on the revenues of the System is junior, subordinate and inferior to that of the Local Bonds, all in accordance with the provisions of this Supplemental Loan Agreement.

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

1.7 This Supplemental Loan Agreement is supplemental to the Loan Agreement, the terms of which are incorporated herein by reference.

ARTICLE II

The Project and the System

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

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

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

2.4 The Governmental Agency agrees that the Authority and its duly authorized agents shall have the right at all

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

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

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

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

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority. Until the Project facilities are completed and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Governmental Agency, the prime contractor and all subcontractors, as their interests may appear.

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

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

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

ARTICLE III

Conditions to Supplemental Loan; Issuance of Supplemental Bonds

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

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

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

(c) The Governmental Agency shall have received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application, and the Authority shall have received a certificate of the Consulting Engineers to such effect;

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

(e) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the issuance of the Supplemental Bonds, construction of the Project and imposition of rates and charges and shall have taken any other action required for the imposition of such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project), and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel, to such effect;

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

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

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

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

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

3.4 The Supplemental Loan will be made only in conjunction with the Loan. The Supplemental Bond shall be delivered to the Authority, at the offices of the Authority, simultaneously with the delivery of the Local Bond to the Authority.

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Authority for loans to finance water development projects and that the obligation of the Authority to make any such loan is subject to the Governmental Agency's fulfilling all of the terms and conditions of this Supplemental Loan Agreement and the Loan Agreement on or prior to the Date of Loan Closing and to the right of the Authority to make such loans to other governmental agencies under the conditions and in the manner described in the Loan Agreement. The Governmental Agency further understands and acknowledges that the Authority's obligation to make the Supplemental Loan is subject to the availability on the Date of Loan Closing of funds legally available therefor.

ARTICLE IV

Supplemental Bonds; Security for Supplemental Loan;
Repayment of Supplemental Loan; No Interest on
Supplemental Loan; Fees and Charges

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

(a) That the revenues generated from the operation of the System will be used monthly, in the order of priority listed, as set forth on Schedule Y attached hereto and

incorporated herein by reference. The gross revenues of the System shall always be used for purposes of the System.

(b) Covenants substantially as follows:

(i) That the Supplemental Bonds shall be secured by the revenues from the System, as more fully set forth in Schedules X and Y attached hereto, subject to the prior and senior security therefrom granted to the Local Bonds;

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

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

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

(v) That the Governmental Agency shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Supplemental Bonds, except the Local Bonds and bonds on a parity with the Supplemental Bonds, which parity bonds shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Supplemental Bonds and parity bonds theretofore and then being issued and on the Local Bonds and any other obligations secured by or payable from the revenues of the System prior to the Supplemental Bonds; provided, however, that additional parity Local Bonds and additional parity Supplemental Bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

(vi) That the Governmental Agency will carry such insurance as is customarily carried with respect to works and properties similar to the System;

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

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

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

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

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

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

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

(xiv) That the proceeds of the Supplemental Bonds, except for accrued interest and capitalized interest, if any, must be deposited in a construction fund on which the owner of the Supplemental Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing for non-construction costs), provided that said construction fund may be the one established for the Local Bonds, which shall have a prior and senior lien thereon; and

(xv) That, as long as the Authority is the owner of any of the Supplemental Bonds, the Governmental Agency shall not authorize redemption of any Supplemental Bonds by it without the written consent of the Authority.

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

4.2 The Supplemental Loan shall be secured by the pledge and assignment by the Governmental Agency, as effected by the Local Act, of the fees, charges and other revenues of the Governmental Agency from the System as further set forth by and subject only to the prior and senior security therefrom for the Local Bonds and to such reservations and exceptions as are

described in Schedules X and Y hereto or are otherwise expressly permitted in writing by the Authority.

4.3 The principal of the Supplemental Loan shall be repaid by the Governmental Agency annually on the day and in the years provided in Schedule X hereto.

4.4 The Supplemental Loan shall not bear interest.

4.5 The Supplemental Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Governmental Agency.

4.6 The Governmental Agency agrees to pay from time to time, as required by the Authority, the Governmental Agency's allocable share of the reasonable administrative expenses of the Authority relating to the Supplemental Program, which administrative expenses shall be as determined by the Authority.

ARTICLE V

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

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

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

5.3 In the event the Governmental Agency defaults in the payment of any fees due to the Authority pursuant to Section

4.6 hereof, the amount of such default shall bear interest at the rate of five percent (5%) per annum, from the date of the default until the date of the payment thereof.

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

ARTICLE VI

Other Agreements of the Governmental Agency

6.1 The Governmental Agency hereby acknowledges to the Authority its understanding of the provisions of the Act, vesting in the Authority certain powers, rights and privileges with respect to water development projects in the event of default by governmental agencies in the terms and covenants of loan agreements, and the Governmental Agency hereby covenants and agrees that, if the Authority should hereafter have recourse to said rights and powers, the Governmental Agency shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render negatory such actions of the Authority in the due and prompt implementation of this Supplemental Loan Agreement.

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

ARTICLE VII

Miscellaneous

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

7.2 Schedules X, Y and Z shall be attached to this Supplemental Loan Agreement at the time of execution hereof by the Authority and shall be approved by an official action of the Governmental Agency supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority.

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

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

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

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

7.7 By execution and delivery of this Supplemental Loan Agreement, the Governmental Agency specifically recognizes that it is hereby agreeing to sell its Supplemental Bonds to the Authority and that such obligation may be specifically

enforced or subject to a similar equitable remedy by the Authority.

7.8 This Supplemental Loan Agreement shall terminate upon the earlier of:

(i) termination by the Authority of the Loan Agreement pursuant to Subsections 7.8(i) or (ii) thereof;

(ii) termination by the Authority pursuant to Section 6.2 hereof; or

(iii) payment in full of the principal of the Supplemental Loan and of any fees and charges owed by the Governmental Agency to the Authority.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Loan Agreement to be executed by their respective duly authorized officers as of the date executed below by the Governmental Agency, but this Supplemental Loan Agreement shall not be binding on the Authority until executed by it.

City of Kingwood
[Proper Name of Governmental Agency]

By *Patricia A. Ryan*
Its *Mayor*

Date: *3/10/86*

(SEAL)

Attest:

James W. Johnston
Its *Recorder*

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

By *Edgar A. Henry*
Director

Date: *March 21, 1986*

(SEAL)

Attest:

Samuel B. Wanket
Secretary-Treasurer

WDA-Supp. 5X
(November 1985)

SCHEDULE X
DESCRIPTION OF SUPPLEMENTAL BONDS

Principal Amount of Supplemental Bonds	\$ 689,388
Purchase Price of Supplemental Bonds	\$ 689,388

Principal of the Supplemental Bonds is payable on October 1 in each year as set forth on Exhibit 1 attached hereto and incorporated herein by reference.

As of the date of the Supplemental Loan Agreement, the Supplemental Bonds are subordinate as to source of and security for payment to the following obligations, other than the Local Bonds:

EXHIBIT A -

SCHEDULE OF ANNUAL DEBT SERVICE

CITY OF KINGWOOD
ANALYSIS OF 7.00% BORROWING COST

MATURITY DATE	ZERO COUPON BONDS
10/ 1/1987	0.00
10/ 1/1988	0.00
10/ 1/1989	18,142.14
10/ 1/1990	18,141.78
10/ 1/1991	18,141.78
10/ 1/1992	18,141.78
10/ 1/1993	18,141.78
10/ 1/1994	18,141.78
10/ 1/1995	18,141.78
10/ 1/1996	18,141.78
10/ 1/1997	18,141.78
10/ 1/1998	18,141.78
10/ 1/1999	18,141.78
10/ 1/2000	18,141.78
10/ 1/2001	18,141.78
10/ 1/2002	18,141.78
10/ 1/2003	18,141.78
10/ 1/2004	18,141.78
10/ 1/2005	18,141.78
10/ 1/2006	18,141.78
10/ 1/2007	18,141.78
10/ 1/2008	18,141.78
10/ 1/2009	18,141.78
10/ 1/2010	18,141.78
10/ 1/2011	18,141.78
10/ 1/2012	18,141.78
10/ 1/2013	18,141.78
10/ 1/2014	18,141.78
10/ 1/2015	18,141.78
10/ 1/2016	18,141.78
10/ 1/2017	18,141.78
10/ 1/2018	18,141.78
10/ 1/2019	18,141.78
10/ 1/2020	18,141.78
10/ 1/2021	18,141.78
10/ 1/2022	18,141.78
10/ 1/2023	18,141.78
10/ 1/2024	18,141.78
10/ 1/2025	18,141.78
10/ 1/2026	18,141.78

 689,388.00

 SMITH BARNEY, HARRIS UPHAM & CO. INCORPORATED
 FILENAME: KBKING, 10-DEC-86, EBW

SCHEDULE Y
REVENUES

In accordance with Subsection 4.1(a) of the Supplemental Loan Agreement, the revenues generated from the operation of the System will be used monthly, in the order of priority listed, as follows:

- (i) as prescribed by the Loan Agreement, to the extent not otherwise limited by an outstanding local ordinance, indenture or other act or document, as reflected on Schedule X to the Loan Agreement, and beginning seven (7) months prior to the first date of payment of interest on the Local Bonds from revenues and thirteen (13) months prior to the first date of payment of principal of the Local Bonds, respectively, to provide debt service on the Local Bonds by depositing in a sinking fund one-sixth (1/6) of the interest payment next coming due on the Local Bonds and one-twelfth (1/12) of the principal payment next coming due on the Local Bonds and, if the Reserve Account was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof, in an amount equal to the Reserve Requirement, by depositing in the Reserve Account an amount equal to one-twelfth (1/12) of one-tenth (1/10) of the amount necessary to fund the Reserve Account at 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;
- (ii) as prescribed by the Loan Agreement, to create a renewal and replacement, or similar, fund in an amount equal to two and one-half percent (2-1/2%) of the gross revenues from the System, exclusive of any payments into the Reserve Account, for the purpose of improving or making emergency repairs or replacements to the System or eliminating any deficiencies in the Reserve Account;
- (iii) beginning thirteen (13) months prior to the first date of payment of principal of the Supplemental Bonds, to provide debt service on the Supplemental Bonds by depositing in a sinking fund one-twelfth (1/12) of the principal payment next coming due on the Supplemental Bonds and, if the Supplemental Reserve Account was not funded concurrently with the issuance thereof in an amount equal to the Supplemental Reserve Requirement, by depositing in the Supplemental Reserve Account an amount equal to one-twelfth (1/12) of one-tenth (1/10) of the amount

SCHEDULE Z

Additional and Supplemental Definitions

1. "Local Statute" means Chapter 8, Article 19, of the Code of West Virginia, 1931, as amended.
2. "System" means the waterworks system owned by the Governmental Agency in its entirety or any integral part thereof, including mains, hydrants, meters, valves, standpipes, storage tanks, pump tanks, pumping stations, intakes, wells, impounding reservoirs, pumps, machinery, purification plants, softening apparatus and all other facilities necessary, appropriate, useful, convenient or incidental in connection with or to a water supply system, and any additions, betterments or improvements thereto hereafter constructed or acquired from any sources whatsoever and includes the Project.

Additional Conditions and Covenants

1. As a condition precedent to the Authority's making the Supplemental Loan, the Governmental Agency shall have obtained, among other permits required, a permit from the West Virginia Department of Health.
2. The Local Act shall contain a covenant substantially as follows:

That the Governmental Agency will, to the full extent permitted by applicable law and the rules and regulations of the PSC, discontinue and shut off the services and facilities of the System to all users of services of the System delinquent in payment of charges for the services of the System and will not restore the services of the System until all delinquent charges for the services of the System have been fully paid.
3. Subject to any prior or parity obligations described in Schedules X and Y attached to the Supplemental Loan Agreement, and to the prior lien of the Local Bonds, the gross revenues derived from the operation of the System are pledged to the payment of the principal of the Supplemental Bonds.

necessary to fund the Supplemental Reserve Account at the Supplemental Reserve Requirement or, if the Supplemental Reserve Account has been so funded (whether by monthly deposits or otherwise), any amount necessary to maintain the Supplemental Reserve Account at the Supplemental Reserve Requirement;

(iv) to provide debt service on and requisite reserves for any other subordinate indebtedness of the Governmental Agency held or owned by the Authority;

(v) as prescribed by the Loan Agreement, to pay Operating Expenses of the System; and

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



PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: January 15, 1987

CASE NO. 86-781-W-MA

CITY OF KINGWOOD

Petition for review of rates
and charges adopted by ordinance
of the City of Kingwood.

FINAL ORDER

On December 23, 1986, Preston County Public Service District No. 2 (hereinafter "District") filed with the Commission a petition requesting review of rates and charges adopted by an ordinance of the City of Kingwood on December 2, 1986. The District requests Commission review of said rates pursuant to the jurisdictional authority of this Commission as conveyed by West Virginia Code §24-2-4b.

The District states in its petition that it believes that the proposed rates adopted by the City of Kingwood are discriminatory, not based on the cost of providing said service and not authorized by the Commission's orders entered on August 29, September 19 and October 14, 1986, in Case Nos. 86-063-W-CN and 86-177-W-MA, in that the aforesaid orders approved increased rates and charges for the City of Kingwood to become effective "during construction" and not "prior to construction", as contained in the City of Kingwood rate ordinance.

The District avers that the City of Kingwood placed into effect on October 1, 1986, the increased rates authorized in the aforesaid orders and that the District has been billed and paid said increased rates and charges. It is further stated that the City of Kingwood, as of the date

of the District's petition filing (December 23, 1986), had not begun construction of the water treatment plant as authorized in Case No. 86-063-W-CN, and that the District is further informed that Kingwood may not begin construction until February, 1987.

The District therefore requests that the Commission exercise its power granted to it under the provisions of West Virginia Code §24-2-4b(c) and §24-2-3 and review both the rates and charges contained in the afore-said ordinance and the rates as authorized in Case Nos. 86-063-W-CN and 86-177-W-MA. The District further requests that the Commission order the City of Kingwood to refund to it the amount of increased rates and charges billed and collected since October 1, 1986 and that the Commission order the City of Kingwood to cease and desist charging increased rates and charges authorized in said cases and contained in said ordinance until such time as the construction of the new water treatment plant commences.

On December 30, 1986, the City of Kingwood filed a reply to the District's petition. The City notes that the Hearing Examiner's Decision dated August 29, 1986, was affirmed by this Commission on September 19, 1986, in Case Nos. 86-063-W-CN and 86-177-W-MA. At page 51 of the August 29, 1986 Decision, it was ordered that the rates and charges contained in Appendix "A" of said order be approved for charge and use by the City of Kingwood for service rendered on and after September 21, 1986. The City explains that it passed its ordinance merely to conform to the order of this Commission, and that said ordinance has no practical effect. The City further explains that it did not charge the rates in Appendix "A" either prior to September 21, 1986 or prior to the Commission's September 19 order affirming the Hearing Examiner's Decision. Additionally, it is argued that the District did not challenge the rate effective date of

September 21, 1986, in either its Exceptions to the Hearing Examiner's Decision or in its Petition to Reconsider. The City maintains that since this matter was not raised in Case Nos. 86-063-W-CN and 86-177-W-MA, it cannot now be raised.

Finally, the City argues that this Commission realizes that there is always a time lag between Commission approval of a project and the beginning of actual construction, due to the necessity of finalizing financing.

On January 9, 1987, Staff filed a memorandum expressing its findings and recommendations with regard to the District's petition. Staff concludes and recommends that said petition should be treated as a petition to reopen Case Nos. 86-177-W-MA and 86-063-W-CN for the purpose of clarifying the "ambiguity" contained in the Hearing Examiner's August 29, 1986 decision that placed rates into effect.

On January 12, 1987, Preston County PSD No. 2 filed a letter of response to Kingwood's reply to the petition. The District therein stated its conditioned support of the Staff position and recommendations, as expressed in its January 9, 1987 memorandum. The District adds, however, its concern that unless the Commission exercises its West Virginia Code §24-2-4b jurisdiction, the rates contained in Kingwood's December 2, 1986 ordinance will become final and not subject to Commission review.

The Hearing Examiner first observes that the City of Kingwood has placed its rate increase into effect in accordance with the specific terms and language of the August 29, 1986 order, which was affirmed by the Commission. Said order specifically authorized Kingwood to begin charging the approved rates on September 21, 1986, which was the date of the expiration of the 120-day municipal rate ordinance suspension period. (West Virginia Code §24-2-4b). A dual rate structure was discussed and

recommended at hearing by Staff witness Diane A. Davis. Ms. Davis recommended that if the Kingwood project is approved, the resale rate should be \$3.02 during construction and \$2.88 after construction. A third rate level was not proposed for implementation prior to construction beginning, nor was the same ordered by the Hearing Examiner. It is apparent that in ordering rates effective September 21, 1986, both the Hearing Examiner and Staff anticipated that construction would begin in the not too distant future. The question which must be now be answered is if Kingwood's delay in beginning construction is either unreasonable or contrary to the Commission's August 29 and September 19, 1986 orders.

Preston County Public Service District No. 2 indicates in its petition that it expects Kingwood to begin construction as late as February, 1987. Staff observes in its January 6, 1987 memorandum that Kingwood's bond counsel will not close until the end of the appeal period, or November 14, 1986 (30 days from the date of the Commission's order on the District's petition for reconsideration). Several months delay in beginning construction can therefore be attributed to the appeal process. Furthermore, a construction contractor cannot be expected to standby, anticipating ground breaking on the date that the appeal is exhausted. Once he is given the green light by the public utility, the contractor must take the final steps of mustering his personnel and materials to begin construction. These delays are anticipated in Commission consideration and approval of any certificate application. It is therefore the Hearing Examiner's opinion that a delay of several months from the date of final approval of a major water system construction project is not unreasonable nor contrary to either of the aforesaid orders. The District has not provided with its petition any evidence that such a delay is either

unreasonable or that Kingwood has not been diligently working toward beginning construction in accordance with the representations made to this Commission.

It is therefore the opinion of the Hearing Examiner that modification of the rate effective date as contained in the August 29 and September 19, 1986 Commission orders is unsupported by the District's petition filing. This is not to say, however, that having asserted jurisdiction over Kingwood's April 8, 1986 rate ordinance (Case No. 86-177-W-MA), this Commission is without jurisdiction and authority to reopen that case as future developments may require. However, as hereinafter discussed, the purpose and benefit of such a reopening may be mitigated by the fact that Kingwood has subsequently adopted another rate ordinance.

The District also requests refund of revenues collected by the City of Kingwood from the District under the increased rates placed into effect by Kingwood on October 1, 1986. Because said rate increase was lawfully placed into effect in accordance with this Commission's orders, the refund requested by the District would effectively constitute retroactive rate-making. Said rates and revenues were lawfully charged and collected and the District has not demonstrated by this filing that a refund is proper.

The District further requests that this Commission suspend the Kingwood rate ordinance of December 2, 1986, for the purpose of Commission investigation and review of the rates therein adopted. It must first be observed that the rates and charges adopted by the City of Kingwood in that ordinance are exactly those approved by this Commission in its August 29 and September 19, 1986 orders in Case Nos. 86-063-W-CN and 86-177-W-MA. As stated by the City in its reply to the District's petition, it is effectively acting pursuant to and in response to this

Commission's previous orders. It should be understood that for this Commission to take jurisdiction over Kingwood's December 2, 1986 rate ordinance, a proper petition must be filed in accordance with West Virginia Code §24-2-4b. That Code section states:

(c) The commission shall review and approve or modify such rates upon the filing of a petition within thirty days of the adoption of the ordinance or resolution changing said rates or charges by:

* * * * *

(2) Any customer who is served by a municipally operated public utility 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 . . . (Emphasis added).

The aforesaid Code section requires that for this Commission to exercise jurisdiction over Kingwood's December 2, 1986 rate ordinance the Petitioner, Preston County Public Service District No. 2, must present to the Commission both a petition alleging discrimination between customers within and without the municipal boundaries of the City of Kingwood, and accompany the same with evidence of such discrimination. The District does not allege such discrimination but instead complains that the rates are discriminatory because they are not based upon the overall cost of providing service. Such a general rate level and cost of service allegation is not one of the criteria for a petition filing as contained in the aforesaid Code section. The rates and charges enacted by the December 2, 1986 rate ordinance are those already approved by this Commission and are therefore presumed to be fair and equitable as between customers within and without the municipal boundaries. Furthermore, the District has not

accompanied its petition by any supporting evidence of rate discrimination between customers within and without the Kingwood municipal boundaries.

For the aforesaid reasons, it is the Hearing Examiner's opinion that the District's petition filing and request that this Commission exercise jurisdiction and authority over Kingwood's December 2, 1986 rate ordinance does not meet the statutory requirements of West Virginia Code §24-2-4b and, therefore, it is improper for the Commission to assert jurisdiction over this rate ordinance. The Commission's jurisdiction must be exercised in accordance with statute. The District's petition should therefore be dismissed and this case closed and stricken from the Commission's docket of open cases.

IT IS, THEREFORE, ORDERED that the petition of Preston County Public Service District No. 2, filed with this Commission on December 23, 1986, for Commission review of rates and charges implemented by the City of Kingwood be, and it hereby is, dismissed; that the sought after relief be denied; and that this case be closed and stricken from the Commission's docket of open cases.

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

This order is issued pursuant to General Order No. 212, dated December 16, 1982, which order designates the Division of Hearing Examiners as the initial decision making body in the Public Service Commission and authorizes the Public Service Commission Hearing Examiners to issue orders on behalf of the Commission in all proceedings filed pursuant to Chapter 24 of the West Virginia Code, which proceedings are not set for hearing

and which orders shall have the full force and effect of Commission orders, without the provision for the filing of exceptions thereto.

Leave is hereby granted to the parties to file a petition for further hearing, reopening, or rehearing pursuant to Rule 19 of the Commission's Rules of Practice and Procedure with the Executive Secretary of the Commission within ten (10) days after the date this order is mailed:


Charles D. Penfater
Hearing Examiner

CDP:dfs

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA,
in the City of Charleston on the 14th day of October, 1986.

CASE NO. 86-063-W-CN

THE CITY OF KINGWOOD, a municipal
corporation, Preston County.
Application for a certificate of
convenience and necessity to
construct facilities to improve
its ability to provide water
service to its customers in
Preston County.

CASE NO. 86-177-W-MA

THE CITY OF KINGWOOD, a municipal
corporation, Preston County.
Investigation and Suspension of
Increase in water rates and charge
as a result of Petition filed in
accordance with West Virginia Code
24-2-4b.

COMMISSION ORDER
DENYING PETITION FOR RECONSIDERATION AND MOTION FOR STAY

On February 4, 1986, the City of Kingwood ("Kingwood" or
"Applicant"), Preston County, filed an application for a certificate
of convenience and necessity to construct facilities to improve its
ability to provide water service to its customers. The proposed
facilities included a 900 gallon per minute water treatment plant,
with a Cheat River intake and raw water pump station, various water
lines, and a booster station. The Applicant stated that the project
cost would be approximately \$4,745,000 and would be financed by an EDA
construction grant in the amount of \$900,000, money on hand in the

amount of \$250,000, WDA revenue bonds in the amount of \$3,500,000 and interest earnings in the amount of \$170,425.

Initial hearings in the matter were conducted on March 12, 1986, and March 25, 1986.

On April 8, 1986, the City of Kingwood adopted an ordinance increasing rates and charges for a municipal water service within the corporate limits of the City of Kingwood, effective no sooner than 45 days thereafter, or May 23, 1986.

On April 16, 1986, the Commission received a petition from Preston County Public Service District No. 2 ("PSD No. 2"), which alleged that the rates proposed by the April 8, 1986 municipal rate ordinance adopted by the City of Kingwood were discriminatory and not based on the cost of providing service to PSD No. 2. On May 8, 1986, a Commission Hearing Examiner determined that PSD No. 2's petition triggered the Commission's jurisdiction to review Kingwood's proposed rate increase pursuant to West Virginia Code §24-2-4b(2). Accordingly, the City of Kingwood's proposed rates and charges were suspended and the use of the rates and charges stated in municipal ordinance were deferred until September 21, 1986, to enable the Commission's Staff to investigate the proposed water rate increase and provide time for a hearing on the matter.

On May 9, 1986, Preston County Public Service District No. 2 filed a petition to reopen the certificate case to take additional evidence. By order entered on May 16, 1986, the Commission granted the petition to reopen. By stipulation and agreement of all parties, the certificate case and the municipal rate appeal were consolidated

for hearing and decision. Hearings in the consolidated cases were conducted on June 10, June 11, July 1 and July 2, 1986.

On August 29, 1986, the Commission Hearing Examiner entered a decision which recommended that the City of Kingwood be granted a certificate of convenience and necessity to construct the proposed facilities. Additionally, the Hearing Examiner adopted the municipal rates and charges to be effective both during construction and after construction of the facilities. The approved rates and charges were those proposed by the Staff which were based on the presumption that the certificate would be approved and PSD No. 2 continued to be a resale customer of the City of Kingwood.

On September 12, 1986, Staff filed exceptions to the Hearing Examiner's decision which maintained that the certificate should be denied and that the Hearing Examiner's decision was unsupported by the evidence and improperly applied law and Commission policy. Further, on September 15, 1986, Preston County PSD No. 2 filed exceptions to the Hearing Examiner's decision which contended that the Hearing Examiner incorrectly determined that the public convenience and necessity required the proposed Kingwood water treatment plant. Finally, on September 15, 1986, Staff filed a petition for rehearing of the matter to evaluate the impact of the closing of a Kinney Shoe Company factory in Preston County on the need for the proposed water treatment plant.

On September 19, 1986, the Commission entered an order which affirmed the Hearing Examiner's decision as a final order of the Commission.

On September 29, 1986, Preston County Public Service District No. 2 filed a Petition for Reconsideration of the Commission's September 19, 1986 order and in the alternative requested a stay of the Commission's order while it sought appeal to the Supreme Court of Appeals of West Virginia. Kingwood and Staff filed a response to the petition on October 1 and October 7, 1986, respectively.

DISCUSSION

After reviewing the Petition for Reconsideration, we find that nothing contained in Preston County Public Service District No. 2's Petition for Reconsideration submits any new matter which has not been fully reviewed and considered by the Commission in issuing its September 19, 1986 order in this case. Therefore, we shall not modify our September 19, 1986 decision, and we shall deny the Petition for Reconsideration.

If the Commission denied the Petition for Reconsideration, Preston County Public Service District No. 2 requested that the Commission stay its order until Preston County Public Service District No. 2 has had an opportunity to appeal the matter to the West Virginia Supreme Court of Appeals. Preston County Public Service District No. 2 represented that if the stay is not granted and the City of Kingwood proceeds with the project, a favorable decision on appeal would be rendered useless.

We find it unnecessary to grant a stay of the Commission's decision although the City of Kingwood should be on notice that any steps it takes to enter into binding construction agreements at this point would be at its own risk should the protestants ultimately prevail on appeal. If the project is ultimately denied on appeal, any

incurred costs associated with the project could not properly be recovered from the municipality's ratepayers, since the justification for the increased rates and charges was solely based upon the construction of the project.

It has come to the attention of the Commission that Appendix A and Appendix B of the Hearing Examiner's Decision of August 29, 1986, which sets forth the rates and charges which were approved and adopted for use by the City of Kingwood, contain an inadvertant error. The tailblock rates set forth in Schedule 1 of both appendices purportedly apply to the "[n]ext 50,000 gallons used per month." The tailblock rates under the Schedule 1 tariff provisions should correctly apply to all water consumption above 50,000 gallons per month. Therefore, Appendix A and Appendix B of the August 29, 1986 decision shall be modified so that the word "over" is substituted for the word "next" in the tailblock rate of Schedule 1, so as to dispel any confusion and avoid any unintended result.

FINDINGS OF FACT

1. On September 19, 1986, the Commission entered an order which affirmed the Hearing Examiner's decision to issue a certificate of convenience and necessity to the City of Kingwood to construct facilities to improve its ability to provide water service to its customers. The approved facilities included a 900 gallon per minute water treatment plant, with the Cheat River intake and a raw water pump station, various water lines, and a booster station. Total project costs of approximately \$4,745,000 would be financed by an EDA construction grant in the amount of \$900,000, money on hand in the

amount of \$250,000, WDA revenue bonds in the amount of \$3,500,000 and interest earnings in the amount of \$170,425. — see schedule

2. On September 29, 1986, Preston County Public Service District No. 2 filed a petition for reconsideration of the Commission's decision. In the alternative, Preston County Public Service District No. 2 sought a stay of the Commission's September 19, 1986 order while it sought an appeal to the West Virginia Supreme Court of Appeals.

CONCLUSIONS OF LAW

1. Upon review of the matters raised in the Petition for Reconsideration, we find that the matters have been fully considered and reviewed by the Commission in entering its prior decision, and the petition does not allege any new evidence or matters which warrant reopening or reconsideration of the Commission's decision. Therefore, the petition should be denied.

2. We find it unnecessary to stay the Commission's order of September 19, 1986 while the petitioners seek appeal to the Supreme Court of Appeals of West Virginia, although the City of Kingwood should be on notice that it would not be permitted to pass through increased rates and charges associated with the construction of the project should the certificate of convenience and necessity be ultimately denied on appeal.

3. The tailblock rates set forth in Schedule 1 of Appendix A and Appendix B of the August 29, 1986 decision should properly apply to all monthly water usage above 50,000 gallons. Therefore, the inadvertant error contained in those schedules which would apply to

rates to the "next" 50,000 gallons of monthly water consumption should be corrected so as to dispel any confusion or unintended result.

ORDER

IT IS, THEREFORE, ORDERED that:

1. Preston County Public Service District No. 2's Petition for Reconsideration of September 29, 1986 is hereby denied.

2. Preston County Public Service District No. 2's request for stay of the Commission's September 19, 1986 order, pending appeal of the Supreme Court of Appeal for West Virginia, is hereby denied.

3. The tailblock rate set forth in Schedule 1, Appendix A of the Hearing Examiner's August 29, 1986 decision shall be corrected to read as follows:

Over 50,000 gallons used per month \$3.02 per 1000 gallons.

4. The tailblock rate set forth In Schedule 1, Appendix B of the Hearing Examiner's August 29, 1986 decision shall be corrected to read as follows:

Over 50,000 gallons used per month \$2.88 per 1000 gallons.

5. The Executive Secretary of the Commission shall serve a copy of this order upon all parties of record by United States First Class Mail.

A TRUE COPY
TESTE:


HOWARD M. CUNNINGHAM,
Executive Secretary

RFW/1

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA,
in the City of Charleston on the 19th day of September, 1986.

CASE NO. 86-063-W-CN

THE CITY OF KINGWOOD, a
municipal corporation,
Preston County.

Application for a certificate
of convenience and necessity
to construct facilities to
improve its ability to provide
water service to its customers
in Preston County.

CASE NO. 86-177-W-MA

CITY OF KINGWOOD, a municipal
corporation, Preston County.

Investigation and Suspension
of increase in water rates
and charges as a result of
Petition filed in accordance
with West Virginia Code §24-2-4b.

COMMISSION ORDER
AFFIRMING HEARING EXAMINER'S DECISION

On February 4, 1986, the City of Kingwood ("Kingwood" or "Applicant"), Preston County, filed an application for a certificate of convenience and necessity to construct facilities to improve its ability to provide water service to its customers. The proposed facilities included a 900 gallon per minute water treatment plant, with a Cheat River intake and raw water pump station, various water lines, and a booster station. The Applicant stated that the project cost would be approximately \$4,745,000 and would be financed by an EDA construction grant in the amount of \$900,000, money on hand in the

amount of \$250,000, WDA revenue bonds in the amount of \$3,500,000 and interest earnings in the amount of \$170,425.

Initial hearings in the matter were conducted on March 12, 1986, and March 25, 1986.

On April 8, 1986, the City of Kingwood adopted an ordinance increasing rates and charges for a municipal water service within the corporate limits of the City of Kingwood, effective no sooner than 45 days thereafter, or May 23, 1986.

On April 16, 1986, the Commission received a petition from Preston County Public Service District No. 2 ("PSD No. 2"), which alleged that the rates proposed by the April 8, 1986, municipal rate ordinance adopted by the City of Kingwood were discriminatory and not based on the cost of providing service to PSD No. 2. On May 8, 1986, a Commission Hearing Examiner determined that PSD No. 2's petition triggered the Commission's jurisdiction to review Kingwood's proposed rate increase pursuant to West Virginia Code §24-2-4b(2). Accordingly, the City of Kingwood's proposed rates and charges were suspended and the use of the rates and charges stated in municipal ordinance were deferred until September 21, 1986, to enable the Commission's Staff to investigate the proposed water rate increase and provide time for a hearing on the matter.

On May 9, 1986, Preston County Public Service District No. 2 filed a petition to reopen the certificate case to take additional evidence. By order entered on May 16, 1986, the Commission granted the petition to reopen. By stipulation and agreement of all parties, the certificate case and the municipal rate appeal were consolidated

for hearing and decision. Hearings in the consolidated cases were conducted on June 10, June 11, July 1 and July 2, 1986.

On August 29, 1986, the Commission Hearing Examiner entered a decision which recommended that the City of Kingwood be granted a certificate of convenience and necessity to construct the proposed facilities. Additionally, the Hearing Examiner adopted the municipal rates and charges to be effective both during construction and after construction of the facilities. The approved rates and charges were those proposed by the Staff which were based on the presumption that the certificate would be approved and PSD No. 2 continued to be a resale customer of the City of Kingwood.

On September 12, 1986, Staff filed exceptions to the Hearing Examiner's decision which maintained that the certificate should be denied and that the Hearing Examiner's decision was unsupported by the evidence and improperly applied law and Commission policy. Further, on September 15, 1986, Preston County PSD No. 2 filed exceptions to the Hearing Examiner's decision which contended that the Hearing Examiner incorrectly determined that the public convenience and necessity required the proposed Kingwood water treatment plant. Finally, on September 15, 1986, Staff filed a petition for rehearing of the matter so that the impact of the closing of a Kinney Shoe Company and factory in Preston County on the need for the proposed water treatment plant.

DISCUSSION

As noted by the Hearing Examiner, Kingwood's present system is an antiquated water treatment plant originally designed to treat water from an upland reservoir called the Ashpole Reservoir, located on the

opposite side of the Cheat River. The capacity of the existing plant was rated at 300 gallons per minute. This plant, which is rated to operate at a 300 gallon per minute capacity, is used to serve approximately 1,030 residential customers and over 200 non-residential customers inside and outside the City's boundaries. Currently, this plant also provides service to PSD No. 2 as a resale customer. As of the year ended June 30, 1985, Preston County Public Service District No. 2 served approximately 600 customers (Applicant's Exhibit No. 10, p. 18). For the year ended 1985, the combined annual consumption of all Kingwood customers was 127,558,000 gallons. (Applicant's Exhibit No. 1, Attachment E-2). To meet this demand, the plant is currently operating its pumps 23½ hours per day. At this increased demand level, the reservoir provided an inadequate supply of water, so the Applicant had to seek a second source of water from the Cheat River. The existing treatment plant was not designed to treat Cheat River water quality, but was designed to treat the fairly pure water in the Ashpole Reservoir. This presented iron and manganese, and turbidity problems. (Transcript Vol. I, pp. 10-14).

During the first set of hearings, David Hippchen of the Commission Staff testified that the current plant cannot meet production requirements projected by the Staff in 1988. He recommended that the water treatment plant not be operated 24 hours a day because such operation is a bad management practice. Ideally, a plant of Kingwood's size should operate on one shift, meaning 8 hours or less a day, during normal operations. Staff also uses a recommended maximum operating time of 16 hours per day, which does

allow for 8 hours additional pumping time to meet any extraordinary demands. (Transcript Vol. II, pp. 29-35).

In 1980, Kingwood commissioned Chester Engineers to analyze Kingwood's needs and to develop a master water plan for the City of Kingwood. The conclusion of the study was that a new water treatment plant with a 900 gallon per minute capacity should be constructed. The study recommended that the plant be replaced because there was no room on the existing site to expand or upgrade the present facility. The water intake would be moved up river from the Kingwood sewage plant, which is being built at the same location. (Transcript Vol I, pp. 8-13).

During the hearings, Preston County Public Service District No. 2 indicated it was unwilling to pay the increased rates associated with the new project, and would seek a different water supply as soon as possible. Preston County Public Service District No. 2 is now in the process of investigating the possibility of whether it can jointly construct an alternate treatment plant with Preston County Public Service District No. 1 ("PSD No. 1") so that it can obtain water from the No. 1 Dam of the Upper Deckers Creek Water Association. Currently, PSD No. 1 operates a treatment plant with a 100 gallon per minute capacity which was designed to serve 250 customers, but is presently serving 464 residential and small commercial customers. PSD No. 1 and PSD No. 2 are investigating the possibility of upgrading the plant to a 350 gallon per minute capacity plant to serve both districts. (Transcript Vol. 3, pp. 13-18).

PSD No. 2 was of the opinion that the Kingwood system was designed with a great deal of excess capacity, more than was needed to

serve Kingwood and PSD No. 2. The City of Kingwood rejected the PSD No. 2 suggestion that the plant should be scaled down. Therefore, PSD No. 2 directed Thrasher Engineering Corporation to do a feasibility study of the costs of making the necessary improvements to the PSD No. 1 plant instead of purchasing water from Kingwood. Thrasher Engineering Corporation indicated that the project would cost approximately \$900,000 (Intervenor's Exh. No. 3), and Farmer's Home Administration ("FMHA") indicated that if the project is a viable one, that the FMHA would work in support of the project. Mr. Kane, the Engineer who designed the proposed Kingwood plant, scrutinized Thrasher's proposal and estimated the costs to be \$1,215,000 for the project (Transcript IV, pp. 177-187; Applicant's Exh. No. 5). At this time, Farmer's Home Administration has not received the preapplication for such a project, but has simply reviewed the information presented to it by Thrasher Engineering Corporation. (Transcript Vol. III, pp. 36-42).

After the presentation of this testimony, Staff was of the opinion that the benefits of PSD No. 2 connecting to PSD No. 1 outweigh any benefits of PSD No. 2 staying connected to the Kingwood system. The relative cost of the Kingwood project and the PSD No. 1 project showed that the unit cost for connecting PSD No. 2 and PSD No. 1 is lower. If PSD No. 2 disconnected from the Kingwood system, Staff Engineer David Hippchen was of the opinion that the present plant could be upgraded to match the nominal filter rate of 350 gallons per minute, thereby reducing the pumping time of the Kingwood plant to 13.8 hours on an average day with a pumping time of 23.6 hours on the system's maximum day. Therefore, Staff recommended that the

certificate of application as proposed be denied and that the City of Kingwood develop a revised project without PSD No. 2 as a resale customer. (Transcript Vol. VI, pp. 62-65).

Even if PSD No. 2 remained connected to the Kingwood project, Mr. Hippchen recommended that the project be denied. He was of the opinion that the Kingwood plant could be redesigned with a smaller capacity at lower cost. He was of the opinion that the facility should be designed below a 900 gallon per minute capacity, although Mr. Hippchen did not recommend what figure should be used. Further, Mr. Hippchen recommended that Kingwood could utilize package plants in its design to save money and that other cost saving measures could be undertaken. However, Mr. Hippchen had no idea how much money such a redesign would save, although he was of the opinion that some similar plants had been constructed throughout the state at a much less cost than the proposed project. A complete redesign of the water treatment facility would take 6 to 8 months. Although the redesign may eliminate availability of the \$900,000 grant involved in the present Kingwood project, Mr. Hippchen was of the opinion that the resulting redesign costs would be no greater than the current bond issue of \$3.5 million. (Transcript Vol. VI, pp. 69-79).

Finally, the Staff and PSD No. 2 argued that the project costs were too high and that the excess capacity included in the Kingwood plant was unnecessary. Since the project costs were so high, the resale rate is driven up dramatically, making it more likely that PSD No. 2 would take measures to leave the system and cause other resale customers not to tie into the system, thereby creating even more excess capacity in the system. Although the resale rate could be

driven down substantially once surrounding communities tied in the Kingwood system, the high resale rate proposed by Kingwood could turn out to be a deterrent to regionalization.

Donald Kuntz, Director of the Environmental Engineering Division, State Health Department, testified that his department had reviewed the plans and specifications of the City of Kingwood's proposed system and had fully approved them. In light of projected growth in that area, he stated that the proposed capacity was necessary to meet the area's long term needs. Further, in his opinion, the upgraded Kingwood supply as designed gave Kingwood the capacity to be used in a regional water plan and was the most expeditious way to assure an adequate water supply for the surrounding area. (Transcript, Vol. VII, pp. 4-6).

Mr. Kuntz saw a number of concerns with the preliminary PSD No. 2 and PSD No. 1 combination concept. First, he was concerned that the reservoir capacity of approximately 31 million gallons, after estimated flood storage is considered, would not represent a 6 month supply of water for the combined system, as would be required by impoundment standards. Further, he understood that PSD No. 1 was serving about 430 customers and was pumping 24 hours a day, producing 110,000 gallons per day, while the Thrasher Engineering report placed the number of customers at approximately 400 and states that the plant is pumping somewhere less than 80 gallons per minute in excess of 12 hours a day. Both of these observations affect the viability of the project. (Transcript Vol. VII, pp. 4-6).

After reviewing Staff's comparison between the costs of the Kingwood plant construction and the construction costs of similar

facilities, Mr. Kuntz disagreed that the price was excessive. Several of the plants referred to by Staff were renovations using previously existing facilities and were not comparable to the construction proposed for Kingwood. (Transcript Vol. VII, pp. 6-8).

There was also evidence contradicting Staff's contention that project costs could be substantially reduced by redesign of the Kingwood plant. Mr. Kane examined possible cost savings which could be accomplished by reducing the capacity of the proposed plant from 900 gallons per minute to 750 gallons per minute, and he concluded that the savings would be insignificant (Applicant's Exh. No. 7). Mr. Kuntz agreed, and he was of the opinion that the designed excess capacity was necessary to eventually serve the needs of the surrounding area. In particular, he cited the need of Albright to obtain water services from Kingwood and he believes that the Kingwood supply would present an excellent alternative to remedy problems being experienced by Tunnelton. (Transcript Vol. VII, pp. 18, 21-23).

Finally, evidence indicated that Staff's suggested use of package plants was unacceptable to the Health Department. Mr. Kuntz testified that the Health Department would reject Staff's proposal to use package plants to reduce costs due to the turbidity and other water characteristics at the Cheat River. Mr. Kuntz stated that the Health Department would not approve the use of a package treatment plant at the Kingwood location. Therefore, he recommended that the Kingwood plant be a conventional plant. (Transcript Vol. VII, pp. 6-7, 25-29).

Mr. Kuntz's concern with PSD No. 1's impoundment was supported by Mr. C. E. Windham, Jr. of Commission's Staff (Applicant's Exhibit No. 8), by David E. Satterfield, State Engineer for the Farmer's Home

Administration (Transcript Vol. VII, p. 221) and by Edmond Hodgekins, Chairman of Preston County Public Service District No. 2 (Transcript Vol VII, pp. 231 and 233).

After reviewing the evidence in this case, the Hearing Examiner determined that Kingwood's present water treatment facility is inadequate for the needs of Kingwood's present customers and there is a clear need for the construction of a new water treatment facility. He also determined the proposed facilities would meet the needs of Kingwood's customers in the present and foreseeable future and that the project is economically feasible under the rates and charges passed by the ordinance and proposed by Kingwood. He determined that there were a number of large potential customers for the proposed Kingwood plant in the foreseeable future, including the Albright Power Station, Camp Dawson, Albright and Tunnelton, which justify the size of the plant proposed by Kingwood. The addition of such customers in the future could result in the lowering of the resale rate charged by Kingwood. The Hearing Examiner was unconvinced by Staff's assertion that the overall costs of the Kingwood plant could be reduced by a total redesign of the system. He indicated that Staff's proposal was based solely on conjecture and provided no specific details as to how such redesign would take place, how much money could be saved, and the risk of losing the grant funding for the new water treatment facility. Further, he was not convinced that the proposal to connect PSD No. 1 and PSD No. 2 had been proved to be a feasible alternative. The preliminary concept has not been submitted for funding approval or for Health Department review, and it is uncertain whether the combined facilities could receive eventual approval. Based upon all these

considerations, the Hearing Examiner determined that the proposed Kingwood water treatment plant was both reasonable and necessary to meet the immediate and long term water needs of Kingwood and the surrounding areas, and the need for issuing a certificate of convenience and necessity was not obviated by the concerns raised by Staff and PSD No. 2. (See HED, pp. 41-46).

The Public Service Commission will not revise, modify or reverse a Hearing Examiner's Decision unless the findings therein are arbitrary, unjust, contrary to the evidence or unsupported by the evidence, B&O Railroad v. Public Service Commission, 99 W.Va. 670, 130 S.E. 131 (1925); Weirton Ice and Coal Supply Company v. Public Service Commission, __W.Va.__, 240 S.E. 2d 686 (1977); Virginia Electric and Power Company, __W.Va.__, 242 S.E. 2d 698 (1978); or the decision is based on a mistake of law or a misapplication of legal principles, Preston County Light and Power Company v. Public Service Commission, 297 F.Supp. 759 (S.D. W.Va., 1969); Atlantic Greyhound Corporation v. PSC, 132 W.Va. 650, 54 S.E. 2d 169 (1949); or the decision is contrary to Commission practice or policy, Mac's Wrecker Service, Inc., M.C. Case No. 3358 (1979); Washington Oil Company, Case No. 80-210-G-X, 68 ARPSCWV 1573 (1981). See Pauley, M.C. Case No. 21783-C (1984); Bartram, M.C. Case No. 21891 (1983).

Upon review of the Hearing Examiner's decision, we find his conclusions are supported by facts developed in the record. We are further persuaded by the record that the Kingwood facilities will have the capability to serve the needs of the region, and is a reasoned effort to provide for future needs of the area.

Staff's exceptions alleged that the Hearing Examiner effectively placed an unreasonable burden of proof upon Staff to show that the requested certificate should not be issued to Kingwood. We agree that the Staff's proposal to redesign the proposed Kingwood plant was based upon reasonable comparisons to project costs for similar types of projects and reflected Staff's experience and expertise gathered from reviewing other types of treatment plants used across the state. We agree that Staff should not be expected to develop complete specifications for an alternate design in order to show that alternative proposals should be considered. However, we find that the record supported the Hearing Examiner's determination that the anticipated cost savings associated with the redesign were insufficient to offset the need for the proposed project as currently designed.

The only remaining issue is the assertion made by the Staff's petition for rehearing concerning the effect of the closing of Kinney Shoe Company. According to Staff, the closing of this company would reduce Kingwood's cash flow by \$11,434.94 under the HED approved rate structure. Since Staff's cash flow analysis supporting those rates only provided for a surplus level of \$6,955, the Staff contends that the closing of the Kinney Shoe Company will result in an operating deficit of \$4,479.94. (Staff Petition, p. 2). While this development may be a source of concern for Kingwood at the time the construction of the facilities is complete, the significance is not substantial enough to warrant a re-examination of the Hearing Examiner's decision.

FINDINGS OF FACT

1. On February 4, 1986, Kingwood filed an application for a certificate of convenience and necessity to construct facilities to improve disability to provide water service to its customers. The proposed facilities included a 900 gallon per minute water treatment plant, with a Cheat River intake and raw water pump station, various water lines, and a booster station. Hearings in the matter were conducted on March 12, March 25, June 10, June 11, July 1 and July 2, 1986.

2. On April 8, 1986, the City of Kingwood adopted an ordinance increasing rates and charges from a municipal water service within the corporate limits of the City of Kingwood. Upon timely petition filed by Preston County Public Service District No. 2, the Commission asserted its jurisdiction over Kingwood's proposed rates, pursuant to West Virginia Code §24-2-4b.

3. On August 29, 1986, the Commission Hearing Examiner entered a recommended decision which approved the proposed water treatment facilities and adopted Staff recommended rates which were designed on the assumption that Preston County Public Service District No. 2 continued to be a resale customer of the City of Kingwood, thereby providing sufficient rates to fund the construction and maintenance of the proposed project.

4. Exceptions to the Hearing Examiner's decision were filed by Staff on September 12, 1986, and by Preston County Public Service District No. 2 on September 15, 1986.

5. On September 15, 1986, Commission Staff filed a petition for rehearing in this matter to consider the impact of an announcement

from Kinney Shoe Company that it will close its factory in Preston County on September 30, 1986. Staff alleged that Kinney Shoe Company purchases approximately four million gallons of water annually from the City of Kingwood, and without Kinney Shoe Company as its purchaser, the City of Kingwood cannot meet its debt service requirements under the rates approved by the Hearing Examiner. Staff's cash flow analysis showed a surplus level of \$6,955, and Staff alleged that Kinney Shoe Company would have provided \$11,434.94 in annual revenues out of a projected revenue level of \$546,241 under the approved permanent rates. (See Staff Exh. No. 7a, Schedule 9).

CONCLUSIONS OF LAW

1. The Public Service Commission will not revise, modify or reverse a Hearing Examiner's Decision unless the findings therein are arbitrary, unjust, contrary to the evidence or unsupported by the evidence, B&O Railroad v. Public Service Commission, 99 W.Va. 670, 130 S.E. 131 (1925); Weirton Ice and Coal Supply Company v. Public Service Commission, __W.Va.__, 240 S.E. 2d 686 (1977); Virginia Electric and Power Company, __W.Va.__, 242 S.E. 2d 698 (1978); or the decision is based on a mistake of law or a misapplication of legal principles, Preston County Light and Power Company v. Public Service Commission, 297 F.Supp. 759 (S.D. W.Va., 1969); Atlantic Greyhound Corporation v. PSC, 132 W.Va. 650, 54 S.E. 2d 169 (1949); or the decision is contrary to Commission practice or policy, Mac's Wrecker Service, Inc., M.C. Case No. 3358 (1979); Washington Oil Company, Case No. 80-210-G-X, 68 ARPSCWV 1573 (1981). See Pauley, M.C. Case No. 21783-C (1984); Bartram, M.C. Case No. 21891 (1983).

2. After reviewing the exceptions and the record in this case, we find that the Hearing Examiner's determination that there is a public need for the proposed Kingwood water treatment facilities and that the Hearing Examiner's approval of the requested certificate of public convenience and necessity is supported by the evidence in this case and is consistent with law and Commission policy.

3. We recognize that the permanent rates approved by the Hearing Examiner may prove to be insufficient if the Kinney Shoe Company factory closes as planned and additional resale or industrial customers are not served by the Kingwood system immediately after construction. Although this development may be the source of concern immediately after construction is completed, its significance is not substantial enough to warrant a re-examination of the Hearing Examiner's Decision.

ORDER

IT IS, THEREFORE, ORDERED that:

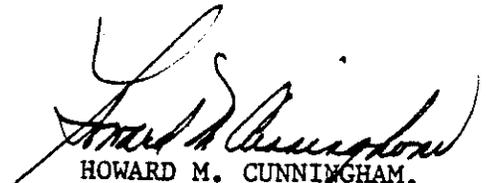
1. The Hearing Examiner's Decision of August 29, 1986, is hereby affirmed and adopted as a final order of the Commission.

2. The Staff's September 15, 1986, petition for rehearing of the matter to consider additional evidence is hereby denied.

3. The Executive Secretary of the Commission shall serve a copy of this order upon all parties of record by United States First Class Mail.

A TRUE COPY

TESTE:


HOWARD M. CUNNINGHAM,
Executive Secretary

RFW/plb

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: August 29, 1986

CASE NO. 86-063-W-CN

THE CITY OF KINGWOOD, a municipal corporation, Preston County.

Application for a certificate of convenience and necessity to construct facilities to improve its ability to provide water service to its customers in Preston County.

CASE NO. 86-177-W-MA

CITY OF KINGWOOD, a municipal corporation, Preston County.

Investigation and Suspension of increase in water rates and charges as a result of Petition filed in accordance with West Virginia Code §24-2-4b.

HEARING EXAMINER'S DECISION

PROCEDURE

On February 4, 1986, The City of Kingwood (hereinafter "Kingwood" or "Applicant"), Preston County, filed an application for a certificate of convenience and necessity to construct facilities to improve its ability to provide water service to its customers. The proposed facilities included a 900 gallon per minute water treatment plant, with Cheat River intake and raw water pump station, various water lines, and a booster station. Applicant stated that the project cost would be approximately \$4,745,000, and would be financed by an EDA Construction Grant in the amount of \$900,000, money on hand in the amount of \$250,000, WDA Revenue Bonds in the amount of \$3,500,000, and interest earnings in the amount of \$170,425.

On February 13, 1986, this Commission entered an order scheduling this matter for hearing to be held in the Commission's Hearing Room, 201 Brooks Street, Charleston, on March 12, 1986, at 9:30 a.m. At that time, the City of Kingwood was ordered to appear and prosecute its application. Leave was granted to anyone interested to file objections to the application anytime before or on the date of the hearing or at the hearing. Said order also required Kingwood to give notice of the filing of its application, and of the time and place of the hearing by publishing a copy of the Commission's order in a newspaper duly qualified by the Secretary of State, published and of general circulation in Kingwood once a week for two successive weeks.

The hearing was held as scheduled, proper notice having been given. Applicant was represented by Sheila Kae Williams, Esquire, and T. D. Kauffelt, Esquire; the Staff of the Public Service Commission was represented by Susan Koval of the Legal Division, Robert Skiles of the Engineering Division, and Danny Ellis and Diane Davis of the Finance and Special Studies Division. The Intervenor, Preston County Public Service District No. 2 (hereinafter "Intervenor" or "District"), was represented by Thomas N. Hanna, Esquire. During the hearing it was determined that a second hearing would be needed. It was scheduled for March 25, 1986, at 9:30 a.m., in the Commission's Hearing Room. The second hearing was held as scheduled, the same parties being present. At the conclusion of the second hearing, the matter was submitted to the Hearing Examiner for his decision and order.

On April 8, 1986, the City of Kingwood adopted an ordinance increasing rates and charges for municipal water service within the corporate

limits of the City of Kingwood, effective no sooner than 45 days thereafter, or May 23, 1986.

On May 8, 1986, the Commission asserted its jurisdiction over Kingwood's proposed rate increase pursuant to West Virginia Code §24-2-4b, upon petition filed by Preston County Public Service District No. 2 (hereinafter PSD No. 2, District, or Intervenor). The City of Kingwood was made respondent and pending investigation, hearing and decision thereon, the City of Kingwood's proposed rates and charges were suspended and the use of the rates and charges stated therein were deferred until September 21, 1986, to enable its Staff to investigate the proposed water rate increase and to provide time for a hearing on this matter. The Commission's order scheduled the hearing to be held in the Council Chambers, City Hall, 125 East High Street, Kingwood, West Virginia, on Wednesday, June 11, 1986, at 9:30 a.m., at which time and place the City of Kingwood was ordered to appear and offer evidence in support of its increased rates and charges. The order granted leave to any person to file for intervention on or before the day of hearing and also granted leave to any person interested to appear at the hearing and to make such objection to the proposed rates as may be deemed proper. The order additionally required the City of Kingwood to give notice of the filing of its tariff or its proposed tariff and of the time and place of hearing by posting a copy of the notice attached to the Commission's order and by newspaper publication.

On May 9, 1986, Intervenor Preston County Public Service District No. 2 filed a petition to reopen the certificate case for the purpose of taking additional evidence. On May 14, 1986, Applicant filed its response, opposing the requested reopening.

By order entered May 16, 1986, the Commission granted the petition to reopen the certificate case and scheduled a hearing to be held on June 10, 1986 and June 11, 1986. Applicant was ordered to give notice of the hearing by newspaper publication.

By order entered June 3, 1986, the Public Service Commission, in order to provide opportunity for additional public comment on the municipal appeal, scheduled an additional hearing in the rate case for Tuesday, June 10, 1986, at 7:00 p.m.

By stipulation and agreement of all parties the certificate case and the municipal rate appeal were consolidated for hearing and decision. The hearings in the consolidated certificate and rate cases were held as scheduled, proper notice having been given. During the June 10, 1986 hearing, it became clear that further hearings would be needed. Additional hearings were scheduled and held on July 1, 1986 and July 2, 1986. Upon completion of the July 2, 1986 hearing, all matters were submitted to the Hearing Examiner for his decision.

EVIDENCE

The transcript of the March 12, 1986 hearing will be cited as Transcript Volume I (Tr., Vol. I); the March 25, 1986 hearing as Transcript Volume II (Tr., Vol. II); the June 10, 1986, 9:00 a.m. hearing as Transcript Volume III (Tr., Vol. III); the June 11, 1986 hearing as Transcript Volume V; the July 1, 1986 hearing as Transcript Volume VI; and the July 2, 1986 hearing as Transcript Volume VII.

Applicant presented three witnesses at the March 12, 1986 hearing. John T. Kane, a consulting engineer for the firm of Chester Engineers, testified that the principal business of his firm was the construction of

water and sewer plants and systems. (Tr., Vol. I, pp. 8-10). Mr. Kane's firm did a study in 1980 called Master Water Plan for the City of Kingwood. This study indicated that the Kingwood water system had reached its limit in the amount of water it could produce and was experiencing quality difficulties. The conclusion of the study was that a new water treatment plant of 900 gallons per minute capacity (versus the present plant 300 gallon per minute capacity) should be constructed. (Tr., Vol. I, pp. 10-11).

Applicant's present system is an antiquated water treatment plant originally designed to treat water from an upland reservoir called the Ashpole Reservoir, located on the opposite side of the Cheat River. At some times, the reservoir provided an inadequate supply of water so Applicant had to seek a second source in the Cheat River. The treatment plant, however, was not designed to treat Cheat River type water, but was designed to treat the fairly pure water in the Ashpole Reservoir. This led to iron and manganese problems and turbidity problems. (Tr., Vol. I, pp. 11-12).

The study recommended that the plant be replaced, there being no room on the site to expand or upgrade the present facility. The water intake would be moved upriver from the sewage plant, which is being built at the same location. The proposed plant would not at this time have additional storage, due to cost, but it could be added in the future. Applicant is seeking additional grant funds for this purpose. (Tr., Vol. I, p. 13).

Presently, the water system is operated at its rated capacity of 23^{FOR} $\frac{1}{2}$ hours a day. The proposed construction project also includes a number of reinforcing mains needed to deliver water throughout the system. (Tr., Vol. I, p. 14). Mr. Kane stated that, if the proposed construction

project is built in accordance with the proposed plans and specifications, it would result in an adequately safe water system being available for the City of Kingwood and its customers. (Tr., Vol. I, p. 15).

The project was bid as seven separate contracts. The total project costs will be \$4,745,000. The bids were set to expire on March 20, 1986, but Mr. Kane believed that an extension could be obtained. The project will be finance by an EDA Construction Grant of \$900,000, money on hand that would be applied to the project in the amount of \$250,000, WDA Revenue Bonds of \$3,500,000, and interest earnings of \$170,425. (Tr., Vol. I, p. 19). Necessary permits from the West Virginia Department of Health and the National Pollutant Discharge and Elimination System have been granted. (Tr., Vol. I, pp. 20-21).

In designing the rates, Mr. Kane attempted to keep the rates structured as they had been in Kingwood for some time, with an allocation of costs between retail and wholesale customers. (Tr., Vol. I, p. 21). His firm did a bill analysis for a year period and determined the usage pattern of various classes of customers. Expenses, debt service, and revenue needs were projected and the rates were then developed. (Tr., Vol. I, pp. 21-22). Retail customer rates would increase 84%, while wholesale customer rates would increase 58%. All costs of maintenance of services, meters, hydrants and meter reading expense, uncollectible accounts, administrative and general salaries, and office supplies were allocated to retail customers. The employee pensions and benefits and employment taxes were prorated between retail and wholesale customers. (Tr., Vol. I, p. 23).

Stephen F. Decker, Chairman of the Kingwood Water Board, testified that Applicant has sought the assistance of the EDA because the

deteriorating water system was beginning to affect local industry. EDA was approached in terms of upgrading Applicant's facility for present and future economic development. Industries had made inquiries but the lack of adequate utilities had caused them not to consider the area. Existing industries were constrained in their ability to expand their business due to the limited amount of water resources available. Several present industries would like to become customers but cannot. (Tr., Vol. I, pp. 46-47).

Mr. Decker has observed that the population growth in recent years has occurred outside the city limits, west on Route 7, which is in Preston County Public Service District No. 2. (Tr., Vol. I, p. 48). There have been times when Applicant has had to curtail water to the District in order to maintain fire flows. Often the curtailments are a result of problems in the system or in the District, such as water main leakage and various operational problems. (Tr., Vol. I, pp. 50-51). The West Virginia Department of Health has advocated that Kingwood obtain new production facilities and has approved the project. Mr. Decker feels that there is a need for the proposed project. He stated that it was discomfoting to operate a plant 23½ hours a day. He is concerned that a breakdown could result in the system being out for an extended period of time. (Tr., Vol. I, p. 52).

Included in the project financing was a figure for on-hand money of \$250,000. This money was a result of the determination that Applicant needed to accumulate funds necessary to begin the proposed project, in order to show State and Federal agencies that Applicant was serious about the project. The funds were invested at relatively good interest rates and have accumulated since 1981. (Tr., Vol. I, p. 58).

Roger Allan Hardesty, a Certified Public Accountant with the firm of Thomas and Marsh, testified that his firm performed the annual audit and prepared the Public Service Commission Report for the Applicant for five or six years. He prepared the Rule 42 Exhibit presented by Applicant from the books and records of Kingwood Water Works as of June 30, 1985. (Tr., Vol. I, pp. 61-62; Applicant's Exhibit No. 3).

The Staff of the Public Service Commission called two witnesses during the March 25, 1986 hearing. David A. Hippchen of the Engineering Division testified that he had reviewed the certificate filing of Applicant and found that the application does meet the requirements for a certificate of convenience and necessity. (Tr., Vol. II, pp. 28-29). Upon cross-examination, Mr. Hippchen recommended Commission approval of the project proposed by Applicant because the current plant cannot meet the production requirements projected by the Staff in 1988. He recommended that the water treatment plant not be operated 24 hours a day, as this is bad management practice. (Tr., Vol. II, pp. 30-33). Ideally, the Commission Staff likes to see a system of this size operate on one shift, meaning eight hours or less. (Tr., Vol. II, p. 34). He did not question the finding of the Applicant's Feasibility Report indicating that a new plant should be built instead of refurbishing the present facility. (Tr., Vol. II, p. 35).

Danny Ellis, Commission Division of Finance and Special Studies, testified that he is satisfied that all funding has been committed for the project. (Tr., Vol. II, p. 37). The purpose of the increased rates going into effect immediately would be to allow the City to develop sufficient revenue to meet interest expense during construction. This method would decrease the loan by approximately \$300,000 and the debt service by

\$25,000 a year for the life of the loan, a direct benefit to the City. (Tr., Vol. II, p. 39).

Mr. Ellis testified that the major point of disagreement between Applicant and the Staff regarded the calculations done to project usage increases into 1988. Applicant used the years 1983 through 1985 as a basis for its calculation. Mr. Ellis believed that due to fluctuations in usage, a five-year period should be used, which he hoped would flatten out the inconsistencies. The Staff revised the projections into 1988 and reduced residential, non-residential and resale usages. (Tr., Vol. II, pp. 42-44).

Mr. Ellis testified that his cash flow analysis reflected a deficit of \$55,881 before deducting the additional balance for construction. After that deduction, there is a deficit of \$62,836. (Tr., Vol. II, p. 50). The Staff believes that the rates proposed are inadequate to properly fund the project and recommends that the City put into effect a new rate structure that would generate revenues to support its cash flow. If this is done, the Staff recommends that the certificate be approved. (Tr., Vol. II, p. 51). Mr. Ellis also recommended that the fire hydrant account, which he believes can be used at the discretion of the City, should be used to reduce debt service. (Tr., Vol. II, p. 51).

Intervenor called two witnesses at the March 25, 1986 hearing. David S. Hippchen, who testified previously for the Staff, said that calculations based on the use of a 340 gallon per minute pump at the river pump station indicated that the plant, operating a little over 19 hours a day, would meet the demand projected for 1988, including the unaccounted-for water losses. (Tr., Vol. II, pp. 83-84). Upon cross-examination, Mr. Hippchen indicated that he would not recommend operating the present plant

for 19 hours a day. (Tr., Vol. II, p. 85). He also stated that, as a pump and system ages, efficiency decreases and the pumps would actually produce less than their rating and would drive up the hours of operation. (Tr., Vol. II, pp. 85-86).

Edmond A. Hodgkins, Chairman of the Water Board of Preston County Public Service District No. 2, testified that the District purchases all of its water from Applicant. (Tr., Vol. II, p. 89). At the end of 1985, the District had 599 customers, most of whom are residential. (Tr., Vol. II, p. 89). Currently, the District is in bad financial shape. Mr. Hodgkins attributed this to the 1979 rate increase of Applicant. The District protested the increase and asked the Public Service Commission that it be reviewed. This request was denied. The District tried to pass on this purchased water rate increase to its customers, but this was delayed for a couple of years and worsened the District's financial condition. (Tr., Vol. II, pp. 91-93).

Mr. Hodgkins stated that he is not aware of any growth that will occur in the District's service area in the next two or three years. (Tr., Vol. II, p. 93). If a seven-year period, from 1979 through 1985, was used to project water usage, it would produce a decrease for the District. (Tr., Vol. II, p. 95). Additionally, the District has reduced its pressure which he believes has reduced consumption and line loss. (Tr., Vol. II, p. 99). Mr. Hodgkins believes that less expensive upgrading would be sufficient to serve the needs of both the District and Kingwood. (Tr., Vol. II, p. 101). Mr. Hodgkins stated that he believes that contracts between Applicant and the District for water purchases, dated December 1, 1970, are still in effect (Tr., Vol. II, p. 102), and

that the contracts state that no rate increase can be made to the District for increased capitalization costs. (Tr., Vol. II, pp. 104-105).

Applicant presented one redirect witness at the March 25, 1986 hearing, Mr. Stephen Decker. He testified that he had heard Mr. Ellis's recommendations regarding revenue level and projections for future revenue, and is willing to accept these recommendations and introduce an ordinance meeting the Staff recommendations. (Tr., Vol. II, p. 111). Mr. Decker did not support Mr. Ellis's recommendation regarding the fire hydrant fund of approximately \$90,000, because this reserve might be necessary to pay for flood damage to the water intake system of the present system. If it is not used for this purpose, he believes the interest proceeds can be put into the proposed project. (Tr., Vol. II, pp. 111-112).

The Intervenor, District No. 2, presented four witnesses at the June 10, 1986 hearing. Kermit R. Zinn, who has been Chairman of Preston County Public Service District No. 1 for four or five months, testified that District No. 1 went into service in 1972, and serves the town of Reedsville, the community of Arthurdale, and surrounding areas. District No. 1's plant was designed for 250 customers, but is presently serving 464 customers, all of which are either residential or small commercial. (Tr., Vol. III, p. 13). Its greatest problem is the fact that it has just one water storage tank and its pumps are worn. District No. 1 presently has a case pending before the Public Service Commission of West Virginia in which it is requesting approval of a plan to curtail water service. District No. 1's source of water is the No. 1 Dam of the Upper Decker's Creek Water Association. (Tr., Vol. III, p. 14).

Mr. Zinn stated that District No. 1, at its closest point, is 500 feet from District No. 2's distribution system. He has discussed with Mr. Hodgkins and District No. 2 the possibility of District No. 1 and No. 2 entering into an agreement whereby a new treatment plant would be constructed by District No. 1, new lines put in and water sold to District No. 2. (Tr., Vol. III, p. 15). A feasibility study has been completed and District No. 1 is now studying it. The plan would call for the present plant, which is a 100 gallon per minute plant which operates 12 to 14 hours a day, to be upgraded to a 350 gallon per minute plant. More land would have to be acquired to enlarge the building and facilities. (Tr., Vol. III, pp. 17-18). Mr. Zinn hoped that within the next few weeks his engineer would be able to study the feasibility of the plan to make a recommendation to District No. 1's Board. (Tr., Vol. III, p. 18).

Mr. Zinn believes that his system would put on an additional 100 customers, with the extension of some lines. The feasibility study indicated that the pumping time could be reduced from 12 hours to nine hours or less, but this estimate did not include adding 100 additional customers. (Tr., Vol. III, p. 20). District No. 1 has never considered purchasing water from Kingwood because District No. 1 has a 28 to 30 acre lake. (Tr., Vol. III, p. 21).

Edmond A. Hodgkins, Chairman of District No. 2, testified that his District reviewed the proposed Kingwood system and believes that it was designed with a great deal of excess capacity, more than was needed to serve District No. 2 and the City of Kingwood. District No. 2 suggested that this plant should be scaled down. When this was rejected, District No. 2 looked for an alternate source of water. Thrasher Engineering Incorporated was asked to do a feasibility study on obtaining water from

District No. 1. The study concluded that it would be cheaper for District No. 2 to purchase water, and pay for the necessary improvements at the District No. 1 plant, than to purchase water from Kingwood. (Tr., Vol. III, pp. 25-26). He believes that the feasibility study shows that District No. 2 could receive water from an improved District No. 1 plant and that Kingwood would then not be required to build a new plant. This would benefit all three areas, and be the most economical solution. (Tr., Vol. III, p. 26).

Mr. Hodgkins believes that he has worked up a mix of grant and loan funds that make the District No. 1 project feasible. (Tr., Vol. III, pp. 26-27). He expects a commitment of funds and a letter of conditions from the Farmers Home Administration by the first of November. Engineering design would begin at that time and take approximately two months. Mr. Hodgkins believes that construction could begin by August 15, 1987, if everything goes as planned. The anticipated completion date of the project would be June, 1988. (Tr., Vol. III, p. 28). District No. 2 would then purchase some minimum amount of water from the City of Kingwood and approximately 1.50 million gallons per month from District No. 1. (Tr., Vol. III, p. 29).

Mr. Hodgkins stated that he does not believe that the customers of District No. 2 could afford to pay any more for water than they are presently paying. Any increase in cost to its customers would cause people to go off the system, because they could not afford the water. (Tr., Vol. III, p. 31).

Mr. Hodgkins admitted that his concept involved an abandonment of the regional water plant concept. He believes that he has considered others in the region who might need a water supply. (Tr., Vol. III, p. 33).

David R. Nicholson, a District Loan Specialist for Farmers Home Administration in Fairmont, West Virginia, testified that it was his responsibility to work with rural people in developing water and sewer systems. He has reviewed the proposal between District No. 1 and District No. 2 to construct a treatment plant. Farmers Home Administration's opinion is that the project is a viable one, and that it should work in support of the project. (Tr., Vol. III, pp. 36-37). Figures developed by Thrasher Engineering Corporation indicate that the project would cost approximately \$900,000. (Tr., Vol. III, p. 38). If the project cost estimate is correct, he does not think the current rates in District No. 2 will change. (Tr., Vol. III, p. 40). Mr. Nicholson explained that Farmers Home Administration had not received a pre-application as of yet, but had simply reviewed the information presented to it, and thereupon believes that it looks like a viable project. (Tr., Vol. III, p. 42). Once a pre-application is filed, Farmers Home Administration should be able to respond by the first of November. (Tr., Vol. III, p. 43).

Henry Thrasher, a consulting engineer, conducted a feasibility study with regard to the proposed connection of District No. 1 and 2. (Tr., Vol. III, p. 56; Intervenor's Exhibit No. 4). The proposal is to increase District No. 1's plant from 100 gallons per minute to 300 gallons per minute, to enlarge some of the distribution system to supply District No. 2 and to replace some of District No. 1's existing lines. District No. 1's source of water is a lake on which Mr. Thrasher has not done a detailed study. (Tr., Vol. III, p. 58). He believes that there should be an additional 200,000 gallons of storage capacity to serve both Districts. Under the proposed project, the new plant would operate approximately nine hours a day. (Tr., Vol. III, p. 59). Figures indicate that the project

should cost \$906,000. (Tr., Vol. III, p. 66). The proposed treatment plant would be a package plant, which is designed and fabricated by a manufacturer and shipped to the site and erected. Mr. Thrasher believes this to be a very economical way of providing water treatment plants. (Tr., Vol. III, p. 68). The proposed project would provide District No. 1 with water at a savings of \$1.50 per thousand gallons below the proposed Kingwood rate. (Tr., Vol. III, p. 73).

On June 11, 1986, Staff presented Thomas D. Sprinkle, a Senior Utility Analyst with the Audit Division. Mr. Sprinkle was directed by the Division of Finance and Special Studies to gather customer billing determinates, to report on the methodology of the handling of revenues and cost of taps, and to make major known and measurable adjustments to the year ended 1985 concerning purchased power and payroll. Mr. Sprinkle made nine adjustments to operation and maintenance expense and two adjustments to taxes. (Tr., Vol. V, p. 13; Staff Exhibit No. 2). Mr. Sprinkle did not perform a complete audit, which would have taken approximately four to five weeks. (Tr., Vol. V, p. 18).

On July 1, 1986, the Intervenor, Preston County Public Service District No. 2, presented its witnesses for cross-examination. Henry Thrasher testified that his firm was employed to repair flood damage done in November, 1985, in Albright. It was a short range plan, and the long range plan is for Albright to buy water from Kingwood. (Tr., Vol. VI, p. 8). There has been no cost analysis done for purchasing water from Kingwood. (Tr., Vol. VI, p. 9).

Based on estimates from fairly recent projects in West Virginia, Mr. Thrasher believes that Mr. Kane's estimate of the cost of construction of the proposed connection between District No. 1 and District No. 2 is

approximately \$139,000 too high. (Tr., Vol. VI, pp. 11-12). Mr. Thrasher does not believe this to be a great variance. (Tr., Vol. VI, p. 14).

David Nicholson testified that the law provides that the Farmers Home Administration can make a 5% loan and put grant funds into a project if the median household income is less than \$11,000 per family in the area. Farmers Home Administration has done no study to determine what the family income is in District No. 1 (Tr., Vol. VI, p. 17), and District No. 1 has never applied for grants from the Farmers Home Administration. (Tr., Vol. VI, p. 18). He testified that District No. 2 has given Mr. Nicholson data which indicates it would qualify for such funds. While Mr. Nicholson has reviewed census data for the District, a definite conclusion regarding eligibility had not been reached at the time of hearing. He has not determined whether the Farmers Home Administration will accept the data given to it by District No. 2, or whether it will conduct its own survey. (Tr., Vol. VI, p. 20). Eligibility would be determined by looking at the income level in District No. 2, not in District No. 1. (Tr., Vol. VI, p. 21). The fact that the project would permit District No. 1 to add an additional 100 customers has not caused Mr. Nicholson to reconsider whether District No. 1's income level should be considered, since there were no immediate plans to connect additional customers. (Tr., Vol. VI, p. 22). Mr. Nicholson does not know what money will be available in the 1988 budget of the Farmers Home Administration for water project loans and grant funds. (Tr., Vol. VI, p. 24).

Edmond A. Hodgkins, Chairman of Preston County Public Service District No. 2, testified that he prepared the income survey presented to the Farmers Home Administration. (Tr., Vol. VI, p. 36). The survey was based on calculations from annual reports from District No. 2 in the City of

Kingwood and census data obtained from West Virginia University. From these figures, the population of District No. 2 in 1988 was estimated.

Mr. Hodgkins became a member of the board of District No. 2 on February 8, 1986. Two other people became members of the board at the same time. The three vacancies existed since approximately January 15, 1986 and resulted from board members resigning due to the work load. Also, there were some bills that the board was not sure could be met. (Tr., Vol. VI, pp. 40-42). In the past, District No. 2 has sometimes been delinquent in its payment on its obligation to the Farmers Home Administration. (Tr., Vol. VI, p. 41).

Intervenor Witness H. Wood Thrasher, consulting engineer, testified that he had met with Tunnelton officials on two occasions regarding improvements to their water distribution system. Tunnelton considered taking water from Kingwood, but given the existing distribution system they felt that the rate of water loss would make it extremely expensive to their customers. If the system was repaired and water loss reduced, taking water from Kingwood would become 40% more feasible. Mr. Thrasher has not investigated the status of the water well in Tunnelton, but believes that the Town has a problem with discoloration. The water is safe to drink but is difficult to use for washing clothes. (Tr., Vol. VI, pp. 45-49).

Mr. Thrasher was involved in the preparation of the Region VI plan regarding the various water systems. There was some thought that Albright would obtain water from Kingwood at some future date. The study also indicates that there was consideration by the regional plan of serving Tunnelton and District No. 2 by the water plant in Kingwood. (Tr., Vol. VI, pp. 50-53). Regarding a long-term supply of water for Albright,

alternatives were discussed. Mr. Thrasher felt that the alternatives were either to modify the water treatment facility and hire a qualified treatment plant operator or hook into Kingwood. (Tr., Vol. VI, p. 53). Since the discussions he had regarding Albright, however, the Town has been reduced (by flood waters) to a third of its previous size. (Tr., Vol. VI, p. 55). Mr. Thrasher knows of no plans for Tunnelton to begin purchasing water from Kingwood in the foreseeable future, but felt that there was some potential for Albright to begin purchasing water from Kingwood, although it would be a small amount. (Tr., Vol. VI, p. 56).

Staff presented David A. Hippchen, who testified that he believes that the benefits to District No. 2 of connecting to the District No. 1 system outweigh any benefits of staying connected to the Kingwood system. He reviewed the cost of both the Kingwood project and the District No. 1 project and found the unit cost for connecting District No. 1 and District No. 2 much lower. (Tr., Vol. VI, pp. 62-64). The cost estimates in the feasibility study for connecting District No. 1 and District No. 2 were comparable to construction costs in recent projects. The impact of the loss of District No. 2 on Kingwood's present plant would be to reduce the pumping time to 13.8 hours on an average day, at a pumping rate of 350 gallons per minute. The system's maximum day would require a pumping time of 23.6 hours. An additional 55 customer (at Albright) would have only a minimal impact on a plant the size of the Kingwood plant.

Mr. Hippchen now recommends that the certificate application as proposed be denied, that the pumping capacity in the present plant be upgraded to match the nominal filter rate of 350 gallons per minute, and that the City of Kingwood develop a revised project without District No. 2 as a resale customer. (Tr., Vol. VI, pp. 64-65).

Without the new consideration of the District No. 1 and No. 2 connection, Mr. Hippchen's prior testimony, in which he recommended approval of the proposed Kingwood project, would still be valid (Tr., Vol. VI, p. 69), and he has no objection to the population projections developed by the engineers who designed the Kingwood plant. (Tr., Vol. VI, p. 70). Mr. Hippchen now believes that the Kingwood plant should be redesigned and have a smaller capacity, or even with the same capacity, to be a cheaper plant. (Tr., Vol. VI, p. 71). A redesign of the treatment plant would take six to eight months. (Tr., Vol. VII, p. 285). In redesigning the water treatment facility, it should be reduced below the 900 gallons per minute level, although Mr. Hippchen had no recommendation on the figure that should be used. (Tr., Vol. VI, pp. 73-74). He believes that if the plant is downgraded from 900 gallons per minute to 750 gallons per minute, and the same type of plant is built, the savings would not be great. Even with the loss of the \$900,000 grant involved in the present project, the best way to proceed is to redesign the plant. (Tr., Vol. VI, pp. 76-77). One alternative would be the use of a package plant. Kingwood could also look at a custom design plant, but build it less expensively. He believes that a metal building could be used as opposed to the presently planned concrete block with a brick facade. (Tr., Vol. VI, pp. 77-78). Mr. Hippchen has no idea how much money this would save. (Tr., Vol. VI, p. 79).

If the project connecting District No. 1 and District No. 2 is approved, Mr. Hippchen does not know how long it will take to reach its operating capacity. Given the annual consumption of District No. 1 and District No. 2, the proposed plant would have an average pumping time of nine hours, so that there would be considerable capacity left in the

treatment plant. Assuming a 20% excess usage, operating time would be 10.8 hours. (Tr., Vol. VI, pp. 82-83). Maximum day usage would be between 16 hours and 20 hours.

The Engineering Staff of the Public Service Commission believes that the water source for District No. 1 is adequate for the combined plant. This is based on the capacity of the present reservoir of 220,000,000 gallons. (Tr., Vol. VI, p. 85). (This figure is, however, in error as it represents an estimate of flood storage, as set forth in Applicant's Exhibit No. 8. Later witnesses established that the reservoir had a capacity of approximately 31,000,000 gallons).

Mr. Hippchen does not have any specific recommendations as to what Kingwood's course of action should be. He does recommend that Kingwood go back and review all of their alternatives and select a cheaper method than that which has been chosen. Mr. Hippchen believes that the package plant is an alternative which involves much less capital cost. If Kingwood increased its production to near its present capacity and District No. 2 ceased to be a customer, the average pumping time for the present plant would be 13.8 hours and the maximum pumping time would be 23.6 hours. (Tr., Vol. VI, pp. 97-99). This, however, is only a short-term solution. The existing plant would need to be replaced at a later date. (Tr., Vol. VI, p. 100). While Mr. Hippchen believes that the construction cost for the proposed Kingwood plant is not comparable to the cost of other projects, he does not know why the project cost is higher. (Tr., Vol. VI, p. 104). Mr. Hippchen stated that even if the District No. 1 and District No. 2 project was not feasible, he would recommend that the City of Kingwood take every step possible to design and construct a cheaper plant. (Tr., Vol. VI, p. 108).

Mr. Hippchen testified that the proposed Kingwood plant, with District No. 2 as a customer, would average 7.3 pumping hours a day, with a maximum day of 11.9 hours. Without District No. 2, the pumping time would drop to 5.4 hours for an average day and 9.2 hours on the maximum day. (Tr., Vol. VI, p. 109).

Diane A. Davis, Utility Financial Analyst for the Commission Staff, testified that whether or not the certificate is approved, Kingwood's tariff should be changed. The City's current and proposed tariff should be brought into line with the Commission's Rules and Regulations regarding recovery of installation costs for private and public fire protection. (Tr., Vol. VI, p. 127). Ms. Davis recommends that if the Kingwood project is approved, the resale rate should be \$3.02 during construction and \$2.88 after construction. This is the highest resale rate with which she is familiar. (Tr., Vol. VI, p. 136). If Kingwood were to sell water to District No. 2 at anything less than these recommended rates, the customers in the City of Kingwood would be subsidizing the customers in District No. 2. (Tr., Vol. VI, p. 148). Resale rates are often substantially below the block rate for the utility's own customers. Many water utilities, however, have a lot of plant investment in lines relative to their total plant investment. In the present case, very little capital debt requirement goes to customer lines. (Tr., Vol. VI, pp. 149-152).

Danny Ellis of the Staff presented a revised exhibit which considers a funding mix for the proposed connection of District No. 1 and No. 2, of a \$550,000 loan, a \$350,000 grant, and an interest rate of 5%. (Tr., Vol. VI, pp. 161-162; Staff Exhibit No. 9).

The Applicant presented two witnesses. John J. Smolak, Industrial Development Representative for the Governor's Office, Community and

Industrial Development, is involved with community development activities and management and administration of grant and aid programs. He has had companies consider the Preston County, Kingwood area, but because of the lack of adequate water capacity they have had to go other places. This included, in 1984, a company affiliated with the Coca Cola Bottling Company which would have had a peak need of 125,000,000 gallons per year. The company moved instead to Pennsylvania, where it employs approximately 120 people. (Tr., Vol. VI, pp. 165-169).

Mr. Smolak believes that a surplus water supply was important to attract industry. (Tr., Vol. VI, p. 170). He did show the bottling company a number of places in Kingwood, in the Clarksburg, Morgantown and Preston County area. There was no discussion about a price figure that the company considered reasonable for water. Kingwood was ruled out because it did not have an adequate water supply. (Tr., Vol. VI, pp. 171-173).

John T. Kane testified that his preliminary estimates of the cost of the project to connect District No. 1 and No. 2 varies from those of Mr. Thrasher in the unit prices for the pipe involved, gate valves, legal and administration fees, and land and right-of-way fees. Mr. Kane arrived at an estimate of \$1,215,000 for the project, which he believes is a reasonable figure. (Tr., Vol. VI, pp. 178-182; Applicant's Exhibit No. 5). He also reviewed the planning and criteria used in developing the size of the plant, as designed and bid, for the proposed Kingwood project. Without District No. 2 as a customer, a 750 gallon per minute capacity plant could be used, based on projected population growth. (Tr., Vol. VI, p. 183). If the plant were now redesigned to be a 750 gallon per minute plant, it would result in a savings of only \$15,000. There would be a smaller

filter size, smaller clarifiers, some saving in concrete work, and smaller pumps. (Tr., Vol. VI, pp. 185-186; Applicant's Exhibit No. 6). It was his opinion that Kingwood should proceed with the 900 gallon per minute plant. (Tr., Vol. VI, p. 188).

Mr. Kane had examined the existing plant for the possibility of expansion, but because of the nature of its construction and the lack of land available the idea was abandoned. The only feasible source of raw water was the Cheat River. Alternatives have not been reviewed in light of District No. 2's present proposal. Mr. Kane stated that Mr. Hippchen evaluated the present plant as a 350 gallon per minute plant but its filters are really rated at a capacity of 340 gallons per minute. This raises the average operating day to 14.2 hours and the maximum pumping day to 24.3 hours. Mr. Kane said a plant is not supposed to meet maximum day with the storage capacity, but with treatment capacity. Since the average operating day would be over twelve hours, the plant needs to be replaced. (Tr., Vol. VI, p. 191).

On July 2, 1986, the Applicant presented nine witnesses. Donald Kuntz, Director of the Environmental Engineering Division, State Health Department testified that his division has the responsibility for surveillance and approval of the public drinking water supplies, the wastewater systems and municipal water systems in the state. He is familiar with the system proposed for the City of Kingwood. His department approved these plans and specifications when submitted to it. In his opinion, utilizing the Kingwood supply and upgrading that supply for a regional system was the most expeditious way and best way to assure an adequate water supply for the area. (Tr., Vol. VII, pp. 4-5). He has examined the preliminary proposal to tie District No. 1 and 2 together. He had some questions

regarding the impoundment size, the treatment system and the demand. He understood that District No. 1 was serving around 430 customers and was pumping 24 hours a day, producing 110,000 gallons per day. Mr. Thrasher, however, puts the number of customers at approximately 400 and states the plant is pumping somewhere less than 80 gallons per minute in excess of 12 hours a day. (Tr., Vol. VII, p. 6).

For the type of plant that is being built, Mr. Kuntz does not see the price as being excessive. He reviewed Staff Exhibit No. 4, which compared Kingwood's plant construction cost with other plants. Several of the plant constructions were really renovations using previously existing facilities and were not comparable with what is proposed for Kingwood. (Tr., Vol. VII, pp. 7-8). He has looked at the Kingwood proposal, and does not know of any substantial savings to be made by changing the design of the plant. (Tr., Vol. VII,, pp. 6-8).

In regard to Mr. C. E. Windham, Jr.'s memorandum on the District No. 1's impoundment (Applicant's Exhibit No. 8), Mr. Kuntz does not believe that there is contained therein sufficient information to determine whether the impoundment would be adequate for the proposed connection between the District No. 1 and District No. 2. (Tr., Vol. VII, p. 12). He finds reasonable Mr. Kane's estimate regarding the savings that would result from reducing Kingwood's proposed plant from a 900 gallon per minute plant to a 750 gallon per minute plant. (Tr., Vol. VII, p. 13). The Health Department does not encourage the growth of small rural PSDs, as opposed to regional plants. He cited District No. 1 as a good example of the reasoning for this. It has an impoundment with some finite capacity for storage, which the Health Department requires to be at least a six month storage of usable water. Inevitably the impoundments get strained

in capacity and its system has to acquire water elsewhere. There are also additional requirements by the Safe Drinking Water Act that will go into effect in the near future. The proposed Kingwood plant could meet the new standards, but a combined District No. 1 and No. 2 system, as now proposed, could not do so without additional treatment facilities. (Tr., Vol. VII, pp. 15-17).

Mr. Kuntz stated that the Kingwood plant at the present time is on the verge of collapse. The only reason the plant is staying together or operating 24 hours a day is due to the excellent operators that are at the plant. When he was at the plant two days prior to his testimony, it was obvious that they were running proper tests and using the facilities to their ultimate. (Tr., Vol. VII, p. 18). The Health Department supports service to Albright from Kingwood, as the best solution for the people of Albright. (Tr., Vol. VII, pp. 21-22). Tunnelton is experiencing secondary contaminants in its water, and is receiving some complaints on the phenol content of the water. He believes that the extension of the Kingwood supply is an excellent alternative to the remedy of these problems. (Tr., Vol. VII, pp. 22-23).

Mr. Kuntz stated that the Health Department does not approve package plants for surface supplies such as the Cheat River. The water characteristics are too variable, particularly the turbidity, and package plants are not suitable for such a source of water. (Tr., Vol. VII, pp. 6-7). The Health Department approves package plants only under very pristine conditions where the source of water is of extremely high quality or in instances where they have been placed in a conventional plant setting, more or less as a polishing unit. The Health Department would not approve a package plant for the City of Kingwood, even if a pre-sediment basin was

to be installed. (Tr., Vol. VI, p. 25). If water quality is subject to a dramatic change, primarily turbidity, there is an upper turbidity limit that even the package manufacturers recommend not be exceeded. The Cheat River would far exceed that limit. (Tr., Vol. VII, p. 26). Mr. Kuntz knows of no other rivers in West Virginia like the Cheat River. (Tr., Vol. VII, p. 27). The Kingwood plant should therefore be a conventional plant. (Tr., Vol. VII, p. 29).

Mr. Kuntz believes that even if the District No. 2 stopped buying water from Kingwood, Kingwood needs a new plant because the capacity of the present plant has been exceeded. A filtration plant should not be operating in excess of eight hours a day. If it operates at a 12 hour range, it is cause for concern, and at 16 hours, consideration of expansion or new facilities must be seriously made. Without the District No. 2 customers, Kingwood's present plant would probably operate in a range between 16 and 20 hours a day on peak days. A new plant with a capacity of 750 gallons per minute would operate at approximately eight hours a day. (Tr., Vol. VII, pp. 35-36). For a 900 gallon per minute plant, the pumping time would be, on an average basis, five or six hours. (Tr., Vol. VII, p. 37). Mr. Kuntz does not believe that the present plant could serve just the people of the City of Kingwood for the next 10 or 20 years. The facilities are antiquated and deteriorate every day. New and more stringent water quality standards are projected for the near future. The filtration unit is continuously overworking and is going to break down. The plant is also on the verge of having problems with turbidity. (Tr., Vol. VII, pp. 40-42).

By post-hearing exhibit, Mr. Kuntz stated that the three bidders on Applicant's proposed project had a spread in the bid amounts between the

low and the high bids of approximately 6.25%, which indicated that the bids were competitive. (Intervenor's Exhibit No. 5).

Edward Barnes, Facilities Manager of Camp Dawson, testified on behalf of Applicant. Camp Dawson serves the Army and National Guard by providing resources to reserve components and active duty personnel for training. The Camp can now handle approximately 300 to 400 people. The five-year plan is to expand its capacity to handle 1,200 people. That level will be reached in fiscal year 1988. Mr. Barnes hopes that the Camp will continue to grow up to a capacity of 1,700 to 1,800 people. (Tr., Vol. VII, pp. 49-51). In his view, the use of the Camp will also increase. (Tr., Vol. VII, p. 52).

Presently, Camp Dawson obtains its water from three wells. The Camp plans to upgrade its water system and drill a new well to both serve the needs of the 1,200 person expansion and to provide for fire protection. If Kingwood constructs the proposed water treatment plant, Camp Dawson would use that as a back-up system. If Camp Dawson continues to grow, like Mr. Barnes believes it will, Camp Dawson would consider using the Kingwood water treatment facilities. (Tr., Vol. VII, pp. 53-54).

Ray Purdum, Station Manager of Albright Power Station, testified that his station requires 200,000 gallons of water a day. It presently obtains the water from the Cheat River and runs it through its own purification system. At other power plants in the Allegheny System, water is obtained from a municipal or public water supply. (Tr., Vol. VII, pp. 58-59). The Albright Power Station has considered taking water from Kingwood because of maintenance costs, even though their present facilities are working properly. The power station equipment would be held in reserve, in the event that something happened to the Kingwood water plant. Mr. Purdum

believes that taking water from Kingwood was within the realm of possibility, depending on the cost. (Tr., Vol. VII, pp. 60-66). In a post-hearing exhibit (Intervenor's Exhibit No. 6), Mr. Purdum estimated that the station's current water production cost is \$1.70 per 1,000 gallons of potable water produced. If water were available from Kingwood, Allegheny Power Service Corporation would be asked to study the subject in detail to determine the economic feasibility.

Leonard Daugherty, Administrator of Preston Memorial Hospital, testified that the hospital uses about 200,000 gallons of water a month. Plans are now formulated for the hospital, over the next five to seven years, to expand and increase its water consumption by 35% to 40%, if available. (Tr., Vol. VII, pp. 73-74). One of the major problems presented at the Preston Memorial Hospital is the constant need to recruit and retain professional employees. The Preston Memorial Hospital is losing some physicians because of a perceived lack of progressiveness on the part of the community. It is important to be able to demonstrate to these people things like roads, schools, water systems, sewer systems, etc., to get young professionals interested in the community. (Tr., Vol. VII, pp. 75-76).

Neal A. Reed, a lawyer in Kingwood, testified as a user of the Kingwood Water System and as a businessman. He believes that there is a large need for water improvement for industrial and commercial development as well as private residential development and expansion. (Tr., Vol. VII, p. 81). Mr. Reed perceives a water problem in the City of Kingwood extending back to 1959, which he believes has impeded the growth of the City. In the late 50s, a chicken processing factory wanted to locate in Kingwood and purchased property. Test wells were drilled to see if water

was available. The inadequate water supply from the City and the bad results of the test well resulted in the plant failing to locate in Kingwood. (Tr., Vol. VII, pp. 82-83). The unavailability of water for future expansion has held down the Kingwood area for industrial and business expansion and residential construction. Mr. Reed believes that there is a built up demand for water. (Tr., Vol. VII, p. 88).

Dennis Poluga, Director of the Region VI Planning Council, testified that the Region VI Planning Council was created in 1972, by an act of the Legislature to coordinate activities on a multi-county basis. Its funding comes from state, federal and local sources. Since 1975, the agency has looked at different kinds of priorities that it felt were important over an extended period of time. In 1983 and 1984, a comprehensive plan for Preston County was undertaken, which included a water facility. (Tr., Vol. VII, pp. 95-99). The study concluded that there was considerable need in the county for water facilities. There were many small water systems and with the exception of Bruceton, all were in need of significant upgrading. One of the problems was that they were too small to be operated efficiently on a long-term basis. (Tr., Vol. VII, p. 101). Management was of questionable quality and little or no records were kept. The plan recommended that the water systems and supplies be upgraded and the systems combined where at all feasible. Mr. Poluga said the Kingwood system was viewed as a number one priority in the region and looked to it as a regional system, similar to the Morgantown system. (Tr., Vol. VII, pp. 102-103). His agency supports the construction of the Kingwood facility as proposed, in order to attract industry. (Tr., Vol. VII, pp. 103-105).

Mr. Poluga was familiar with the town of Albright, which was destroyed in a recent flood. He is a member of the government Hazard Mitigation Task Force. The Governor spoke to members of that Task Force and made it clear that he wanted the communities destroyed by the recent flood to be rebuilt, and came up with a \$500,000 grant to Albright for that purpose. (Tr., Vol. VII, pp. 105-106). There was a considerable effort on the part of the state and local agencies to make certain that the people have the opportunity to rebuild their community. (Tr., Vol. VII, pp. 106-107).

Mr. Poluga believes the proposal to have District No. 2 buy water from District No. 1 to be the worst idea that he has ever heard. It does not make sense long term. He believes that you have to reach a point where the counties can depend on major suppliers of water service in the counties, as opposed to operating small systems. Region VI has advocated this throughout its region. One of the major problems with the small systems is inadequate management. He has experienced the turnover on the Board of Directors in Tunnelton, and in Districts No. 1 and No. 2. (Tr., Vol. VII, p. 110). Mr. Poluga believes that the attempt to build a regional system that can be operated and maintained effectively makes sense. District No. 1 has had problems in the past and the State does not have the resources to provide money to all small systems until it reaches a point where consolidation and coordination of systems have begun to occur. (Tr., Vol. VII, p. 114).

Region VI also acts as a regional clearing house for grant applications. Region VI approves or disapproves the grants, although this is only a recommendation. It does not mean that the project could not be built, but it raises a red flag to funding agencies. Mr. Poluga would

recommend to the Region VI board that it disapprove any grant for a proposed connection between District No. 1 and District No. 2. (Tr., Vol. VII, pp. 115-116). Farmers Home Administration Grants go through this procedure, and would also require action by Region VI.

Teri McLaughlin, Governmental Services Director for Region VI Planning and Development Council, testified that she was very familiar with Preston County and had worked with various agencies and municipalities in that county, including District No. 1, Tunnelton, Albright, Kingwood and Masontown. Albright has not been able to drink its water for 20 months. Initially this was because of infiltration of selenium into the wells. An emergency grant from the Governor's office repaired the wells, although one of the wells has already gone dry. Additionally, Albright cannot maintain a licensed treatment plant operator and thus cannot drink its water. (Tr., Vol. VII, pp. 136-137). Albright has recently received \$500,000 in Community Development Block Grant monies. \$352,000 is earmarked to open an unflooded area of Albright and extend water, sewer and street services into the area. Lots will be developed on those streets so that people will be able to rebuild outside of flood affected areas. The remaining \$140,000 has not been earmarked and the town of Albright has considered using it to connect with the City of Kingwood. (Tr., Vol. VII, p. 138). This depends, of course, on a new plant being available from Kingwood.

Tunnelton's water system was built in the 1940s and was renovated in 1960s. Tunnelton is interested in building a water plant at a cost of around \$1,000,000. Region VI, however, would not support the building of a new plant, as it would be pouring good money after bad. Region VI has

felt that, in general, municipalities that size cannot maintain their own systems. (Tr., Vol. VII, pp. 139-140).

Ms. McLaughlin is also familiar with the proposal to connect District No. 2 with District No. 1. She does not believe that the proposed funding from Farmers Home Administration will be available. The Region VI Planning and Development Council is a clearing house for all census information in its region. She reviewed in detail the median incomes of Arthurdale, Reedsville, District No. 2 and Kingwood and none of those areas is eligible for a loan or grant funds from Farmers Home Administration. Additionally, by its own regulations, Farmers Home Administration cannot put grant money into a project that is inconsistent with local, regional, county, or state plans. Ms. McLaughlin believes that such a proposed connection is inconsistent with the county plan, and with the Regional Development Plan. (Tr., Vol. VII, p. 142). This regulation is contained in the Rules and Regulations governing development grants for community domestic water and waste disposal systems, Farmers Home Administration, U.S. Department of Agriculture. (Tr., Vol. VII, p. 144).

Region VI does have input into the income analysis that is ultimately accepted by Farmers Home Administration. (Tr, Vol. VII, pp. 150-151). Ms. McLaughlin believes that four or five years of planning and quite a lot of work has indicated to Region VI that the Kingwood system is the way to go with the regional water supply system. (Tr., Vol. VII, p. 158).

Stephen Decker, Chairman of the Kingwood Water Board, believes that the proposal to connect District No. 1 and District No. 2 does not serve the best interest of the communities involved, and is at best a short-term approach to water for the service areas involved. There has been a problem for 30 years in providing adequate water in these communities.

The existence of District No. 2 and its growth is directly related to the availability of water from Kingwood and shows a historical growth pattern that is consistent with the need for water. (Tr., Vol. VII, pp. 162-163). Mr. Decker foresees the Districts being in the same position they are in right now, with not enough water to supply their growth in as short a period as three to five years.

The Kingwood Water Board is in favor of constructing the proposed plant whether or not District No. 2 is a customer of Kingwood. Mr. Decker stated there were several reasons for this. The condition of the 30 year old water plant is bad, the foundation is cracking and it is not practical to upgrade the plant. Kingwood has had problems with the Health Department in providing sludge lagoons on the existing property, as there is no room. The plant is operating 23½ hours a day. (Tr., Vol. VII, p. 163). Mr. Decker is not in favor of reducing the size of the proposed plant because, from the data available in testimony previously heard, it would not save money. He also believes that there is a potential to use the amount of water that the plant will be capable of producing within some reasonable time. (Tr., Vol. VII, p. 164). Mr. Decker believes that Preston County could attract industries and other economic development into the area. He is aware of one woodworking factory, which will employ 51 people, which is interested in coming into the area. (Tr., Vol. VII, p. 165).

Intervenor District No. 2 presented three witnesses. Max Crum, Chief of Community Programs for Farmers Home Administration of West Virginia, is directly responsible to the State Director of Farmers Home Administration for administering community program type loans in this state. Mr. Crum stated that in regard to the regulations cited by Ms. McLaughlin, Farmers

Home Administration itself makes the determination as to whether or not a project is consistent with a regional plan. He has not studied District No. 2's plan to connect with District No. 1 in depth, but he believes that the proposal serves a much better regionalization type plan than does the Kingwood plan by itself. District No. 2's plan would tie Kingwood to District No. 1 and to Masontown and Albright and possibly Tunnelton and Denver later on. Also the plan provides that there are three water sources available in case one has trouble providing service. (Tr., Vol. VII, pp. 183-184). Based on information provided to Farmers Home Administration by the Chairman of District No. 2, it appears to him that District No. 2 would be eligible for a 5% interest rate and grant from Farmers Home Administration. Farmers Home Administration, however, has not gotten to the point where it has made its own determination on income levels. (Tr., Vol. VII, p. 186). Mr. Crum believes that Farmers Home Administration loan and grant funds might also be available for District No. 2 to pay for a portion of the Kingwood plant, if it decided to remain on the system. (Tr., Vol. VII, p. 191).

On cross-examination, Mr. Crum admitted that if a project was clearly inconsistent with a regional plan, Farmers Home Administration would be bound by that and could not make funds available. (Tr., Vol. VII, p. 194). Farmers Home Administration would make the determination of whether a plan was consistent or inconsistent with a regional plan. (Tr., Vol. VII, p. 196). Mr. Crum stated that he had heard the discussion of the impoundment situation at the District No. 1 and that it is unknown what it will support at the present time. Farmers Home Administration would require Health Department approval of any plan that is financed. (Tr., Vol. VII, pp. 199-200).

David E. Satterfield, the State Engineer in the Community Programs Division, Farmers Home Administration, said he was surprised by the testimony of the Health Department that a package plant is an unacceptable design under its regulations. Of the 27 projects that he could remember in which the Farmers Home Administration was involved, 13 of those had a package plant involved in the water treatment plant. Of those 27, 13 had a river supply, six had a well supply, five had an impoundment supply and the other three were unknown. (Tr., Vol. VII, pp. 211-212). Mr. Satterfield stated that from the preliminary information that was provided to him regarding the proposed connection of District No. 1 and District No. 2, the proposal provided a more economic basis for the Public Service District to obtain water than from Kingwood. (Tr., Vol. VII, pp. 212-213). Based upon the preliminary contacts that he has had, he believes that the reservoir of District No. 1 will be adequate. (Tr., Vol. VII, p. 214). Mr. Satterfield believes that it is possible for Kingwood to treat the water supply that they were going to use with a package plant. Based on his experience, the critical factor for any plant, whether it is a conventional plant or a package plant, is to have good operation. (Tr., Vol. VII, p. 215). Mr. Satterfield was somewhat surprised by the cost of the proposed Kingwood plant but he was not familiar with all the factors involved in the particular situation, so there may be peculiar things that relate to why the project seems to cost a little bit more than it should. (Tr., Vol. VII, p. 216). He considers the proposed resale rate to be very high when compared to other systems in West Virginia. (Tr., Vol. VII, p. 217).

Mr. Satterfield estimates that the District No. 1 impoundment contained 31,297,860 gallons of water. (Tr., Vol. VII, p. 221). In 1985,

the production of District No. 1 was 32,000,000 gallons and the purchases by District No. 2 were 41,000,587 gallons. (Applicant's Exhibit Nos. 10 and 11). A six-month supply of water would be roughly 37,000,000 gallons. Mr. Satterfield admitted that if those numbers are true, the impoundment as it exists does not meet Health Department Standards for a proposed connection between District No. 1 and District No. 2. Mr. Satterfield also does not know whether the increased use of the impoundment of District No. 1 would impact the impoundment at Masontown. If these reservoirs were in the same drainage basin, the increased use would be a factor to consider.

Edmond Hodgkins, Chairman of Preston County Public Service District No. 2, testified that the 1986 water usage of District No. 2 was 37,000,108 gallons. (Tr., Vol. VII, p. 231). Mr. Hodgkins admitted that, even using the 1986 figure, the District No. 1 impoundment still does not contain a six-month supply of water. (Tr., Vol. VII, p. 233).

Staff recalled two witnesses. David Hippchen testified that he believes that Kingwood spent money to upgrade its filter capacity from 300 to 350 gallons per minute and, in the test year 1985, not only did Kingwood not run its filter at 350 gallons per minute, but the City did not run it at 300 gallons per minute. For 76% of the time, they ran at 240 gallons per minute, so he believes that the City of Kingwood did not take advantage of the capacity available. (Tr., Vol. VII, p. 235). He does not believe that, without District No. 2, a 900 gallon per minute plant is justified for the City of Kingwood alone. However, he finds the larger question and problem with the proposed project to be the cost of the plant. The Commission Staff feels that the cost of the plant is too high. (Tr., Vol. VII, p. 236). He said that his recommendation regarding

a package plant is that in considering a package plant, Kingwood could also consider the alternative of individual process units inserted into the design process to lower the construction cost. (Tr., Vol. VII, p. 238). Mr. Hippchen believes that while there is additional capacity unused in the present Kingwood plant, a new facility of some kind is necessary. The additional capacity, however, will buy time to get through an interim period of redesign and construction. (Tr., Vol. VII, p. 246).

Diane Davis testified that if both District No. 1 and No. 2 purchase water from the City of Kingwood, the resale rate will be \$2.45, using Staff's recommended rate for the proposed project. (Tr., Vol. VII, p. 255). She emphasized that if District No. 1 and District No. 2 proceed with their proposed plan, the resale rate from District No. 1 to District No. 2 would be \$1.46 per thousand gallons. With District No. 2 and Tunnelton as customers of Kingwood, the resulting resale rate would be \$2.53 per thousand gallons. Finally, with Tunnelton, Masontown, District No. 1 and District No. 2 as customers of Kingwood, the resale rate would be \$1.81 per thousand gallons. (Tr., Vol. VII, pp. 255, 256).

Ms. Davis noted that capacity is not the only inducement to community and industrial growth. Large users are influenced by the rate. A primary indicator of this is the testimony heard from Ray Purdum, Albright Power, where the main consideration to purchase water depended on the cost and whether they could produce it cheaper. (Tr., Vol. VII, p. 258).

Ms. Davis also analyzed the resale rate found in other communities. Ms. Davis further explained that the resale rate is a substantial factor in whether a regional plan works. She cited the following resale rates in comparison:

Taylor County PSD	\$.64/1,000 plus \$.10 trans. charge
City of Fairmont	\$1.12
Morgantown	\$.88
Southwestern	\$1.09
Clarksburg	\$1.43

(Tr., Vol. VII, pp. 258-259).

Ms. Davis believes that the high resale rate proposed by Kingwood could actually be a deterrent to regionalization. She believes that it has already occurred since District No. 2 is threatening to leave the system. (Tr., Vol. VII, p. 260). Finally, Ms. Davis calculated that District No. 2 customers will be paying \$26.46 for a bill based on 4,500 gallons of water if Kingwood's project is approved. (Tr., Vol. VII, p. 263). On the other hand, should District No. 2 ultimately leave the Kingwood system, the residents of Kingwood will pay \$22.49 for an average bill of 3,900 gallons. With PSD No. 2 as a customer, Kingwood's average customer monthly bill should be \$18.35. (Staff Exhibit 7-B; Schedule 8, Staff Exhibit No. 6). This figure, however, fails to consider those benefits and revenues that will result from increased water sales due to its greater availability. (Tr., Vol. VII, p. 256).

Donald Kuntz returned to the stand on behalf of Applicant and testified that the Health Department will not approve a package plant for a river source with the characteristics of the Cheat River. Package plants have been approved to treat very pristine, high quality water, which is much different from the Cheat River. (Tr., Vol. VII, p. 271). Mr. Kuntz then discussed the plants mentioned by Mr. Satterfield, which Mr. Satterfield felt contradicted the position that the Health Department is taking in the present case. These plants were used for water sources that were not comparable to the Cheat River. The Coal River Public Service

District takes its supply out of the Coal River which is very much like the Cheat River in terms of quality. There has been extensive problems with Coal River Public Service District's water treatment system. Modifications have been made, and there are still problems. Mr. Kuntz said that today the Health Department will not approve a package plant on the Coal River. (Tr., Vol. VII, pp. 275-276). Mr. Kuntz also testified that in light of the testimony presented at the hearing, District No. 1's impoundment will not, even under ideal conditions, have the six-month supply required to serve both District No. 1 and District No. 2. The Health Department calculates the impoundment capability under drought conditions. The drought season falls typically in the same time that there is the heaviest demand. Additionally, as the impoundment is depleted, the quality of water deteriorates making it more difficult to treat. (Tr., Vol. VII, pp. 277-278).

DISCUSSION OF THE ISSUES AND APPLICABLE LAW

The statutory authority upon which the Commission reviews applications for certificates of convenience and necessity is contained in West Virginia Code §24-2-11. The Commission described the Applicant's burden in a certificate proceeding in Ohio County Public Service District, Case No. 82-482-S-CN, Order Affirming the Hearing Examiner's Decision, April 8, 1983:

The Commission notes that the Applicant has the burden, in a case such as this, of proving that public convenience and necessity exists, Code §24-2-11. "Convenience" and "necessity" are not synonymous terms to be used interchangeably but must be separately proved. On the one hand "convenience" connotes a fitness or suitability for the performance of an action or the fulfillment of a requirement. Is the proposed system the proper one to meet the needs of the particular locality? What will be the effect of the system upon the terrain? How will the safety and comfort of the community be affected if the project is

approved or denied? Is the project reasonably adapted to serve permanently the community it proposes to serve? What is the economic impact of the project upon the community? Is it financially feasible? "Necessity," on the other hand, connotes the state of being in need. Something that is necessary is usually indispensable. However, the law does not require that each project approved be an absolute necessity to the community, only that it be reasonably necessary. Are existing facilities or conditions inadequate? Has the Applicant presented members of the affected public who testified as to their need for the system? Will the community's economic, mental and physical health be improved by the project? Without the proposed project, will the public be handicapped in the pursuit of business or comfort or both? Is the public in the area denied to its detriment that which is enjoyed by the public in other areas similarly situated? (emphasis added).

Further, the Commission has found that even municipal applications for a certificate of convenience and necessity must demonstrate "that the proposed system will provide adequate service, that the project is adequately financed and economically feasible, and that proper notice has been given the public of the rate ordinance." Town of Man and Man Water Works, Inc., Case No. 81-433-W-PC, Order Affirming Hearing Examiner's Decision, entered April 16, 1982. A rate ordinance sufficient to provide revenues for support of the proposed construction and its financing must be in place before the Commission will grant to a municipality its sought-after certificate of public convenience and necessity. (The Town of Ripley, Case No. 83-332-W-CN, May 7, 1984). To comply with the aforesaid, Kingwood passed a rate ordinance pursuant to West Virginia Code §24-2-4b, to which PSD No. 2 filed its petition of appeal with this Commission.

In the present case, the Hearing Examiner must resolve the following issues as framed by the Parties:

1. Whether the project as proposed by Kingwood is economically feasible.

2. Whether the Applicant has demonstrated that the public necessity supports Kingwood's proposed project.

3. Whether the requirements of public convenience are met by the proposed project, or are defeated by the resulting level of customer and resale rates and charges.

There is no real issue in the present case as to the need for the construction of a new water plant facility for the City of Kingwood. Applicant presented John T. Kane, a consulting engineer for the firm of Chester Engineers, Stephen F. Decker, Chairman of the Kingwood Water Board, and Donald Kuntz, Director of the Environmental Engineering Division, State Health Department, all of whom testified as to the need for a new plant. (Tr., Vol. I, pp. 10-12; Vol. VII, pp. 18, 163). Staff witness Hippchen acknowledged that a new facility of some kind is necessary. (Tr., Vol. VI, p. 100; Vol. VII, p. 246). Moreover, Staff's position has been that a water plant should not operate more than eight hours a day. (Tr., Vol. II, p. 34). The present plant, even without Intervenor as a customer, would operate an average of 13.8 hours a day. (Tr., Vol. VI, pp. 97-99). The need for a new water treatment facility has, therefore, clearly been established.

There is no real issue as to the economic feasibility of the construction of the proposed plant. It is clear from the testimony and accounting exhibits presented by Mr. Kane and from the rates proposed by Staff and Applicant that the construction is economically feasible under the rate ordinance approved by the City of Kingwood. Neither Intervenor nor the Staff have challenged Applicant's presentation on this issue.

There is also no issue as to the adequacy of the water treatment plant proposed by Applicant. The plant was designed by Chester Engineers,

a firm whose principal business is the construction of water and sewage treatment plants and facilities, and approved by the State Department of Health. Neither Intervenor nor Staff dispute that the plant proposed by Applicant will provide Applicant's system with water which will meet all Health Department standards.

The only real issue that is presented for decision in this case is that of convenience and whether the water treatment system proposed by Applicant is reasonably and economically designed to meet the intended need. Evidence presented in this case demonstrates that this is the case. The water treatment facility proposed by Applicant was designed by an engineering firm whose competency no party has challenged, and based on population projections approved by the Staff. (Tr., Vol. VI, p. 70). The cost of the project was arrived at through competitive bidding. There were three bidders on the project and the spread of the bid amounts between the low and high bids was only 6.25% (Intervenor's Exhibit No. 5), indicating that the cost has been reasonably established. Thus, by all normal standards, Applicant's proposal seems reasonable, properly priced, and sufficient to meet the intended need.

Staff has suggested that Applicant's proposed facility is too costly and should be redesigned. This position is based on conjecture and fails to reasonably consider the possible alternatives should Kingwood's proposed project not be approved. Staff witness Hippchen believes that the Kingwood plant should have a smaller capacity, but has no idea of what size plant would be appropriate. (Tr., Vol. VI, pp. 71-74). He could explain only in general terms how the plant could be designed so as to cost less to construct. This included the suggestion that a metal building could be used instead of a concrete block building with a brick

facade, but Mr. Hippchen did not know how much money this alteration would save. (Tr., Vol. VI, pp. 77-79). Staff's major suggestion is that Applicant should consider a package plant, or the combination of a package and conventional plant. Mr. Hippchen estimated that this approach to construction could save as much as one to two million dollars. (Tr., Vol. VI, p. 113). Applicant, however, presented a witness from the State Health Department who unequivocally stated that no package plant would be approved for a water source such as the Cheat River. (Tr., Vol. VII, pp. 24-29, 271).

A witness for Applicant indicated that if the proposed conventional type plant were downsized to a capacity of 150 gallons per minute or less, a mere \$15,000 could be saved. (Tr., Vol. VI, pp. 185-186; Applicant's Exhibit No. 6). Therefore, with the use of package plants ruled out by the Health Department and minimal savings to result from downsizing, Staff and Intervenor have failed to justify jeopardizing Kingwood's proposed project and its \$900,000 grant for the purpose of redesign.

The Applicant presented a number of witnesses whose testimony demonstrates that there is good possibility of additional customers for the new Kingwood water treatment facility. Camp Dawson, the Albright Power Station, Albright, and Tunnelton are all potential customers of the new Kingwood plant. The Albright Power Station alone would be a consumer in the same class as District No. 2. (In his post-hearing exhibit, Intervenor's Exhibit No. 6, Mr. Purdum indicated that the station would be interested in water at a price of \$1.70 per 1,000 gallons. Staff Witness Davis estimated that, with the other communities and public service districts tied to Kingwood, the resale rate would be \$1.81 without the Albright Power Station. (Tr., Vol. VII, p. 256). This means that water

sales to the station are distinctly possible). Other witnesses spoke of several industries who had been interested in the Kingwood area for industrial development but were forced to go elsewhere due to lack of adequate water facilities. All of this evidence indicates that, regardless of District No. 2's future plans, the potential need exists for a plant of the size proposed by Applicant.

Related to Staff's position that Applicant should redesign the proposed facilities is Staff's support of Intervenor District No. 2's plan to leave the Kingwood system and connect with District No. 1. Staff believes that this plan would eliminate from the Kingwood system a user of 30% of the water presently produced and make the unspecified redesign possible. However, the evidence presented in the present case demonstrates that the plan for District No. 2 to connect to District No. 1 is at this time merely speculation and may not in fact be feasible. Conflicting testimony was presented regarding the ability of the Farmers Home Administration to provide the necessary funding. Farmers Home Administration may be barred from providing the loans and grant funds because the median income of District No. 2 is too high, and because the project is inconsistent with the plan for developing a regional water system. (Tr., Vol. VII, p. 142). District No. 1's impoundment does not appear to meet Health Department standards for such a project. The Health Department requires that an impoundment be able to hold a six-month supply of water. One-half of the 1985 water use of Districts No. 1 and No. 2 already exceeds the amount of water that District No. 1's impoundment holds. (Tr., Vol. VI, p. 85; Vol. VII, p. 221; Applicant's Exhibits Nos. 10 and 11). While no party has undertaken an extensive study of the impoundment, it appears that the water use after the proposed connection between

District No. 1 and No. 2 would immediately exceed the six-month requirement. Thus, District No. 2 may remain a customer of Kingwood. These questions are all unresolved since District No. 2 has not even filed a pre-application with the Farmers Home Administration.

Applicant's proposed water treatment plant is reasonably designed and should be approved. The project was arrived at through competitive bidding and costs are reasonable for a conventional water treatment plant. Neither Staff nor Intervenor came forward with a reasonable alternative with substantive supporting evidence. Staff's opposition is based on unsupported cost estimates and a proposed alternative project which is apparently impractical. Balanced against this is the potential loss of Kingwood's \$900,000 grant or even a new water treatment plant in the entirety. Staff even recognizes this possibility, whereby in advocating the District No. 1 project and redesign of the Kingwood project, it stated:

"It would seem that the only potential problem is if neither the Kingwood nor the alternative project is constructed as proposed. This would leave Kingwood without increased production capability and PSD No. 2 with higher purchased water costs. The newly enacted legislation will not allow this to occur except possibly on a short term basis, since it gives to the Commission the authority to order such a consolidation of PSD services." (Staff Exhibit No. 8, p. 5).

While rates which will in the short term result from Kingwood's new plant are on the high side, such must be expected when construction is, and must, be based upon 20 to 30 year planning factors. (Tr., Vol. VI, pp. 70, 71). Considering the life of a water treatment plant, a plant constructed today must provide for the long-term economic growth of the region. Short-term goals, directed solely to minimizing rate increases, must therefore take a back seat to long-term economic planning and growth. The Kingwood project meets these long-term goals, is in the "go" mode, and

should not be sacrificed to meet short-term and possibly unrealistic objectives.

The rates and charges which Kingwood approved by ordinance on April 8, 1986, are those rates and rate structure initially provided to Kingwood by Staff at the March 12 and 25, 1986 hearings. In an apparent effort to eliminate any objections which Staff or the Intervenor would otherwise have with regard to its proposed rates and rate structure, Kingwood enacted said rates by ordinance dated April 8, 1986. Subsequent to providing Kingwood with proposed rates (which were not placed in evidence) Staff has several times modified its recommended revenue requirement, as well as its position with regard to Commission approval of Kingwood's certificate application. Kingwood's proposed rates would generate a sales revenue increase of \$257,686, or approximately 100.25%. Staff is now recommending rates which would generate a sales revenue decrease of \$67,846, or approximately 26.39%. The wide revenue difference between the City and Staff stems from Staff's recommendation in the certificate case that the application be denied. (See Staff Exhibit No. 7).

Should the Commission decide to approve Kingwood's sought-after certificate and construction project, Staff thereupon recommends a sales revenue increase of \$213,376, or 83.0%, during construction and a sales revenue increase of \$249,181, or 95.7%, after construction. Diane A. Davis submitted two post-hearing memoranda as follow-up to her initial exhibits which were identified and admitted in evidence as Staff Exhibit Nos. 5 and 6. Ms. Davis' July 7, 1986 post-hearing memorandum submitted in Case No. 86-177-W-MA has been identified by the Hearing Examiner as Staff Exhibit No. 7-A, and her July 7, 1986 post-hearing memorandum filed

in Case No. 86-063-W-CN has been identified by the Hearing Examiner as Staff Exhibit No. 7-B. Staff recommended rates during and after construction can be found on Schedules 5 and 10 of Staff Exhibit No. 7-A, also attached hereto as Appendices A and B.

Ms. Davis' post-hearing memoranda provide revised figures and additional insight into the effect on an average monthly bill of Kingwood's customers, both with and without District No. 2 as a customer, under Staff's recommended rates and revenues. The actual average consumption of Kingwood's customers is 3.9 M gallons per month, as compared to the 4,500 gallon figure utilized at hearing. An average Kingwood customer would thereupon experience a monthly bill of \$18.35 per month upon approval of Kingwood's project, with District No. 2 remaining a customer. If District No. 2 were to leave Kingwood's system, the average Kingwood customer would experience a monthly water bill of \$22.49 per month. (See Staff Exhibit No. 7-B).

To be implemented immediately (during construction) Staff proposes annual sales revenue of \$467,214, while Kingwood proposes as a result of its rate ordinance, \$511,524. While Kingwood's proposed rates would remain unchanged following the completion of construction, and result in approximately \$518,443 in annual revenue, Staff would thereupon increase rates to provide \$506,399 in annual revenue. (Staff Exhibit No. 7-A, p. 3). The major differences between Staff's and Kingwood's proposed cost of service do not lie in disagreement over either pre-construction or post-construction operating and maintenance expense. Kingwood provided both at the going level and proforma \$41,275 and \$142,582, respectively, in depreciation expense. (Applicant's Exhibit No. 3). Commission policy does not permit depreciation expense for a publicly owned utility and

the same was therefore eliminated by Staff. (Ohio County Public Service District, Case No. 82-482-S-CN, April 8, 1983). Both Staff and Kingwood provide for annual construction interest of \$245,000, but Kingwood understates its debt service and coverage upon the completion of construction by using the same figure, which instead totals \$303,445. (Applicant's Exhibit No. 3; Staff Exhibit No. 7-A).

Staff's recommended rates and level of revenue during construction provide for a \$36,750 surplus. Kingwood's proposed rates on the other hand would provide an \$81,060 annual surplus, which the Hearing Examiner finds excessive. Following construction, Staff's and Kingwood's proposed levels of revenue are within 1% variance. Because the Hearing Examiner believes that Staff's figures more accurately portray Kingwood's cost of service both during and after construction, Staff's recommended rates and level of revenue will be adopted.

Staff's recommendation omits the clauses of Kingwood's ordinance which provide the methodology by which Kingwood will undertake water main extensions for the purpose of installing fire hydrants and sprinkler systems. Staff eliminated the majority of ordinance paragraphs 6 and 7, with the exception of the \$131.26 fee, because it finds that this Commission's Rules and Regulations already provide for the methodology by which Kingwood's costs should be recovered. (See the Commission's Rules and Regulations for the Government of Water Utilities, Rule Nos. 4.01C(6) and 5.05(1)(a)). Kingwood is committed by its ordinance to provide at its own expense any necessary extension of its distribution lines to the private property line, and the cost thereof is recovered in an annual charge equal to 24% of the cost of the extension work. The ordinance not only fails to specify if the 24% charge is terminated upon Kingwood's full

recovery of its costs, but also, contrary to Rule 5.05, utilizes the 24% figure for the extension of water mains to serve fire hydrants and fire sprinkler systems. Rule 5.05 provides the formula for the extension of water mains. The Hearing Examiner therefore finds that ordinance paragraphs 6 and 7 are in substantial conflict with this Commission's Rules and Regulations, and will therefore not be approved, excepting therefrom the \$131.26 annual hydrant and fire sprinkler fee.

FINDINGS OF FACT

1. The Applicant's present water treatment facility is inadequate for the needs of Applicant's present customers (Tr., Vol. I, pp. 10-12; Vol. VII, pp. 18, 163), as the present system is operating at rated capacity and is run 23½ hours a day; (Tr., Vol. I, p. 1; Vol. VII, p. 4). There is, therefore, a clear need for the construction of a new water treatment facility. (Tr., Vol. I, pp. 10-11, 15, 46-47, 52; Vol. II, pp. 28-35; Vol. VII, pp. 18, 163).
2. The facilities proposed by Applicant would adequately meet the needs of the customers of Applicant at the present and for the foreseeable future. (Tr., Vol. I, p. 38).
3. The project proposed by Applicant is economically feasible under rates and charges passed by ordinance and proposed by the Applicant. (Staff Exhibits 7-A and 7-B).
4. Staff's proposal to redesign the proposed Kingwood plant is based solely on conjecture, provides no specific details as to how the redesign should take place and how much money could be saved, and risks the loss of grant funding for a new water treatment facility. (Tr., Vol. VI, pp. 71-79, 97).

5. A package plant will not be approved by the State Health Department for use by Applicant on the Cheat River. (Tr., Vol. VII, pp. 24-29, 271).

6. The Kingwood area would receive substantial economic benefit from Applicant's proposed water treatment facility by satisfying a long-term pent-up demand for water and by making water available for industrial development, benefiting the entire region. (Tr., Vol. VII, pp. 81-88, 105-106, 165).

7. The plan to connect Districts No. 1 and No. 2 has not been demonstrated feasible by the record of these proceedings. Funding for the project is questionable and District No. 1's impoundment, which would be the source of the water for the project, may not meet Health Department standards. (Tr., Vol. VII, pp. 142, 194, 221, 233; Applicant's Exhibits Nos. 10 and 11).

8. A number of large potential customers exist for the proposed Kingwood plant, particularly Albright Power Station, Camp Dawson, Albright, and Tunnelton, to justify the size of the plant proposed by Applicant. These potential customers may also result in a lowering of the rates proposed for initial charge by Applicant. (Tr., Vol. VII, pp. 49-54, 58-66, 73-76, 138-140, 256; Intervenor's Exhibit No. 6).

9. The rates, charges and annual revenue recommended by Staff are reasonable and adequate to meet the needs of the proposed project. (Applicant's Exhibit No. 3; Staff Exhibit Nos. 7-A and 7-B).

CONCLUSIONS OF LAW

The Hearing Examiner is of the opinion and finds that:

1. The City of Kingwood proposed water treatment plant is necessary to meet the long-term water needs of Kingwood and surrounding areas.
2. The City of Kingwood proposed water treatment plant is convenient to the water public utility needs of Kingwood and surrounding areas.
3. A Certificate of Public Convenience and Necessity should therefore be granted to Kingwood to construct its proposed water treatment plant, various water lines, and a booster station, at a cost of approximately \$4,193,000. (West Virginia Code §24-2-11).
4. The rates and charges recommended by Staff are reasonable and adequate for funding Kingwood's proposed construction and should therefore be approved.

ORDER

IT IS, THEREFORE, ORDERED that:

1. A Certificate of Public Convenience and Necessity be, and it hereby is, granted to the City of Kingwood to construct a water treatment plant, various water lines, and a booster station at a cost of approximately \$4,193,000, as proposed by the City in its application filed February 4, 1986.
2. The rates and charges attached hereto as Appendix "A" be, and they hereby are, approved for charge and use by the City of Kingwood for service rendered on and after September 21, 1986.
3. The rates and charges attached hereto as Appendix "B" be, and they hereby are, approved for charge and use by Kingwood upon the completion of construction.

4. The City of Kingwood shall file with the Commission a proper tariff setting forth the rates and charges herein authorized and approved as Appendix "A", and a revised tariff setting forth the rates and charges herein authorized and approved as Appendix "B" upon the completion of construction, stating therein their actual effective date.

The Executive Secretary is hereby ordered to serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

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

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

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



Charles D. Perfater
Hearing Examiner

CDP:mal

CITY OF KINGWOOD
CASE NO. 86-177-W-MA
HEARING EXAMINER APPROVED RATES DURING CONSTRUCTION

Schedule 1

AVAILABILITY OF SERVICE

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

RATES

First 1,600 gallons used per month \$5.00 per 1,000 gallons
Next 48,400 gallons used per month \$3.59 per 1,000 gallons
Next 50,000 gallons used per month \$3.02 per 1,000 gallons

MINIMUM CHARGES

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

5/8 inch meter, or less	\$ 8.00 per month
3/4 inch meter, or less	12.00 per month
1 inch meter, or less	20.00 per month
1-1/2 inch meter, or less	40.00 per month
2 inch meter, or less	64.00 per month
3 inch meter, or less	120.00 per month
4 inch meter, or less	200.00 per month
6 inch meter, or less	400.00 per month

DELAYED PAYMENT PENALTY

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

CONNECTION CHARGE

\$250.00

Schedule 2

Privately Owned Fire Hydrants and Fire Sprinkler:

\$131.26 annual service charge

CITY OF KINGWOOD
CASE NO. 86-177-W-MA
HEARING EXAMINER APPROVED RATES AFTER CONSTRUCTION

Schedule 1

AVAILABILITY OF SERVICE

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

RATES

First 1,600 gallons used per month \$5.75 per 1,000 gallons
Next 48,400 gallons used per month \$3.98 per 1,000 gallons
Next 50,000 gallons used per month \$2.88 per 1,000 gallons

MINIMUM CHARGES

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

5/8 inch meter, or less	20	
3/4 inch meter, or less	\$ 9.60	per month
1 inch meter, or less	13.80	per month
1-1/2 inch meter, or less	23.00	per month
2 inch meter, or less	46.00	per month
3 inch meter, or less	73.60	per month
4 inch meter, or less	138.00	per month
6 inch meter, or less	230.00	per month
	460.00	per month

DELAYED PAYMENT PENALTY

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

CONNECTION CHARGE

\$250.00

Schedule 2

Privately Owned Fire Hydrants and Fire Sprinkler:

\$131.26 annual service charge



CITY OF KINGWOOD

Water Revenue Bonds,
Series 1987 A and Series 1987 B

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

The undersigned, DANIEL B. YONKOSKY, Secretary-Treasurer of West Virginia Water Development Authority, for and on behalf of West Virginia Water Development Authority (the "Authority") and PATRICK R. CROGAN, Mayor of the City of Kingwood (the "Issuer"), hereby certify as follows:

1. On the 7th day of January, 1987, the Authority received the entire original issue of \$3,500,000 in aggregate principal amount of Water Revenue Bonds, Series 1987 A and Series 1987 B (collectively, the "Bonds"), issued as a single, fully registered Bond of each Series, numbered AR-1 and BR-1, respectively, both dated January 7, 1987, the Series 1987 A Bond being in the principal amount of \$2,810,612 and the Series 1987 B Bond being in the principal amount of \$689,388.
2. At the time of such receipt of the Bonds upon original issuance, all of the Bonds had been executed by Patrick R. Crogan, as Mayor of the Issuer, by his manual signature, and by Harry E. VanInderstine, as Recorder of the Issuer, by his manual signature, 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 proceeds of the Series 1987 A Bonds in the aggregate amount of \$2,810,612. Proceeds of the Series 1987 B Bonds are expected to be received in approximately 60 days. Upon receipt of the proceeds of the Series 1987 B Bonds the Issuer will deliver to the Authority a receipt in substantially the form attached hereto as Exhibit A.

IN WITNESS WHEREOF, Daniel B. Yonkosky duly signed and delivered this receipt on behalf of WEST VIRGINIA WATER DEVELOPMENT AUTHORITY and the CITY OF KINGWOOD has caused this receipt to be executed by its Mayor, as of this 7th day of January, 1987.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By Daniel B. Yonkosky
Secretary-Treasurer

CITY OF KINGWOOD

By Robert R. Ryan
Mayor

01/06/87
KGWD1-H



CITY OF KINGWOOD

Water Revenue Bonds,
Series 1987 A and Series 1987 B

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

Kanawha Valley Bank, N.A.
Charleston,
West Virginia

Ladies and Gentlemen:

There are delivered to you herewith:

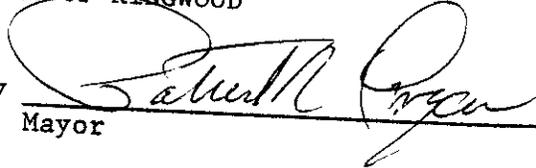
- (1) Bond No. AR-1, constituting the entire original issue of the City of Kingwood Water Revenue Bonds, Series 1987 A, in the principal amount of \$2,810,612 and Bond No. BR-1, constituting the entire original issue of the City of Kingwood Water Revenue Bonds, Series 1987 B, in the principal amount of \$689,388 both dated January 7, 1987 (collectively, the "Bonds"), executed by the Mayor and 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 and Notes Ordinance and Supplemental Resolution duly enacted and adopted by the Issuer (collectively, the "Local Act");
- (2) A copy of the Local Act authorizing the above Bond issue, duly certified by the Recorder of the Issuer;
- (3) Executed counterparts of the loan agreement and the supplemental loan agreement, both dated March 10, 1986, by and between the West Virginia Water Development Authority (the "Authority") and the Issuer (collectively, the "Loan Agreement");
- (4) A signed opinion of nationally recognized bond counsel regarding the validity of the Loan Agreement and Bonds.

You are hereby requested and authorized to deliver the Bonds to the Authority upon payment to the account of the Issuer of the sum of \$2,810,612, representing the agreed aggregate purchase price of the Series 1987 A Bonds, there being no accrued interest thereon. Prior to such delivery of the Bonds, you will please cause

the Bonds to be authenticated by an authorized officer, as Bond Registrar, in accordance with the forms of Certificate of Authentication and Registration thereon.

Dated this 7th day of January, 1987.

CITY OF KINGWOOD

By 
Mayor

01/02/87
KGWD1-I



(SERIES 1987 A SPECIMEN BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF KINGWOOD
WATER REVENUE BOND, SERIES 1987 A

No. AR-1

\$2,810,612

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 TWO MILLION EIGHT HUNDRED TEN THOUSAND, SIX HUNDRED TWELVE DOLLARS (\$2,810,612), in installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest rate on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning April 1, 1987. 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 March 10, 1986.

8

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 December 2, 1986, and December 9, 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 \$689,388, 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 January 7, 1987.

[SEAL]

Mayor

ATTEST:

Recorder

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: January 7, 1987

KANAWHA VALLEY BANK, N.A.,
as Registrar

By _____
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

CITY OF KINGWOOD
ANALYSIS OF 7.00% BORROWING COST

-----1986 SERIES A BONDS-----

MATURITY DATE	COUPON	PRINCIPAL	INTEREST	DEBT SERVICE
10/ 1/1987	0.000	0.00	172,721.47	172,721.47
10/ 1/1988	0.000	0.00	235,529.29	235,529.29
10/ 1/1989	8.380	11,610.00	235,529.29	247,139.29
10/ 1/1990	8.380	12,584.00	234,556.37	247,140.37
10/ 1/1991	8.380	13,639.00	233,501.83	247,140.83
10/ 1/1992	8.380	14,782.00	232,358.88	247,140.88
10/ 1/1993	8.380	16,020.00	231,120.15	247,140.15
10/ 1/1994	8.380	17,363.00	229,777.67	247,140.67
10/ 1/1995	8.380	18,818.00	228,322.65	247,140.65
10/ 1/1996	8.380	20,395.00	226,745.70	247,140.70
10/ 1/1997	8.380	22,104.00	225,036.60	247,140.60
10/ 1/1998	8.380	23,956.00	223,184.29	247,140.29
10/ 1/1999	8.380	25,964.00	221,176.78	247,140.78
10/ 1/2000	8.380	28,139.00	219,000.99	247,139.99
10/ 1/2001	8.380	30,498.00	216,642.94	247,140.94
10/ 1/2002	8.380	33,053.00	214,087.21	247,140.21
10/ 1/2003	8.380	35,823.00	211,317.37	247,140.37
10/ 1/2004	8.380	38,825.00	208,315.40	247,140.40
10/ 1/2005	8.380	42,079.00	205,061.87	247,140.87
10/ 1/2006	8.380	45,605.00	201,535.65	247,140.65
10/ 1/2007	8.380	49,427.00	197,713.95	247,140.95
10/ 1/2008	8.380	53,569.00	193,571.97	247,140.97
10/ 1/2009	8.380	58,058.00	189,082.88	247,140.88
10/ 1/2010	8.380	62,923.00	184,217.62	247,140.62
10/ 1/2011	8.380	68,196.00	178,944.68	247,140.68
10/ 1/2012	8.380	73,911.00	173,229.85	247,140.85
10/ 1/2013	8.380	80,104.00	167,036.11	247,140.11
10/ 1/2014	8.380	86,817.00	160,323.39	247,140.39
10/ 1/2015	8.380	94,092.00	153,048.13	247,140.13
10/ 1/2016	8.380	101,977.00	145,163.22	247,140.22
10/ 1/2017	8.380	110,523.00	136,617.55	247,140.55
10/ 1/2018	8.380	119,785.00	127,355.72	247,140.72
10/ 1/2019	8.380	129,823.00	117,317.74	247,140.74
10/ 1/2020	8.380	140,702.00	106,438.57	247,140.57
10/ 1/2021	8.380	152,493.00	94,647.74	247,140.74
10/ 1/2022	8.380	165,271.00	81,868.83	247,139.83
10/ 1/2023	8.380	179,121.00	68,019.12	247,140.12
10/ 1/2024	8.380	194,132.00	53,008.78	247,140.78
10/ 1/2025	8.380	210,400.00	36,740.52	247,140.52
10/ 1/2026	8.380	228,031.00	19,109.00	247,140.00
		2,810,612.00	6,988,977.77	9,799,589.77

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:

01/06/87
KGWD1-W



(SERIES 1987 B SPECIMEN BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF KINGWOOD
WATER REVENUE BOND, SERIES 1987 B

No. BR-1

\$689,388

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 SIX HUNDRED EIGHTY-NINE THOUSAND, THREE HUNDRED EIGHTY-EIGHT DOLLARS (\$689,388), 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 March 10, 1986.

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 December 2, 1986, and December 9, 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 January 7, 1987.

[SEAL]

Mayor

ATTEST:

Recorder

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: January 7, 1987

KANAWHA VALLEY BANK, N.A.,
as Registrar

By _____
Its Authorized Officer

EXHIBIT A -

SCHEDULE OF ANNUAL DEBT SERVICE

CITY OF KINGWOOD
ANALYSIS OF 7.00% BORROWING COST

MATURITY DATE	ZERO COUPON BONDS
10/ 1/1987	0.00
10/ 1/1988	0.00
10/ 1/1989	18,142.14
10/ 1/1990	18,141.78
10/ 1/1991	18,141.78
10/ 1/1992	18,141.78
10/ 1/1993	18,141.78
10/ 1/1994	18,141.78
10/ 1/1995	18,141.78
10/ 1/1996	18,141.78
10/ 1/1997	18,141.78
10/ 1/1998	18,141.78
10/ 1/1999	18,141.78
10/ 1/2000	18,141.78
10/ 1/2001	18,141.78
10/ 1/2002	18,141.78
10/ 1/2003	18,141.78
10/ 1/2004	18,141.78
10/ 1/2005	18,141.78
10/ 1/2006	18,141.78
10/ 1/2007	18,141.78
10/ 1/2008	18,141.78
10/ 1/2009	18,141.78
10/ 1/2010	18,141.78
10/ 1/2011	18,141.78
10/ 1/2012	18,141.78
10/ 1/2013	18,141.78
10/ 1/2014	18,141.78
10/ 1/2015	18,141.78
10/ 1/2016	18,141.78
10/ 1/2017	18,141.78
10/ 1/2018	18,141.78
10/ 1/2019	18,141.78
10/ 1/2020	18,141.78
10/ 1/2021	18,141.78
10/ 1/2022	18,141.78
10/ 1/2023	18,141.78
10/ 1/2024	18,141.78
10/ 1/2025	18,141.78
10/ 1/2026	18,141.78
	<u>689,388.00</u>

SMITH BARNEY, HARRIS UPHAM & CO. INCORPORATED
FILENAME: KBKING, 10-DEC-86, EBW

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: _____

01/06/87
KGWD1-X



STEPTOE & JOHNSON

ATTORNEYS AT LAW

SIXTH FLOOR

UNION NATIONAL CENTER EAST

P. O. BOX 2190

CLARKSBURG, W. VA. 26302-2190

(304) 624-8000

TELECOPIER (304) 622-2676

CHARLESTON OFFICE

715 CHARLESTON NATIONAL PLAZA

P. O. BOX 1588

CHARLESTON, W. VA. 25326

(304) 342-2191

January 7, 1987

CHARLESTON

CHARLES W. YEAGER
CARL F. STUCKY, JR.
OTIS L. O'CONNOR
WAYNE A. SINCLAIR
JAMES R. WATSON
DANIEL R. SCHUDA
SPRAGUE W. HAZARD
HERSCHEL H. ROSE, III
CHRISTOPHER P. BASTIEN
STEVEN P. MCGOWAN
MARTIN R. SMITH, JR.

OF COUNSEL

ROBERT W. LAWSON, JR.
EDWARD W. EARDLEY
EUGENE G. EASON

WRITER'S DIRECT DIAL NUMBER

CLARKSBURG
RALPH BOHANNON
ERNEST C. SWIGER
HERBERT G. UNDERWOOD
JACKSON L. ANDERSON
ROBERT G. STEELE
JAMES M. WILSON
PATRICK D. DEEM
ROBERT M. STEPTOE, JR.
ANNE R. WILLIAMS
JAMES D. GRAY
VINCENT A. COLLINS
JAMES A. RUSSELL
FRANK E. SIMMERMAN, JR.
WILLIAM T. BELCHER
MICHAEL L. BRAY
DAVID C. CLOVIS
J. GREG GOODYKOONTZ
IRENE M. KEELEY
EVANS L. KING, JR.
WALTER L. WILLIAMS
SUSAN S. BREWER
RONALD H. HANLAN
C. DAVID MORRISON
HARRY P. WADDELL
CLEMENT D. CARTER III
W. HENRY LAWRENCE IV
WILLIAM E. GALEOTA
GORDON H. COPLAND
RANDALL C. LIGHT
RICHARD M. YURKO, JR.
GARY W. NICKERSON
W. RANDOLPH PIPE

City of Kingwood Water Revenue Bonds, Series 1987 A

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

Gentlemen:

We are bond counsel to the City of Kingwood (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement, dated March 10, 1986 including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Issuer and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Issuer, dated January 7, 1987 (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of \$2,810,612, originally issued in the form of one bond, registered as to principal and interest to the Authority, with interest payable April 1 and October 1 of each year, beginning April 1, 1987, at the rate of 8.38% per annum, and with principal installments payable on October 1 in each of the years 1989 through 2026, inclusive, all as set forth in "Schedule X," attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local 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 of the Code of West Virginia, 1931, as amended (the "Local Statute"), for the purposes of (i) permanently financing 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) paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of the Local Statute, the bond ordinance duly enacted by the Issuer on December 2, 1987 and the resolution duly adopted by the Issuer on December 9, 1986 (collectively, the "Local Act") pursuant to which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

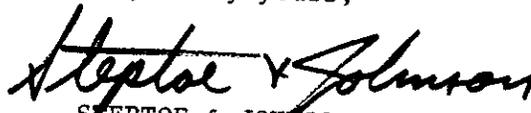
1. The Loan Agreement has been duly authorized by and executed on behalf of the Issuer and is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof.
2. The Loan Agreement inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Issuer without the consent of the Authority.
3. The Issuer is a duly organized and presently existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.
4. The Issuer has legally and effectively enacted and adopted the Local Act and an ordinance prescribing rates and charges for use of the System and all other necessary ordinances and resolutions in connection with the issuance and sale of the Local Bonds and the imposition of such rates and charges. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.
5. The Local Bonds are valid and legally enforceable special obligations of the Issuer, payable from the gross revenues of the System referred to in the Local Act and secured by a first lien on and pledge of the gross revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and the Local Bonds have been duly issued and delivered to the Authority.

6. The Local Bonds are, under the Local Statute, exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof, and the interest on the Local Bonds is exempt from personal and corporate income taxes imposed directly thereon by the State of West Virginia. Under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Local Bonds is exempt from federal income taxation; provided that, under the Internal Revenue Code of 1986 (the "Code") interest is includable in the financial statement current earnings of a corporation for purposes of computing the alternative minimum tax and the environmental tax that may be imposed upon such corporation.

Please be further advised that the rights of the holders of the Local Bonds and the enforceability of the Local Bonds, the Local Act and the Loan Agreement may be subject to remedies with respect to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights (to the extent constitutionally applicable) and that the enforcement thereof may also be subject to the exercise of judicial discretion in appropriate cases.

We have examined the executed and authenticated Local 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,


STEPTOE & JOHNSON

01/06/87
KGWD1-J



STEPTOE & JOHNSON

ATTORNEYS AT LAW

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January 7, 1987

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SPRAGUE W. HAZARD
HERSCHEL H. ROSE, III
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RICHARD M. YURKO, JR.
GARY W. NICKERSON
W. RANDOLPH FIFE

City of Kingwood
Water Revenue Bonds, Series 1987 B

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

Gentlemen:

We are bond counsel to the City of Kingwood (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a supplemental loan agreement, dated March 10, 1986 including all schedules and exhibits attached thereto (the "Supplemental Loan Agreement"), between the Issuer and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of supplemental, subordinate revenue bonds of the Issuer, dated January 7, 1987 (the "Supplemental Bonds"), to be purchased by the Authority in accordance with the provisions of the Supplemental Loan Agreement. The Supplemental Bonds are in the principal amount of \$689,388, issued in the form of one bond registered as to principal to the Authority, without interest thereon, with principal payable in installments on October 1 in each of the years 1989 through 2026, inclusive, all as set forth in "Schedule X," attached to the Supplemental Loan Agreement.

The Supplemental Loan Agreement is supplemental to a loan agreement also dated March 10, 1986, between the Issuer and the Authority (the "Loan Agreement"). The Supplemental Bonds are junior, subordinate and inferior as to lien and source of and security for payment to the bonds issued pursuant to the Loan Agreement and designated "Water Revenue Bonds, Series 1987 A" (the "Local Bonds"), which Local Bonds are issued simultaneously herewith.

The Supplemental Bonds are issued, together with the Local Bonds, 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 Code of West Virginia, 1931, as amended (the "Local Statute"), for the purposes of (i) permanently financing 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) paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of the Local Statute, the bond ordinance duly enacted by the Issuer on December 2, 1986 and the resolution duly adopted by the Issuer on December 9, 1986 (collectively, the "Local Act") pursuant to which Local Statute and Local Act the Supplemental Bonds are authorized and issued, and the Supplemental Loan Agreement that has been undertaken. The Supplemental Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Supplemental Loan Agreement.

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

1. The Supplemental Loan Agreement has been duly authorized by and executed on behalf of the Issuer and is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof.
2. The Supplemental Loan Agreement inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Issuer without the consent of the Authority.
3. The Issuer is a duly organized and presently existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Supplemental Loan Agreement and to issue and sell the Supplemental Bonds, all under the Local Statute and other applicable provisions of law.
4. The Issuer has legally and effectively enacted and adopted the Local Act and an ordinance prescribing rates and charges for use of the System and all other necessary ordinances and resolutions in connection with the issuance and sale of the Supplemental Bonds and the imposition of such rates and charges. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Supplemental Loan Agreement.
5. The Supplemental Bonds are valid and legally enforceable special obligations of the Issuer, payable from the gross revenues of the

System referred to in the Local Act and secured by a lien on and pledge of the gross revenues of said System, junior and subordinate only to that created for the Local Bonds, all in accordance with the terms of the Supplemental Bonds and the Local Act, and have been duly issued and delivered to the Authority.

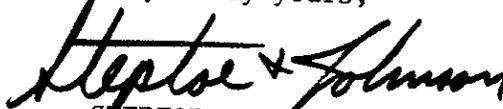
6. The Issuer has reserved the right to issue additional bonds ranking on a parity with the Supplemental Bonds, as provided in the Local Act.

7. The Supplemental Bonds are, under the Local Statute, exempt from taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

Please be further advised that the rights of the holders of the Local Bonds and the enforceability of the Local Bonds, the Local Act and the Loan Agreement may be subject to remedies with respect to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights (to the extent constitutionally applicable) and that the enforcement thereof may also be subject to the exercise of judicial discretion in appropriate cases.

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

Very truly yours,


STEPTOE & JOHNSON

01/06/87
KGWD1-K

STEPTOE & JOHNSON

ATTORNEYS AT LAW

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GARY W. NICKERSON
W. RANDOLPH FIFE

January 7, 1987

City of Kingwood Water Revenue Bonds, Series 1987 A

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

Gentlemen:

We have examined a transcript of proceedings relating to the issuance of \$2,810,612 aggregate principal amount of Water Revenue Bonds, Series 1987 A (the "Local Bonds"), of the City of Kingwood (the "Issuer"), and a Certificate as to Arbitrage executed by the Mayor of the Issuer on this date.

Based upon such Certificate as to Arbitrage, we are of the opinion that the facts, estimates and circumstances set forth in the Certificate as to Arbitrage are sufficient to satisfy the requirements of Section 148 of the Internal Revenue Code of 1986 (the "Code") to support the conclusion that the Local Bonds are not "arbitrage bonds" as therein defined. No matters have come to our attention which make unreasonable or incorrect such statements, expectations or representations.

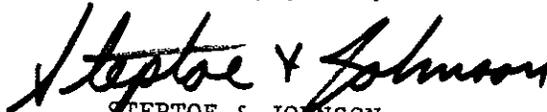
Accordingly, it is our opinion that, under existing statutes, regulations, rulings and court decisions, the Local Bonds are not "arbitrage bonds" as so defined. It is our further opinion, based upon such Certificate of Arbitrage that proceeds of the Bonds are not subject to the arbitrage rebate requirements set forth in Section 148(f) of the Code.

In rendering this opinion, we have relied upon the representations of the Issuer to the effect that (i) the Issuer has general taxing powers to finance operations of or facilities of the nature of the Project; (ii) the Issuer and all subordinate entities reasonably expect to issue less than \$5,000,000 of tax-exempt bonds during the calendar year 1987, being the

West Virginia Water Development Authority
Page 2

calendar year in which the Bonds were issued; and (iii) the Issuer has issued no other tax-exempt bonds during such calendar year. We express no opinion herein as to the taxability of the interest on the Bonds in the event of the failure to comply with the requirements and restrictions of Section 148 of the Code, and any regulations promulgated thereunder.

Very truly yours,


STEPTOE & JOHNSON

01/06/87
KGWD1-L



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LAW OFFICES
BROWN & WILLIAMS
113 WEST COURT STREET
KINGWOOD, WEST VIRGINIA 26537

RONALD R. BROWN
SHEILA KAE WILLIAMS

January 7, 1987

329-1155
AREA CODE 304

City of Kingwood
Water Revenue Bonds
Series 1987 A and Series 1987 B

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

Steptoe & Johnson
P.O. Box 2190
Clarksburg, WV 26301

Gentlemen:

I am counsel to the City of Kingwood, in Preston County, West Virginia, (the "Issuer"). As such counsel, I have examined copies of the approving opinions of Steptoe & Johnson, as bond counsel, a loan agreement and supplemental loan agreement, both dated March 10, 1986, by and between the West Virginia Water Development Authority (the "Authority") and the Issuer (collectively, the "Loan Agreement"), the Local Act (as defined therein) and other documents relating to the above-captioned Bonds of the Issuer. Terms used in said opinions, Local Act and Loan Agreement and not otherwise defined herein have the same meanings herein.

I am of the opinion that:

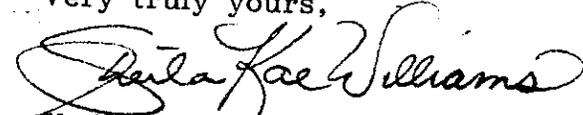
1. The Loan Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority, constitutes a valid and binding agreement of the Issuer in accordance with its terms.
2. The members of the city council of the Issuer have been duly and properly elected, have taken the requisite oaths, and are authorized to act on behalf of the Issuer.
3. The Local Act has been duly enacted and adopted by the Issuer and is in full force and effect.
4. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transactions contemplated by the Loan Agreement, and the 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 agreement or other instrument to which the Issuer is a party or any existing law, regulations, court order or consent decree to which the Issuer is subject.

5. The Issuer has received all permits, licenses, approvals and authorizations necessary for the issuance of the Bonds, construction of the Project, operation of the System and imposition of rates and charges, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges and the receipt of all requisite orders and approvals from the Public Service Commission of West Virginia. The time for appeal of such rate ordinance and orders and approvals of the Public Service Commission of West Virginia has expired prior to the date hereof.

6. To the best of our knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Loan Agreement or the validity of the Bonds or the collection or pledge of the Gross revenues therefor.

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 dark ink and is positioned above the typed name.

Sheila Kae Williams

CITY OF KINGWOOD

Water Revenue Bonds,
Series 1987 A and Series 1987 B

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. GRANTS
11. LOAN AGREEMENT
12. RATES
13. SIGNATURES AND DELIVERY
14. BOND PROCEEDS
15. PUBLICATION AND PUBLIC HEARING ON BOND AND NOTES ORDINANCE
16. PRIVATE USE OF FACILITIES
17. SPECIMEN BONDS

We, the undersigned MAYOR and the undersigned RECORDER of the City of Kingwood in Preston County, West Virginia (the "Issuer"), and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the \$3,500,000 aggregate principal amount of the City of Kingwood Water Revenue Bonds, Series 1987 A and Series 1987 B (collectively, the "Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined shall have the same meaning as in the Bond and Notes Ordinance of the Issuer enacted December 2, 1986, and a Supplemental Resolution adopted December 9, 1986 (collectively, the "Local Act").

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, construction of the Project, operation of the System, receipt of the Grant Receipts or the Gross Revenues, or in any way contesting or affecting the validity of the Bonds or the Grants 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, construction of the Project, operation of the System, receipt of the Grant Receipts or such pledge or application of moneys and security or the collection of the Gross Revenues or pledge thereof.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable approvals and certificates required by law for construction of the Project, operation of the System and issuance of the Bonds have been obtained and remain in full force and effect, and competitive bids for construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the Official 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 and execution and delivery by the Issuer of the Loan Agreement, and the Issuer has met all conditions prescribed in all previous loan agreements, if any, entered into between the Issuer and the Authority. There are no outstanding debt obligations of the Issuer, or obligations for which full and irrevocable provision for payment has not been made, 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:

Charter of the City of Kingwood.

Ordinances Establishing Board of Water Commissioners.

Bond and Notes Ordinance.

Supplemental Resolution.

Rate Ordinance.

Affidavit of Publication of Abstract of Bond and Notes Ordinance and Notice of Hearing.

Affidavits of Publication of Rate Ordinances and Notices of Public Hearings.

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

Loan Agreement.

EDA Grant Agreement.

Public Service Commission Orders entered August 29, September 19 and October 14, 1986.

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is the "City of Kingwood" and it is a municipal corporation in Preston County and presently existing under the laws of, and a political subdivision of, the State of West Virginia. The governing body of the Issuer is its Mayor and Council consisting of 6 members whose names and dates of commencement and termination of current terms of office are as follows:

<u>Name</u>	<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Patrick R. Crogan - Mayor	July 1, 1985	June 30, 1987
Harry E. VanInderstine - Councilmember	July 1, 1985	June 30, 1987
Richard L. DeGolyer - Councilmember	July 1, 1985	June 30, 1987
Richard L. Livengood - Councilmember	July 1, 1985	June 30, 1987
Nelson E. Corbin - Councilmember	July 1, 1985	June 30, 1987
Harry T. Harned - Councilmember	March 18, 1986	June 30, 1987
David L. Estep - Councilmember	July 1, 1985	June 30, 1987

The duly appointed and acting Recorder is Harry E. VanInderstine. The duly appointed and acting counsel to the Issuer is Brown & Williams, Kingwood, West Virginia.

7. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the construction of the Project and 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 construction, acquisition, 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 Chapter 6, Article 9A, of the Official West Virginia Code of 1931, as amended, and a quorum of duly elected, qualified and acting members of the Governing Body was present and acting at all times during all such meetings.

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 Local Act.

10. GRANTS: As of the date hereof, the EDA Grant in the amount of \$900,000 is committed and in force and effect.

11. 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; and (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.

12. RATES: The Issuer has duly enacted an Ordinance on April 8, 1986, setting rates and charges for the services of the System. By Order entered August 29, 1986, the Public Service Commission of West Virginia modified the rates and charges set forth in such Ordinance. By ordinance enacted December 2, 1986, the Issuer confirmed and ratified the rates and charges prescribed in said Order of the Public Service Commission. Such ordinances are presently in full force and effect, and the period for appeal of such ordinances and the Order of the Public Service Commission has expired.

13. SIGNATURES AND DELIVERY: On the date hereof, the undersigned Mayor did officially sign all of the Bonds of the

aforesaid issue, all dated January 7, 1987, by his manual signature, and the undersigned Recorder did officially cause the official seal of the Issuer to be imprinted upon each of said Bonds and to be attested by his manual signature, and the Registrar did officially authenticate and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the Loan Agreement. Said official seal is also impressed above the signatures appearing on this certificate.

14. BOND PROCEEDS: On the date hereof the Issuer received from the Authority the agreed purchase price of the Series 1987 A Bonds, being \$2,810,612 (100% of par value), there being no interest accrued thereon. Proceeds of the Series 1987 B Bonds in the amount of \$689,388 are expected to be received in approximately 60 days.

15. PUBLICATION AND PUBLIC HEARING ON BOND AND NOTES ORDINANCE: Upon adoption of the Bond and Notes 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 a newspaper published and of general circulation in the City of Kingwood, together with a notice to all persons concerned, stating that the Bond and Notes Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in such Ordinance, stating that any person interested may appear before the Council at the public hearing held at a public meeting of Council on the 2nd day of December, 1986, at 7:00 p.m., in the Council Chambers of the City Hall of the City of Kingwood and present protests, and stating that a certified copy of the Ordinance was on file with the Council for review by interested parties during the office hours of the Recorder. At such hearing all objections and suggestions were heard by the Governing Body and the Bond and Notes Ordinance became finally adopted, enacted and effective as of the date of such public hearing, and remains in full force and effect.

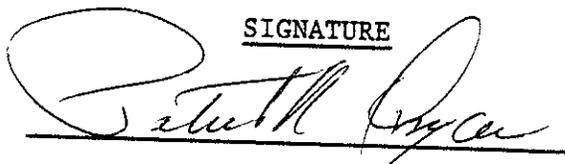
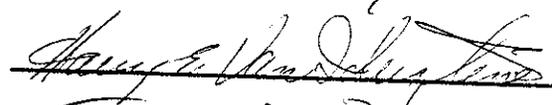
16. PRIVATE USE OF FACILITIES: The Issuer shall at all times take, and refrain from taking, and shall not fail to take, any and all actions necessary in order to assure the initial and continued tax-exempt status of the Bonds. Less than 10% of the proceeds of the Bonds will be used, directly or indirectly, for any private business use, and less than 10% of the payment of principal on, or the interest on, such issue, under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by any interest in property used or to be used for a private business use, payments in respect of such property, or to be derived from

payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use. None of the proceeds of the Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Bonds, including the disproportionate related business use of the proceeds of the Bonds, and none of the payment of principal on, or the interest on, such issue, under the terms of any underlying arrangement, is, directly or indirectly, secured by any interest in property used, or to be used for a private business use, payments in respect of such property or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use with respect to such private business use, which is not related to any government use of such proceeds, including the disproportionate business use of the issue of the Bonds. None of the proceeds of the issue of the Bonds will be used, directly or indirectly, to make or finance loans to persons other than governmental units. For purposes of this paragraph, private business use means use, directly or indirectly, use in a trade or business carried on by any person other than a governmental unit, other than use as a member of the general public, all within the meaning of Section 141 of the Internal Revenue Code of 1986.

17. SPECIMEN BONDS: Delivered concurrently herewith are true and accurate specimens of the Bonds.

WITNESS our signatures and the official seal of the CITY OF KINGWOOD on this 7th day of January, 1987.

[CORPORATE SEAL]

<u>SIGNATURE</u>	<u>OFFICIAL TITLE</u>
	Mayor
	Recorder
	Counsel to Issuer

01/06/87
KGWD1-N

CITY OF KINGWOOD

Water Revenue Bonds,
Series 1987 A

CERTIFICATE AS TO ARBITRAGE

I, PATRICK R. CROGAN, Mayor of the City of Kingwood, in Preston County, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of \$2,810,612 aggregate principal amount of Water Revenue Bonds, Series 1987 A, of the Issuer, dated January 7, 1987 (the "Local Bonds"), hereby certify as follows:

1. This certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986 and regulations promulgated thereunder (the "Code"). I am one of the officers of the Issuer charged with the responsibility of issuing the Local Bonds. I am familiar with the facts, circumstances, and estimates herein certified and am duly authorized to execute and deliver this certificate on behalf of the Issuer.

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

3. The Issuer has not been notified by the Internal Revenue Service of any listing or proposed listing of it as an issuer the certification of which may not be relied upon by holders of obligations of the Issuer or that there is any disqualification of the Issuer by the Internal Revenue Service because a certification made by the Issuer contains a material misrepresentation.

4. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on January 7, 1987, the date on which the Local Bonds are to be physically delivered in exchange for the issue price thereof, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

5. In the ordinance pursuant to which the Local Bonds are issued, the Issuer has covenanted to make no use of the proceeds of the Local Bonds which would cause the Local Bonds to be "arbitrage bonds" within the meaning of the Code.

6. The Local Bonds were sold on January 7, 1987, to the West Virginia Water Development Authority (the "Authority") for an aggregate purchase price of \$2,810,612 (100% of par).

7. The Local Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of paying a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the existing municipal waterworks facilities of the Issuer (the "Project"), and paying costs of issuance thereof.

8. The Issuer shall, within 30 days following delivery of the Local Bonds, enter into agreements which require the Issuer to expend in excess of \$100,000 on the Project. Acquisition, construction and equipping of the Project will proceed with due diligence to completion, and all of the proceeds from the sale of the Local Bonds, together with any investment earnings thereon, will be expended for payment of Costs of the Project on or before May, 1988. Construction of the Project is expected to be completed by April, 1988.

9. The total cost of the Project is estimated at \$4,745,000. The amount of Project costs not expected to be reimbursed or paid from grants, tap fees, earnings on the Construction Fund and funds on hand is estimated to be at least \$3,500,000. Except for the proceeds of the Local Bonds, the Series 1987 B Bonds, the Grants, the tap fees, earnings on the Construction Fund and funds on hand in the amount of \$250,000, no other funds of the Issuer will be available to meet costs of the Project, and no balances are available to meet such costs in any account which may, without legislative or judicial action, be invaded to pay such expenditures without a legislative, judicial or contractual requirement that such account be reimbursed.

10. Pursuant to Article V of the Local Act, the following special funds or accounts have been created:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Bond Construction Trust Fund;
- (4) Series 1987 A Bonds Sinking Fund, and within the Series 1987 A Bonds Sinking Fund the Series 1987 A Bonds Reserve Account; and

(5) Series 1987 B Bonds Sinking Fund, and within the Series 1987 B Bonds Sinking Fund the Series 1987 B Bonds Reserve Account.

11. Pursuant to Article VI of the Local Act the proceeds of the Local Bonds (and the Series 1987 B Bonds described in the Local Act, which bear no interest) will be deposited in the Bond Construction Trust Fund and applied solely to payment of Costs of the Project, including costs of issuance of the Local Bonds and related costs.

12. All moneys in the Series 1987 A Bonds Sinking Fund (excepting investment earnings thereon which will be deposited in the Revenue Fund) will be used solely to pay principal of and interest on the Local Bonds and will not be available to meet costs of construction of the Project.

13. Except for the Series 1987 A Bonds Sinking Fund, there are no other funds or accounts established or held by the Issuer which are reasonably expected to be used to pay debt service on the Local Bonds or which are pledged as collateral for the Local Bonds and for which there is a reasonable assurance that amounts therein will be available to pay debt service on the Local Bonds, if the Issuer encounters financial difficulties.

14. The Issuer expects that no part of the Project financed by the Local Bonds will be sold or otherwise disposed of prior to the last maturity date of the Local Bonds.

15. All of the proceeds of the Local Bonds will be expended on the Project within 16 months from the date of issuance thereof.

16. Any money deposited in the Series 1987 A Bonds Sinking Fund for payment of the principal of or interest on the Local Bonds (other than the Series 1987 A Bonds Reserve Account therein) will be spent within a 13-month period beginning on the date of receipt.

17. The Issuer shall rebate to the United States the amounts required by Section 148 of the Internal Revenue Code of 1986, subject to the exceptions set forth therein, and shall 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 Local Bonds.

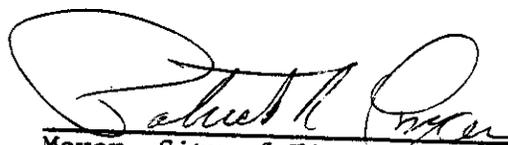
18. The Issuer has general taxing powers to finance operations of or facilities of the nature of the System, and the Issuer and all subordinate entities reasonably expect to issue less than \$5,000,000 of tax-exempt bonds during the calendar year in which the Local Bonds are to be issued and has issued no other obligations during the current calendar year except for the Series 1986 B Bonds, which bear no interest and which are in the aggregate principal amount of \$689,388.

19. The Issuer will take all further actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

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

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

IN WITNESS WHEREOF, I have set my hand this 7th day of January, 1987.



Mayor, City of Kingwood

01/06/87
KGWD1-0

CITY OF KINGWOOD

Water Revenue Bonds,
Series 1987 A and Series 1987 B

ENGINEER'S CERTIFICATE

I, John T. Kane, Registered Professional Engineer, West Virginia License No. 9860 of The Chester Engineers, consulting engineers, of Pittsburgh, Pennsylvania hereby certify as follows:

1. My firm is engineer for the construction and acquisition of certain municipal waterworks facilities (the "Project") for the City of Kingwood in Preston County, West Virginia (the "Issuer"). Certain costs of such construction and acquisition are being financed in part by proceeds of the above-captioned bonds (the "Bonds") and out of certain grant proceeds from the United States Economic Development Administration and funds of the Issuer.

2. The undersigned hereby certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm, or amendments thereto and as described in the Application submitted to the WDA and approved by all necessary governmental bodies and is situate wholly or chiefly within the boundaries of the City of Kingwood; (ii) the Project is adequate for the purpose for which it was designed and all necessary governmental approvals for the construction thereof have been obtained; (iii) my firm has examined and reviewed all plans, specifications, bid documents and construction contracts relating to the Project and all bids for construction of the Project have been received in an amount and are otherwise compatible with the plan of financing described in said Application and my firm will ascertain that all contractors have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds will be verified for accuracy and completeness prior to commencement of construction of the Project; (iv) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States of America necessary for construction of the Project or will have received all such permits prior to commencement of construction of the Project; (v) the construction and funding for the Project should proceed to a successful conclusion within the time schedules proposed; (vi) the useful life of the facilities constituting the Project is not less than 40 years; (vii) the rates and charges for the waterworks system

of the Issuer comply with the applicable provisions of the Loan Agreement and Supplemental Loan Agreement by and between WDA and the Issuer; and (viii) the net proceeds of the Bonds, together with the proceeds of grants irrevocably committed therefor and other moneys on deposit or to be simultaneously deposited and irrevocably committed therefor, will be sufficient to pay the costs of acquisition and construction of the Project as set forth in the application submitted to WDA on the date of the Loan Agreement.

1987. WITNESS my signature on this 7th day of January,

THE CHESTER ENGINEERS

By _____

12/12/86
KGWD1-E

CITY OF KINGWOOD

Water Revenue Bonds,
Series 1987 A and Series 1987 B

SUPPLEMENTAL ENGINEER'S CERTIFICATE

I, John T. Kane, Registered Professional Engineer, West Virginia License No. 9860 of The Chester Engineers, consulting engineers, of Pittsburgh, Pennsylvania hereby certify as follows:

1. My firm is engineer for the construction and acquisition of certain additions, betterments and improvements (the "Project") for the existing municipal waterworks facilities of the City of Kingwood (the "Issuer") in Preston County, West Virginia (such existing waterworks system, together with the Project is herein called the "System"). Certain costs of such construction and acquisition are being financed in part from proceeds of the above-captioned bonds (the "Bonds") and from certain grant proceeds to be received from the United States Economic Development Administration and funds of the Issuer. Rates and charges for the System have been implemented by enactment of certain ordinances of the Issuer, including an ordinance enacted December 2, 1986 (the "Final Rate Ordinance").
2. The undersigned hereby certifies that the rates and charges set forth in Schedule 1 of the Final Rate Ordinance will provide revenues during the period of construction of the Project which, together with other revenues of the System or funds available therefrom will be sufficient to pay all repair, operation and maintenance expenses and leave a balance equal to at least 115% of the maximum amount required in any year for debt service on the Bonds and all other obligations secured or payable from the revenues of the System prior to or on a parity with the Bonds, regardless of whether such rates and charges are implemented during October, 1986, or following commencement of construction of the Project, expected to occur in January, 1987.

1987. WITNESS my signature on this 7th day of January,

THE CHESTER ENGINEERS

By _____

01/02/87
KGWD1-V



KENNETH E. MALONEY
CERTIFIED PUBLIC ACCOUNTANT
P.O. BOX 520
KINGWOOD, W. VA. 26537-0520

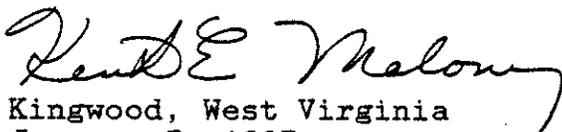
PHONE (304) 329-2752

CITY OF KINGWOOD
WATER REVENUE BONDS
SERIES 1987 A AND SERIES 1987 B

West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25065

Gentlemen:

Based upon the rate and charges as set forth in an ordinance of the City of Kingwood enacted December 2, 1986, and projected operation and maintenance expenses and anticipated customer usage as furnished to us by The Chester Engineers, consulting engineers, it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other projected revenues of the waterworks system of the City of Kingwood, will pay all repair, operation and maintenance 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 1987 A, and Series 1987 B, to be issued to the West Virginia Water Development Authority and all other obligations secured or payable from the revenues of the System prior to or on a parity with such Bonds.


Kingwood, West Virginia
January 7, 1987



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 and property therein are protected, and to this end he may cause the arrest and

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.



STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, Patrick R. Crogan, 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, Municipality of Kingwood

of Preston County, for the two year term commencing on the 1st

day of July, 19 85, to the best of my skill and judgment. So help me God.

(Sign Here) *Patrick R. Crogan*

Subscribed and sworn to before the undersigned this 13th day of May, 1985

Attest:

Hayes W. DeLoatch
Recorder

Eleanor L. Williams
Notary Public

County Clerk
Kingwood, W. VA.

My commission expires October 10, 1994

I certify this to be a true and actual copy.

Eleanor L. Williams
Eleanor L. Williams

STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, Harry E. VanIderstine, 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, Municipality of Kingwood

of Preston County, for the two year term commencing on the 1st
day of July, 19 85, to the best of my skill and judgment. So help me God.

(Sign Here) *Harry E. VanIderstine*

Subscribed and sworn to before the undersigned this 13th day of May, 19 85

Attest:

Harry E. VanIderstine
Recorder

Eleanor L. Williams
Notary Public

County Clerk
Kingwood, W. VA.

My commission expires October 10, 1994

I certify this to be a true and actual copy.

Eleanor L. Williams
Eleanor L. Williams

STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, Nelson E. Corbin, 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 Councilman, Third Ward, Municipality
of Kingwood

of Preston County, for the two year term commencing on the 1st

day of July, 19 85, to the best of my skill and judgment. So help me God.

(Sign Here) Nelson E Corbin

Subscribed and sworn to before the undersigned this 13th day of May, 19 85

Attest:

Walter Dean Johnston Recorder Eleanor L Williams Notary Public

County Clerk
Kingwood, W. VA.

My commission expires October 10, 1994

I certify this to be a true and actual copy.

Eleanor L Williams
Eleanor L. Williams

STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, Richard L. DeGolyer, 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 Councilman, First Ward, Municipality

of Kingwood

of Preston County, for the two year term commencing on the 1st

day of July, 19 85, to the best of my skill and judgment. So help me God.

(Sign Here) Richard L. DeGolyer

Subscribed and sworn to before the undersigned this 13th day of May, 19 85

Attest:

Hugh W. DeGolyer
Recorder

Eleanor L. Williams
Notary Public

County Clerk
Kingwood, W. VA.

My commission expires October 10, 1994

I certify this to be a true and actual copy.

Eleanor L. Williams
Eleanor L. Williams

STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, David L. 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 Councilman, Fifth Ward, Municipality

of Kingwood

of Preston County, for the two year term commencing on the 1st

day of July, 19 85, to the best of my skill and judgment. So help me God.

(Sign Here) David L. Estep

Subscribed and sworn to before the undersigned this 13th day of May, 1985.

Attest:

Harry E. ...
Recorder

Eleanor L. Williams
Notary Public

County Clerk
Kingwood, W. VA.

My commission expires October 10, 1994

I certify this to be a true and actual copy.

Eleanor L. Williams
Eleanor L. Williams

STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, Harry Thomas Harned, 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 Councilman, Fourth Ward, Municipality

of Kingwood

of Preston County, for the unexpired term commencing on the 18th

day of March, 19 86, to the best of my skill and judgment. So help me God.

(Sign Here) Harry Thomas Harned

Subscribed and sworn to before the undersigned this 18th day of March, 19 86.

Attest:

Harry Wendell Lewis

County Clerk Recorder
Kingwood, W. VA.

Eleanor L. Williams
Notary Public

My commission expired October 10, 1994

I certify this to be a true and actual copy.

Eleanor L. Williams
Eleanor L. Williams

STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, Richard L. Livengood, 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 Councilman, Second Ward, Municipality

of Kingwood

of Preston County, for the two year term commencing on the 1st

day of July, 19 85, to the best of my skill and judgment. So help me God.

(Sign Here) Richard L. Livengood

Subscribed and sworn to before the undersigned this 13th day of May, 19 85

Attest:

[Signature]
Recorder

Eleanor L. Williams
Notary Public

County Clerk
Kingwood, W. VA.

My commission expires October 10, 1994

I certify this to be a true and actual copy.

Eleanor L. Williams
Eleanor L. Williams

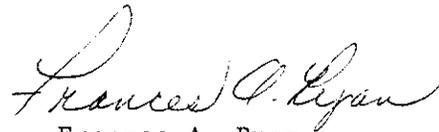


KINGWOOD WATER WORKS

125 East High Street
KINGWOOD, WEST VIRGINIA 26537

December 9, 1986

This is to certify that this is a true and actual copy of the minutes of the Kingwood Water Board.


Frances A. Ryan
Clerk

December 3, 1986

SPECIAL MEETING

Members attending: Stephen F. Decker, Ronald F. Kelly, John Crogan, David Estep & Alan Tennant.

Guests: Sheila K. Williams - Attorney for the Kingwood Water Works
William Rice - Chester Engineers
John T. Kane - Chester Engineers

The meeting was called to order by the chairman. A recommendation by Chester Engineers was presented by John Kane concerning the awarding of the construction contracts on a contingency basis. This recommendation was put into the form of a motion by John Crogan. The motion is as follows:

"Construction contracts should be awarded as of January 7, 1987 on a contingency basis pending bond closing with the West Virginia Water Development Authority on that same date. Those contracts being as follows":

<u>Contract Number</u>	<u>Contractor</u>	<u>Amount</u>
1	Pevarnik Brothers Inc.	\$2,720,420.00
2	Gross Industrial Construction Co.	\$ 342,600.00
A	Dave Sugar Inc.	\$ 930,296.50

The motion was seconded by David Estep. The vote was conducted with unanimous approval of the motion.

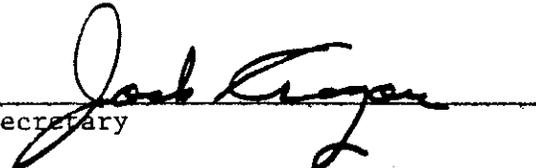
Ms. Williams was instructed to follow-up with the necessary paper work.

The second item of business was an ammended proposal for engineering services during construction. After much discussion, the ammended proposal was submitted to legal council for review.

On motion by Ronald Kelly and second by Alan Tennant the Kingwood Water Board recommends and approves that the City of Kingwood issue bonds for water project, not more that \$3,000,000.00 Series A Water Revenue Bonds and not more that \$1,000,000.00 Series B Water Revenue Bonds and not more than \$1,000,000.00 Interim Construction Financing.

There being no further business the meeting was adjourned.


Chairman


Secretary



Certificate of Publication

PUBLIC NOTICE

**CITY OF KINGWOOD
NOTICE OF PUBLIC HEARING
ON WATER BOND AND NOTES
ORDINANCE**

A public hearing will be held on the following-entitled Ordinance at a special meeting of the Council of the City of Kingwood to be held on December 2, 1986, at 7:00 p.m. in the Council chambers at the Kingwood City Hall, and at such hearing all objections and suggestions shall be heard by the Council and it shall then take such action as it shall deem proper in the premises upon an 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 1986A; NOT MORE THAN \$1,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 1986B; AND NOR 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.

The above-entitled Ordinance was adopted by the Council of the City of Kingwood on November 11, 1986.

The above quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bond and Note issues contemplated thereby. The proceeds of the Bonds will be used to provide permanent financing of a portion of the costs of acquisition and construction of additions and improvements for the existing waterworks facilities of the City of Kingwood (the "Project"). The proceeds of the Notes will be used to provide temporary financing of a portion of such costs. The Bonds are payable solely from revenues to be derived from the ownership and operation of the waterworks system of the City. The Notes are payable solely from certain grant proceeds to be received by the City and certain other sources described in the Ordinance. No taxes may at any time be levied for the payment of the Bonds of the Notes or the interest thereon.

A certified copy of the above-entitled Ordinance is on file at the office of the Recorder of the City of Kingwood for review by interested parties during regular office hours.

Following said public hearing, the City Council intends to enact said Ordinance upon final reading.

Dated November 11, 1986
s/s Harry E. VanDerstine,
Recorder
11/13, 20

I, Delbert L. Benson

the undersigned publisher of The Preston County Journal, a weekly newspaper of general circulation, published at Kingwood, Preston County, West Virginia, do hereby certify that the notice

Public Notice

a copy of which notice is hereto annexed, was

published in said paper for one

successive weeks, beginning with its issue of

November 13, 1986

and expiring with its issue of

November 20, 1986

And, I do further certify that on

November 12, 1986

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

Delbert L. Benson

PUBLISHER

Subscribed and sworn to before me this the

14th day of November, 1986

Dorothy K. Oulert

NOTARY PUBLIC

My commission expires 3/7/93

Kingwood, W. Va., _____

Amount for publishing notice hereto \$ _____

PUBLISHER

4. DELAYED PAYMENT PENALTY:

The above tariff is net; on all accounts not paid in full within ~~ten~~^{twenty} (20) days of date of bill, ten percent (10%) will be added to net amount shown. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

5. CONNECTION CHARGES:

A charge of \$250.00 will be made for every new subscriber requiring a new connection where the meter is one inch or less in size.

Where new connections involve meters larger than one inch, the new connection will be \$300.00 or actual cost; whichever is greater.

6. Privately Owned Fire Hydrants and Fire Sprinkler Systems.

Fire hydrant and fire sprinkler systems installed on privately owned property as part of a privately owned fire protection system, within or outside the corporate limits of the City of Kingwood will be installed by the property owner at his expense, in accordance with engineering plans approved by the Kingwood Water Works. The Kingwood Water Works will provide, at Kingwood Water Works expense, any necessary extension of its distribution lines, to the private property line, to serve the private fire protection system. The charge for this extension work, to be assessed against the property owner, will be an annual charge equal to 24% of the cost of the extension work.

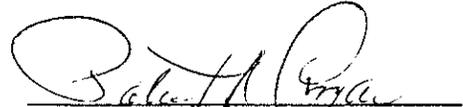
Privately owned fire hydrants and sprinkler systems in existence on the effective date of this tariff will be assessed in annual service charge of ~~three~~ ^{\$131.26} per individual hydrant or fire sprinkler system.

7. Preston County Owned Hydrants and Fire Sprinkler Systems. Fire hydrants or fire sprinkler systems located on or in County owned premises shall be installed at the direction and at the expense of the Preston County Commission in accordance with engineering plans approved by the Kingwood Water Works. Any necessary extension of the Kingwood Water Works distribution system required by these county facilities will be accomplished by the Kingwood Water Works at its expense. The county will be billed an annual amount equal to 24% of the cost of the Kingwood Water Works extension.

The effective date of the above described rate change will be forty-five (45) days from the date of the final approval and adoption of this ordinance by the Common Council of the City of Kingwood.

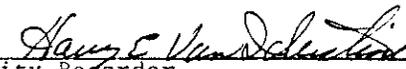
This Amendment to ARTICLE III, Paragraph 14 of the Ordinance Authorizing the Issuance of \$225,000 Principal Amount of Water Revenue Bonds of the Town of Kingwood, West Virginia, and

Providing for the Rights of the Holders Thereof passed and approved this 8th day of April, 1986.



Mayor, City of Kingwood
Kingwood, West Virginia

ATTEST:



City Recorder
Kingwood, West Virginia

First Reading March 25, 1986

Second Reading April 8, 1986

**PUBLIC NOTICE
RESOLUTION**

A resolution directing and authorizing the City Recorder to publish notice to all persons concerned that a Bill has been introduced at a meeting of the City Council proposing certain amendments for adoption of the rates and charges which were ordered by the Public Service Commission of West Virginia to be charged by the Water Board of the City of Kingwood and providing for a hearing at which interested persons may appear.

WHEREAS, on November 3, 1986, a bill was introduced in the Council of this City which would amend and re-enact: "AN AMENDMENT TO THE ORDINANCE CREATING THE KINGWOOD WATER WORKS SAID ORDINANCE BEING ENTITLED: "ORDINANCE AUTHORIZING THE ISSUANCE OF \$225,000.00 PRINCIPAL AMOUNT OF WATER REVENUE BONDS OF THE TOWN OF KINGWOOD, WEST VIRGINIA, AND PROVIDING FOR THE RIGHT OF THE HOLDERS THEREOF", AMENDING PARAGRAPH 14 CONCERNING WATER RATES." The text of said bill is as follows:

AN AMENDMENT TO THE ORDINANCE CREATING THE KINGWOOD WATER WORKS SAID ORDINANCE BEING ENTITLED: "ORDINANCE AUTHORIZING THE ISSUANCE OF \$225,000.00 PRINCIPAL AMOUNT OF WATER REVENUE BONDS OF THE TOWN OF KINGWOOD, WEST VIRGINIA AND PROVIDING FOR THE RIGHT OF THE HOLDERS THEREOF", AMENDING PARAGRAPH 14 CONCERNING WATER RATES.

WHEREAS, by an Order of the Public Service Commission of West Virginia, rates were established for the Municipality of Kingwood Water Works for the period of time prior to and during construction of Water Works improvements and rates after completion of construction of said improvements and said rates shall, therefore, be adopted by the Kingwood Water Works; now, therefore, the Common Council of the City of Kingwood, Preston County, West Virginia, upon Petition by the Kingwood Water Works for a change in the rates charged for water and services provided by said Water Works in accordance with the Order of the Public Service Commission of West Virginia, hereby approves the following tariff schedules for all customers of the Kingwood Water Works:

**SCHEDULE 1: RATES PRIOR TO AND DURING CONSTRUCTION
AVAILABILITY OF SERVICE**

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

RATE	
First 1,600 gallons used per month \$	5.00 per 1,000 gallons
Next 48,400 gallons used per month	\$3.59 per 1,000 gallons
Over 50,000 gallons used per month	\$3.02 per 1,000 gallons

MINIMUM CHARGES

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

**SCHEDULE 2, RATES AFTER COMPLETION OF CONSTRUCTION
AVAILABILITY OF SERVICE**

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

RATES	
First 1,600 gallons used per month \$	5.75 per 1,000 gallons
Next 48,400 gallons used per month	3.98 per 1,000 gallons
Over 50,000 gallons used per month	\$2.88 per 1,000 gallons

MINIMUM CHARGES

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

5/8 inch meter, or less	\$9.60 per month
3/4 inch meter, or less	13.80 per month
1 inch meter, or less	23.00 per month
1 1/2 inch meter, or less	6.00 per month
2 inch meter, or less	138.00 per month
6 inch meter, or less	460.00 per month

The effective date of the abovescribed rate change shall be effective immediately upon the final approval and adoption of the Ordinance by the Common Council of the City of Kingwood.

This Amendment to Article III, paragraph 14, of the "Ordinance Authorizing the issuance of \$225,000.00 Principal Amount of Water Revenue Bonds of the Town of Kingwood, West Virginia, and Providing for the Rights of the Holders Thereof" passed and approved this ___ day of ___, 1986.

Patrick R. Crogan, Mayor
City of Kingwood
Kingwood, West Virginia

ATTEST:

Harry E. VanDerstine, Recorder,
City of Kingwood,
Kingwood, West Virginia

FIRST READING _____

SECOND READING _____

THIRD READING _____

WHEREAS, Chapter 8, Article 19, of the Code of West Virginia, 1931, as amended, provides that notice of such hearing shall be given by publication in compliance with the provisions of Chapter 59 of the Code of West Virginia, as amended:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL: That the City Recorder is hereby authorized and directed to publish a copy of this Resolution once each week for two successive weeks in the Preston County Journal in the City of Kingwood, West Virginia, and the same shall constitute notice to all persons concerned that the bill herein stated has been introduced at a meeting of the City Council on November 3, 1986, and that the City Council contemplates the amendment of the Schedule of Rates and Charges as set forth in said bill as the just and equitable rates or charges for use of and the service rendered by the water system and works of the City of Kingwood, West Virginia, which said rates are to be adopted in accordance with the Order of the Public Service Commission of West Virginia and that any person interested may appear before the Council on the 2nd day of December, 1986, at 7:00 p.m. in the Council Chambers in the City Building, in the City of Kingwood, and present to the Council any protest or objection he may have to the rates or charges proposed in such bill. The first day of the successive publications aforesaid shall be at least ten days prior to the date set for the hearing of protests.

A copy of the proposed ordinance is available for public inspection in the office of the City Recorder

11/13/86

I, Delbert L. Benson

the undersigned publisher of The Preston County Journal, a weekly newspaper of general circulation, published at Kingwood, Preston County, West Virginia, do hereby certify that the notice

Resolution

a copy of which notice is hereto annexed, was

published in said paper for two

successive weeks, beginning with its issue of

November 13, 1986

and expiring with its issue of

November 20, 1986

And, I do further certify that on

November 13, 1986

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

[Signature]

PUBLISHER

Subscribed and sworn to before me this the

20th day of November, 1986

[Signature]

NOTARY PUBLIC

My commission expires 3/7/93

Kingwood, W. Va., _____

Amount for publishing notice hereto \$ _____

PUBLISHER



Certificate of Publication

**PUBLIC NOTICE
RESOLUTION**

A resolution directing and authorizing the City Recorder to publish notice to all persons concerned that a Bill has been introduced at a meeting of the City Council proposing certain amendments for adoption of the rates and charges which were ordered by the Public Service Commission of West Virginia to be charged by the Water Board of the City of Kingwood and providing for a hearing at which interested persons may appear.

WHEREAS, on November 3, 1986, a bill was introduced in the Council of this City which would amend and re-enact: "AN AMENDMENT TO THE ORDINANCE CREATING THE KINGWOOD WATER WORKS SAID ORDINANCE BEING ENTITLED: 'ORDINANCE AUTHORIZING THE ISSUANCE OF \$225,000.00 PRINCIPAL AMOUNT OF WATER REVENUE BONDS OF THE TOWN OF KINGWOOD, WEST VIRGINIA, AND PROVIDING FOR THE RIGHT OF THE HOLDERS THEREOF', AMENDING PARAGRAPH 14 CONCERNING WATER RATES." The text of said bill is as follows:

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WHEREAS, by an Order of the Public Service Commission of West Virginia, rates were established for the Municipality of Kingwood Water Works for the period of time prior to and during construction of Water Works improvements and rates after completion of said improvements and said rates shall, therefore, be adopted by the Kingwood Water Works; now, therefore, the Common Council of the City of Kingwood, Preston County, West Virginia, upon Petition by the Kingwood Water Works for a change in the rates charged for water and services provided by said Water Works in accordance with the Order of the Public Service Commission of West Virginia, hereby approves the following tariff schedules for all customers of the Kingwood Water Works:

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MINIMUM CHARGES

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

**SCHEDULE 2. RATES AFTER COMPLETION OF CONSTRUCTION
AVAILABILITY OF SERVICE**
Available for general domestic, commercial, industrial, and resale service.

RATES	
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The effective date of the abovescribed rate change shall be effective immediately upon the final approval and adoption of the Ordinance by the Common Council of the City of Kingwood.

This Amendment to Article III, paragraph 14, of the "Ordinance Authorizing the Issuance of \$225,000.00 Principal Amount of Water Revenue Bonds of the Town of Kingwood, West Virginia, and Providing for the Rights of the Holders Thereof" passed and approved this _____ day of _____, 1986.

Patrick R. Crogan, Mayor
City of Kingwood
Kingwood, West Virginia

ATTEST:
Harry E. VanDerstine, Recorder,
City of Kingwood,
Kingwood, West Virginia

FIRST READING _____
SECOND READING _____
THIRD READING _____

WHEREAS, Chapter 8, Article 19, of the Code of West Virginia, 1931, as amended, provides that notice of such hearing shall be given by publication in compliance with the provisions of Chapter 59 of the Code of West Virginia, as amended:

NOW, THEREFORE, BE IT RESOLVED BY THIS COUNCIL: That the City Recorder is hereby authorized and directed to publish a copy of this Resolution once each week for two successive weeks in the Preston County Journal in the City of Kingwood, West Virginia, and the same shall constitute notice to all persons concerned that the bill herein stated has been introduced at a meeting of the City Council on November 3, 1986, and that the City Council contemplates the amendment of the Schedule of Rates and Charges as set forth in said bill as the just and equitable rates or charges for use of and the service rendered by the water system and works of the City of Kingwood, West Virginia, which said rates are to be adopted in accordance with the Order of the Public Service Commission of West Virginia and that any person interested may appear before the Council on the 2nd day of December, 1986, at 7:00 p.m. in the Council Chambers in the City Building, in the City of Kingwood, and present to the Council any protest or objection he may have to the rates or charges proposed in such bill. The first day of the successive

I, Delbert L. Benson

the undersigned publisher of The Preston County Journal, a weekly newspaper of general circulation, published at Kingwood, Preston County, West Virginia, do hereby certify that the notice

Resolution

a copy of which notice is hereto annexed, was

published in said paper for two

successive weeks, beginning with its issue of

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November 20, 1986

And, I do further certify that on

November 13, 1986

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

[Signature]
PUBLISHER

Subscribed and sworn to before me this the

20th day of November, 1986

[Signature]
NOTARY PUBLIC

My commission expires 3/7/93

Kingwood, W. Va., _____

Amount for publishing notice hereto \$ _____

PUBLISHER

The purpose of this special meeting was to give the 1st reading on An Amendatory Ordinance for the Kingwood Water Works:
 AN AMENDMENT TO THE ORDINANCE CREATING THE KINGWOOD WATER WORKS SAID ORDINANCE BEING ENTITLED: "ORDINANCE AUTHORIZING THE ISSUANCE OF \$225,000.00 PRINCIPAL AMOUNT OF WATER REVENUE BONDS OF THE TOWN OF KINGWOOD, WEST VIRGINIA AND PROVIDING FOR THE RIGHT OF THE HOLDERS THEREOF", AMENDING PARAGRAPH 14 CONCERNING WATER RATES.

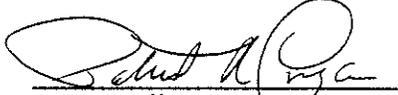
A motion by Mr. DeGolyer and seconded by Mr. Corbin, to accept this 1st reading and pass to the 2nd reading. Motion passed.

The 1st reading was also given on the Water Bond and Notes 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 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.

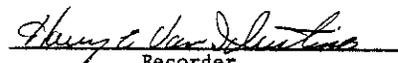
A motion by Mr. DeGolyer and seconded by Mr. Livengood, to accept this 1st reading and pass to the 2nd reading. Motion passed.

Council adjourned at 4:30 p.m., to meet regularly on November 11, 1986, at 7:00 p.m.

F00111



 Mayor



 Recorder

Council Chambers, November 11, 1986

Council met in regular session at 7:00 p.m., with the following members present: Mayor Patrick R. Crogan; Recorder Harry VanInderstine; Councilmen Nelson Corbin, Richard DeGolyer, David Estep, Richard Livengood; Clerk-treas. Mrs. Eleanor L. Williams.

Minutes of the last regular meeting of October 28, 1986 and special meeting of November 3, 1986, were approved and signed.

A motion by Mr. DeGolyer and seconded by Mr. Livengood, the following bills were allowed and ordered paid:

Ramada Inn-----	City Clerk's expenses in Charleston-----	\$	102.37
WV Public Employees Retirement-----	October, 1986 Retirement-----		2,257.01
A. James Manchin, Treasurer-----	Court Fees for October, 1986-----		85.00
Albright National Bank-----	To take Garbage tr. to Knoxville-----		300.00
James Peddicord, Post Master-----	Postage for garbage bills-----		81.00
Monongahela Power Co.-----	Traffic lights & City Hall-----		464.72
American Family Life Assur.-----	Cancer Insurance-----		217.63
Blue Cross & Blue Shield-----	Hospitalization Insurance-----		2,330.94
The Guardian Life Ins. Co.-----	Major Medical Insurance-----		1,309.68
Floyd W. Bolyard-----	84½ hrs. Labor-garbage-----	\$399.05 -	325.77
Kenneth C. Brown-----	Salary Police-----	499.92 -	221.81
Robert B. Chidester-----	72 hrs. Labor-streets-----	331.20 -	267.40
Francis E. Hyre-----	Salary Cemetery Caretaker-----	498.08 -	386.11
Randall E. Jefferys-----	80 hrs. Labor-streets-----	368.00 -	291.35
Gary A. Johnson-----	Salary Police-----	423.08 -	310.12
Thomas G. Martin-----	Salary Chief of Police-----	567.31 -	415.45
Wilbur D. McCabe-----	Salary Police-----	499.92 -	372.53
Robert L. Menear-----	80 hrs. Labor-garbage-----	560.00 -	418.46
Joseph L. Moore-----	84½ hrs. Labor-garbage-----	399.05 -	317.77
James E. Plum-----	85 hrs. Labor-garbage-----	411.25 -	326.80
Robert P. Sypolt-----	84½ hrs. Labor-garbage-----	399.05 -	308.38
Claude M. Waugerman-----	Salary City Supervisor-----	884.62 -	663.41
Eleanor L. Williams-----	Salary Clerk-treas.-----	634.62 -	469.32
Carolyn K. Wolfe-----	70 hrs. Office-----	364.00 -	282.58
Albright National Bank-----	Fed. W/H Tax 1st pay November, 1986-----		677.35
S.S. Contribution Fund-----	S.S. W/H Tax 1st pay November, 1986-----		1,035.16
Office of the Child Advocate-----	Payroll Deduction on Ken Brown, Child Support-----		139.65
Harold Drake-----	Garbage refund, moved out of town-----		41.84

Brian Knight-----	Garbage refund, moved out of town-----	\$ 36.61
A & A Office Helpers-----	Office supplies & Police Dept. Supplies-----	155.73
Albright National Bank-----	Landfill equipment payment-----	1,754.00
Beckwith Machinery Co.-----	Repairs to 977-----	1,989.96
Burgess Motor Co.-----	Streets-----	7.82
Childs Feed-----	Cemetery-----	26.50
City Supply-----	Repairs to landfill-----	13.82
Empire Lumber-----	City Hall repairs-----	12.00
Grandville Assoc., Inc.-----	Computer supplies-----	585.10
Hartman's Exxon-----	Kingwood Vol. Fire Dept.-----	236.68
Hibbs Radio Comm., Inc.-----	City Hall, Police, Streets & Fire Department-----	756.61
Kingwood Trucking Co., Inc.-----	To move equip. from landfill to City Hall--	120.00
Kingwood Water Works-----	City Hall-----	60.06
Monongahela Power Co.-----	Street lighting-----	1,573.03
Preston Hardware-----	City Hall and Streets-----	16.20
Preston Parts, Inc.-----	Police, Garbage, Streets & Cemetery-----	233.78
Rental Uniform Service-----	Garbage, Streets and Cemetery-----	108.75
Summers' Auto Parts-----	City Hall, Police, Garbage & Streets-----	225.57

A motion by Mr. Estep and seconded by Mr. Corbin, the following building permits were approved, provided they conform to all zoning regulations, motion passed.

Josephine Shumaker--Seemont Drive, Repair road - partial 6 X 7 area-----	400.00
Kenney Reckart--142 S. Price St., Remodel upstairs for 2 apartments-----	1,000.00
Bertha Harned--321 Morgantown St., Install new gutters and spouting-----	500.00
Carl Marsh--102 Fortney Ave., Re-shingle roof 44 squares-----	7,000.00
Richard L. Shrout--Wooddale, Replace old trailer with new trailer-----	9,000.00
Jerry Metheny-Browning's Funeral Home, Install parking lot 100 X 100-----	19,500.00

On the building permit for Richard L. Shrout, turned down by Council for lack of information. City Supervisor and Chief of Police are to check the building permit for Browning's Funeral Home to make sure that proper water control is maintained and it does not spill on other peoples property, also that traffic flow is done properly. On their recommendation this permit will be granted.

A motion by Mr. Estep and seconded by Mr. DeGolyer, that the 2nd reading on Water Rate: AN AMENDMENT TO THE ORDINANCE CREATING THE KINGWOOD WATER WORKS SAID ORDINANCE BEING ENTITLED: "ORDINANCE AUTHORIZING THE ISSUANCE OF \$225,000.00 PRINCIPAL AMOUNT OF WATER REVENUE BONDS OF THE TOWN OF KINGWOOD, WEST VIRGINIA, AND PROVIDING FOR THE RIGHT OF THE HOLDERS THEREOF". AMENDING PARAGRAPH 14 CONCERNING WATER RATES. 2nd reading was passed to the 3rd and final reading. Motion passed.

A motion by Mr. Estep and seconded by Mr. DeGolyer; that the 2nd reading on Bonds for the Water Company's construction be passed to the 3rd and final reading. Motion passed.

Richard Shaffer, from Tunnelton Street, addressed Council in regard to parking on the east side of Tunnelton St., in the vicinity of his property. This side of Tunnelton St., has been off street parking and due to the water problem in his back yard, Mr. Shaffer has no where to park. He requested consideration from Council that two (2) spaces be allowed for parking on the east side running south from the alley adjoining the Shaffer property. Mr. Corbin, City Supervisor and Chief of Police, has been chosen as the committee to resolve this problem.

Mr. Livengood, gave a report on the dumpsters; City does not have the money to purchase, recommends that customers purchase. The pick-up rates will not change by the use of a dumpster. The City is to assist customers in purchasing dumpsters. Claude Waugerman, indicated considerable interest by customers has been shown. Display of the dumpsters will be at City Hall. A motion by Mr. VanInderstine and seconded by Mr. Estep, that the recommendations from the special committee that customers purchase the dumpsters be accepted. Motion passed.

City Supervisor, Claude Waugerman addressed Council in regard to a letter received from DNR on our Landfill permit expiration of June 10, 1988. If City to continues landfill at present location, we must apply for a new permit by June 10, 1987. Claude is to check with Mt. State Surveying-cost of survey to anticipate closing of present site, also cost of permit on present site, to inform Council of fees.

City Streets; RE: Sewerage Construction; Citizens of City - public relations are poor. Council is not happy with any of the provisions of any contracts being adhered to. Council does not believe Councils concern has been adequately addressed. Mayor, has invited anyone to attend Sanitary Board meetings; 3rd Wed. of every month.

Sewer cleaning truck was discussed; could be a necessary piece of equipment, especially on gravity sewer lines.

Claude Waugerman reported on 977 dozer; can turn pins in track for \$2,600.00, plus bolts and segments approximately \$1,000.00 to do this project. \$3,600.00 approximate total. Claude is to proceed with this project, funded equipment repair.

RE: State Road Contract; City will check with City's Insurance Agency on the contract proposal.

County Court: sidewalk will be corrected. County Court wants letter to that effect.

Reckart Property: Due date is December 19, 1986 for completion. Owner is aware of this.

Streets: New areas to be carried over.

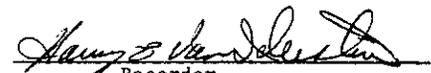
Water problem: Miller Road Still not resolved. Line will be opened.

Proposed Subdivision Regulations: Council is to study, subject to be discussed at next Council meeting.

Meeting adjourned at 9:25 p.m., to meet regularly on November 25, 1986, at 7:00 p.m.



Mayor



Recorder

Council Chambers, November 25, 1986

Council met in regular session at 7:00 p.m., with the following members present: Mayor Patrick R. Crogan; Recorder Harry VanDerstine; Councilmen Nelson Corbin, Richard DeGolyer, David Estep, Harry Harned, Richard Livengood; Clerk-treas. Mrs. Eleanor L. Williams.

Minutes of the last regular meeting of November 11, 1986, were approved and sigend.

A motion by Mr. Corbin and seconded by Mr. Livengood, the following bills were allowed and ordered paid:

Nelson E. Corbin-----Salary	Councilman-----	\$ 25.00 -	\$ 23.21
Patrick R. Crogan-----Salary	Mayor-----	57.00 -	45.12
Richard L. DeGolyer-----Salary	Councilman-----	25.00 -	23.21
David L. Estep-----Salary	Councilman-----	25.00 -	23.21
Harry T. Harned-----Salary	Councilman-----	25.00 -	23.21
Richard L. Livengood-----Salary	Councilman-----	25.00 -	23.21
William Z. Sparks-----Salary	Police Judge-----	400.00 -	371.40
Harry E. VanDerstine-----Salary	Recorder-----	41.00 -	38.07
Floyd W. Bolyard-----81½ hrs.	Labor-garbage-----	378.35 -	310.42
Kenneth C. Brown-----Salary	Police-----	499.92 -	229.00
Robert B. Chidester-----80½ hrs.	Labor-streets-----	371.45 -	297.29
Francis E. Hyre-----Salary	Cemetery Caretaker-----	498.08 -	386.11
Randall E. Jefferys-----77 hrs.	Labor-streets-----	354.20 -	281.09
Gary A. Johnson-----Salary	Police-----	423.08 -	310.12
Thomas G. Martin-----Salary	Chief of Police-----	567.31 -	415.45
Wilbur D. McCabe-----Salary	Police-----	499.92 -	372.53
Robert L. Menear-----86 hrs.	Labor-garbage-----	623.00 -	461.40
Joseph L. Moore-----81½ hrs.	Labor-garbage-----	378.35 -	310.42
James E. Plum-----85 hrs.	Labor-garbage-----	411.25 -	326.80
Robert P. Sypolt-----89½ hrs.	Labor-garbage-----	433.55 -	332.02
Claude M. Waugerman-----Salary	City Supervisor-----	884.62 -	663.41
Eleanor L. Williams-----Salary	Clerk-treas.-----	634.62 -	469.32
Carolyn K. Wolfe-----70 hrs.	Office-----	364.00 -	282.58
Albright National Bank-----	For garbage tr. to go to Tenn. to be reimb. -		61.50
Albright National Bank-----	Fed. W/H Tax, 2nd pay November, 1986-----		692.14
S.S. Contribution Fund-----	S.S. W/H Tax, 2nd pay November, 1986-----		136.10
Office of the Child Advocate-----	Payroll deductions on Ken Brown, Child Support		140.46
State Tax Department-----	State W/H Tax, for November, 1986-----		313.67
Engineering & Safety Service-----	1976 edition of the National Building Code--		10.00
C & P Telephone Co.-----	City Hall-----		206.72
Ames/Murphy Mart-----	Supplies for Police Dept.-----		9.32
IBM Corporation-----	Maintenance on Printer & Disc Drive-----		68.00
Mountaineer Gas-----	City Hall-----		425.00
Sheila Kae Williams-----	City Attorney-----		100.00
Eleanor Williams-----	November, 1986 Custodial Service-----		125.00
Coal Severance			
Monongahela Power Co.-----	276.32 Tons Ashes-----		276.32

A motion by Mr. Corbin and seconded by Mr. DeGolyer, the following building permits were approved, provided they conform to all zoning regulations, motion passed.

Michael Warden--100 Dawn St., Replace insulation & one rafter, elec. wiring, dry wall & enlarge porch 10 x 12-----	\$ 800.00
Gary Dumire--Pleasantdale, Tear down old building-----	100.00
Randall White--Spruce St., New garage door-----	400.00
Roy Watkins--Rt. 1, Tunnelton St., Replace sofit around house-----	345.00
On the building permit of Charles Pase--Grape Thicket, Insall storage building--	6,500.00

this building permit is being held pending further information.

A motion by Mr. VanInderstine and seconded by Mr. Harned, that funds from the Cemetery Endowment Fund be used to replace water tank, marlite, fan and tub kit at the Cemetery House. Anticipated cost approximately \$250.00. Motion passed

In regard to the contract with the DOH, if paragraph #4 is eliminated, then the contract can be signed. The City does not have the money for separate insurance for such a contract. A motion by Mr. VanInderstine and seconded by Mr. DeGolyer, eliminate paragraph #4 and sign. Motion passed.

RE: Sub-division regulations - Virginia Lee Dailey, proposed a draft for Council to review. At the 2nd meeting in January, 1987, this will be discussed.

Planning Commission - recommendations to fill the unexpired term of Nolan Thomas, by December 9, 1986.

Claude Waugerman, EPA Landfill, no report as to City landfill - \$300.00 fee to State either to close or to continue. Claude is to check with engineers for cost of meeting and filing EPA documents.

Public Meeting, December 2, 1986 at 7:00 p.m. for Water Rates, 3rd and final reading, also Revnue Bond for passage.

Mr. DeGolyer reported a water problem at the Love Chapel's new parsonage. City Supervisor and Mr. DeGolyer to recommend solution.

RE: Richard Shaffer, parking on Tunnelton St., Mr. Corbin reported that Mr. Shaffer be permitted to have the two (2) car parking, as per previous minutes.

Mr. Livengood, in regard to letter received by all Council concerning parking in the up-town area, with meters. A copy of this letter is to become a part of these minutes. The parking ordinance stands. Further information will be developed in regard to the problem of parking up-town.

DOH traffic signs Rt. 7, East at Price Street. Mr. Waugerman is to be informed of this situation also on High Street.

Council adjourned at 8:15 p.m., to meet December 2, 1986, at 7:00 p.m., for the Public Meeting for 3rd and final readings on Water Rates, and Bond Ordinance.



Mayor



Recorder

Council Chambers, December 2, 1986

Council met in Special Session, pursuant to the call of the Mayor at 7:00 p.m., for the 3rd and final reading on the Water Rate Ordinance and Bond and Note Ordinance, with the following members present: Mayor Patrick R. Crogan; Councilmen Nelson Corbin, David Estep, Richard Livengood; Clerk-treas. Mrs. Eleanor L. Williams, and City Attorney Sheila Kae Williams.

Those also present: Steve Decker, Ron Kelly, Alan Tennant and Jack Crogan from the Kingwood Water Works. A list of all present will become a part of these minutes.

Mayor Crogan opened the Public Hearing by asking City Attorney Sheila Kae Williams, if this Public Meeting had been published in the newspaper for the proper period of time for the 3rd and final readings. Miss Williams replied that this had been done, and that she has the certificate of publication from the Preston County Journal, and that it is ready for the 3rd reading and final passage. The Mayor stated that the 3rd reading by title would be given and that the City Clerk would do the reading, and no voting until the meeting was opened to the public and everyone could address the City Council.

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.

The meeting was opened, and the Mayor also stated that there were three (3) members of the water board present to answer questions. The first person that spoke was; Mr. Edmund Hodgkins from Public Service District No. 2. Mr. Hodgkins had earlier given each member of Council which he wants to be a part of these minutes. Mr. Hodgkins protested the ordinance for the issuance of bonds also rate increase ordinance stating the charge is discriminating against PSD #2 and all residences in the City. PSD #2 will prepare a protest in regard to their attorney's insturction.

Eilene Hersman from 106 Brown Ave., spoke against the increase and stated that several people who could not attend the meeting were against the increase especially the senior citizens.

Pete Gallina of 123 Seemont Dr., spoke against the bond issuance and rate increase

Ken Garbart of 206 S. Sigler St., spoke against.

Leora LaRue of 103 SpringHill Dr., spoke against.

Sylvia Gallina of 123 Seemont Dr., spoke against.

Betty Carroll of 308 Tunnelton St., spoke against.

Laura Adkins of 117 Sigler St., spoke against.

Ed Teets of 114 Pierce St., spoke against.

Council and the members of the Kingwood Water Board answered all questions. Everyone having spoke the Mayor put the Bond & Note Ordinance before Council for a motion.

A motion by Mr. Estep and seconded by Mr. Corbin, that the Water Bond and Notes Ordinance be given its 3rd and final reading and passed. Motion passed.

AN AMENDMENT TO THE ORDINANCE CREATING THE KINGWOOD WATER WORKS SAID ORDINANCE BEING ENTITLED: "ORDINANCE AUTHORIZING THE ISSUANCE OF \$225,000.00 PRINCIPAL AMOUNT OF WATER REVENUE BONDS OF THE TOWN OF KINGWOOD, WEST VIRGINIA, AND PROVIDING FOR THE RIGHT OF THE HOLDERS THEREOF", AMENDING PARAGRAPH 14 CONCERNING WATER RATES."

Mayor Crogan asked City Attorney Sheila Kae Williams if certificate of publication had been secured on the above ordinance. Miss Williams, said she had this from the Preston County Journal.

Mr. Hodgkins from PSD No. 2, again spoke against the rate increase.

Everyone having spoke, the Mayor put the Water Rate Ordinance before Council for a motion.

A motion by Mr. Corbin and seconded by Mr. Livengood, that the 3rd and final reading be given and passed. Motion passed.

The Public Hearing was closed at 8:40 p.m.

Mayor Crogan called a special meeting with Council after the Public Hearing, in regards to a Petition submitted by the Kingwood Water Board:
WHEREAS, the Kingwood Water Board did hold a special meeting on the 2nd day of December, 1986, which was called to specifically discuss obtaining a bond for the West Virginia Department of Highways; and WHEREAS, the Kingwood Water Board was advised that it was necessary to execute a bond in behalf of the City of Kingwood to the West Virginia Department of Highways in the amount of twenty-five thousand dollars (\$25,000.00) in order to obtain a permit to install a water line along the Owl's Roost Road for the Water Project; and WHEREAS, in accordance with a motion passed by the Water Board, the said Water Board did approve the financing of all costs incurred with said bond which does involve paying the bond premium in behalf of the City of Kingwood in the amount of Two hundred fifty dollars (\$250.00); and THEREFORE, the Kingwood Water Board does hereby petition the City of Kingwood through its City Council to authorize the Kingwood Water Board to execute a bond and any other instruments in behalf of the City of Kingwood to the West Virginia Department of Highways in the amount of twenty-five thousand dollars (\$25,000.00) in order to obtain a permit to install a water line along Owl's Roost Road for the water project; and WHEREFORE, the Kingwood Water Board does pray that the City Council of Kingwood, West Virginia, shall authorize the use of the Kingwood Water Board funds to pay the bond premium in behalf of the City of Kingwood to obtain the necessary permit.

A motion by Mr. Corbin and seconded by Mr. Estep, to accept the Petition by the Kingwood Water Board. Motion passed.

Richard Livengood was appointed acting recorder due to Recorder Harry VanDerstine being absent.

Council adjourned at 9:30 p.m., to meet regularly on December 9, 1986, at 7:00 p.m.



 Mayor



 Recorder

Addendum to minutes dated December 2, 1986: The following resolution was presented to Council for their approval. This resolution is from the Kingwood Water Board:

RESOLVED that Stephen F. Decker, Chairman of the Kingwood Water Board, is hereby authorized to execute a bond and any other instruments in behalf of the City of Kingwood, West Virginia, to the West Virginia Department of Highways, sometimes referred to as the State Road Commission of West Virginia, in the amount of Twenty-five Thousand Dollars, in order to obtain a permit to install water lines along bridges, roads, and highways in the State of West Virginia, in the manner and form prescribed by the West Virginia Department of Highways and said Board Chairman is further authorized to obtain an insurance company to act as surety upon said bond and to sign any instruments necessary to obtain surety. Further, in accordance with a motion passed by the Water Board that said Board would finance all costs incurred with said Bond, as contained in the Board's Petition, the treasurer of said Kingwood Water Board is hereby authorized to use Kingwood Water Board funds to pay the bond premium on behalf of the City of Kingwood.

A motion by Mr. Livengood and seconded by Mr. Corbin, that this resolution be accepted. Motion passed.

Council Chambers, December 9, 1986

Council met in regular session at 7:00 p.m., with the following members present: Mayor Patrick R. Crogan; Councilmen Richard DeGolyer, David Estep, Harry Harner; Clerk-treas. Mrs. Eleanor L. Williams, City Attorney Sheila Kae Williams.

Minutes of the last regular meeting of November 25, 1986, and special meeting of December 2, 1986 were approved and signed.

A motion by Mr. Estep and seconded by Mr. DeGolyer, the following bills were allowed and ordered paid:

Albright National Bank-----	Reimburse Petty Cash-----	\$	190.90
A. James Manchin-----	Court Fees, November, 1986-----		40.00
WV Public Employees Retirement-----	November, 1986 Retirement-----		2,038.57
American Family Life Assurance Co.--	Cancer Insurance-----		211.47
Blue Cross & Blue Shield of WV-----	Hospitalization Insurance-----		2,143.50
The Guardian Life Insurance Co.-----	Major Medical Insurance-----		1,507.10
James Peddicord, Postmaster-----	Postage Stamps for garbage bills-----		56.00
Floyd W. Bolyard-----	74½ hrs. Labor-garbage-----	\$347.30 -	287.36
Kenneth C. Brown-----	Salary Police-----	499.92 -	221.81
Robert B. Chidester-----	74½ hrs. Labor-streets-----	342.70 -	275.95
Francis E. Hyre-----	Salary Cemetery Caretaker-----	558.86 -	427.77
Randall E. Jefferys-----	73½ hrs. Labor-streets-----	341.55 -	271.71
Gary A. Johnson-----	Salary Police-----	423.08 -	310.12
Thomas G. Martin-----	Salary Chief of Police-----	567.31 -	415.45
Wilbur D. McCabe-----	Salary Police-----	499.92 -	372.53
Robert L. Menear-----	80½ hrs. Labor-garbage-----	563.50 -	420.85
Joseph L. Moore-----	72½ hrs. Labor-garbage-----	333.50 -	269.10
James E. Plum-----	90½ hrs. Labor-garbage-----	438.28 -	346.81
Robert P. Sybolt-----	84½ hrs. Labor-garbage-----	391.00 -	302.49
Claude M. Waugerman-----	Salary City Supervisor-----	884.62 -	663.41
Eleanor L. Williams-----	Salary Clerk-treas.-----	634.62 -	469.32
Carolyn K. Wolfe-----	70 hrs. Office-----	364.00 -	282.58
S.S. Contribution Fund-----	S.S. W/H Tax, 1st pay December, 1986-----		1,028.20
Albright National Bank-----	Fed. W/H Tax, 1st pay December, 1986-----		674.63
Office of the Child Advocate-----	Payroll Deduction on Ken Brown, Child Support-----		139.63
Albright National Bank-----	Landfill Equipment Payment-----		1,754.00
A & A Office Helpers-----	Supplies: City Clerk, Police & Computer-----		64.14
A T & T-----	Final payment on phones-----		17.75
Albright Oil Inc.-----	Police Department-----		5.00
Ames/Murphy Mart-----	City Hall & Police Dept.-----		12.90
Army Store-----	Supplies for G. Johnson to go to the Academy-----		307.19
Charles E. Bolyard & Son, Inc.-----	Repairs to Traffic Light-----		50.00

D & R Distributors, Inc.	-----1,284 gals Diesel, 957 gals Gasoline-----	\$1,251.37
Empire Lumber & Supply	-----City Hall & Street Department-----	39.60
Grandville Associates, Inc.	-----Computer supplies-----	11.49
Hall's Floor Covering	-----Supplies for City Hall-----	6.00
Hines Tire & Supply Co., Inc.	-----Tires for Police Car-----	115.49
IBM Corporation	-----Maintenance on Printer & Disc Drive-----	68.00
Kingwood Water Works	-----City Hall-----	87.82
Legalcraft Company	-----Deed covers for Cemetery Deeds-----	27.15
Monongahela Power Co.	-----Street Lighting-----	1,573.03
Naylor's Hardware	-----Street Department-----	11.60
Preston Parts, Inc.	-----Garbage & Street Department-----	43.56
Rental Uniform Service	-----Garbage, Streets & Cemetery Departments-----	120.00
Summers' Auto Parts, Inc.	-----Police, Garbage & Street Departments-----	267.53
Marvin Ware Chev., Inc.	-----Streets \$36.38, Kingwood Vol. Fire Dept. \$284.16--	320.54
Western Auto	-----City Hall-----	1.79

- A motion by Mr. Estep and seconded by Mr. Harned, the following building permits were approved, provided they conform to all zoning regulations, motion passed.

Leonard Daugherty--Kimberly Lane, put siding on home and insulate	-----	\$5,000.00
Tom Westbrook--200 W. High St., Remodel, add new window, take part of wall out	-----	2,000.00
Mayne Slagle--202 N. Locust St., Storage building on blocks 8 x 12	-----	875.00

- The Mayor reported to Council on the Pase Building Permit that was submitted at the Council Meeting of November 25, 1986, it should have been stated as a Business Building instead of a Storage Building.

Sheila Kae Williams addressed Council about a Supplemental Resolution for the Kingwood Water Revenue Bonds, the 1986 Series will become a 1987 Series, that the Kanawha Valley Bank, N.A., Charleston, West Virginia will be the Registrar for the Bonds, the West Virginia Bond Commission, Charleston, West Virginia, as paying agent for the Bonds, and the Albright National Bank of Kingwood, Kingwood, West Virginia, as depository bank under the Bond Ordinance. 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.

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.

A motion by Mr. Estep and seconded by Mr. DeGolyer, to adopt the Supplemental Resolution. Motion passed.

Mr. & Mrs. Richard ShROUT addressed Council concerning their building permit to replace their mobile home at Wooddale with a newer one. Their present trailer is there now under the grandfather clause. City attorney Sheila Williams said, under the terms of the trailer ordinance, no new trailer can be moved into the city and no other Boards can grant a variance. The only other way this can be done, if Council could amend the ordinance to allow the ShROUTs to move in the new trailer. Mayor Crogan said he would present this matter when there is a full Council and then get back to the ShROUTs.

Joe Marrara from Terra/Tech, addressed Council in regard to the CPA Report that is mandatory and requires a survey on the landfill. He has already spoken with the EPA about this and plans to obtain some information in Charleston this week. The cost to the City for this report will be \$40.00 per hour, and he should have the report in 2 or 3 weeks. Joe is to get back to Council after Thursday, December 11, 1986.

Claude Waugerman and Joe Marrara, addressed Council about the landfill in regard to the permit. This permit has to be completed by 1988, but must have the application in by June, 1987, either to apply for a new permit or a closing permit. These permits are only good for 5 years. The Federal Government does not regulate - only makes recommendations, the State regulates. Joe feels that additional ground in the same area would be the way to go and said Council should attempt to do this. Joe Marrara said the cost for engineering to renew the permit would be a minimum of \$25,000.00, and could go higher.

Bill Christopher of Wellsley Street addressed Council with questions about the new water and sewer rates. He feels that many residents of a fixed income will have a hard time paying the new rates. He also had concern about the propane tanks stored at the intersection of Routes 7 and 26. He was advised that Council is working on this and will handle it as soon as possible.

A motion by Mr. DeGolyer and seconded by Mr. Estep, that Joseph P. Marrara, of Terra/Tech, our consulting engineer, has the authority to request and receive any and all documents in regard to the Kingwood Landfill, which he may request and as maybe necessary for his use, in Charleston, WV, in regard to the EPA report. Motion passed.

Council was advised the the DOH will not change paragraph 4 on the contract to use the land-fill in return for work, so the contract will become null and void.

The next Council meeting will be December 23, 1986, it is Council's wish to meet, unless something comes up.

Mr. DeGolyer, advised Council that he had the Civic Centers financial report, and it will be in the City Clerks office for anyone wishing to see it.

Council adjourned at 8:55 p.m., to meet regularly on December 23, 1986, at 7:00 p.m.

Batuk R. Pagan
Mayor

Harry E. VanDerStee
Recorder



15 AUG 1985



UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Economic Development
Washington, D.C. 20230

In reply refer to:
Project No.: 01-01-02673

Municipal Water Works System of the
City of Kingwood (Kingwood Water Board)
125 East High Street/P.O. Box 276
Kingwood, West Virginia 26537

Ladies and Gentlemen:

We are pleased to enclose herewith three copies, two of which have been signed, of an Offer of Grant in an amount not to exceed \$900,000 issued pursuant to your application for Federal assistance to construct Water System Improvements in Kingwood, Preston County, West Virginia.

The Grant amount includes \$457,000 awarded in accordance with Section 403(a) (4) of the Public Works and Economic Development Act of 1965, as Preston County is an active member of the Region Six Planning and Development Council. The total project cost is \$4,570,000 which is based on the line item estimates contained in Attachment No. 1 hereto.

Your acceptance should be indicated by the signature of your principal official on one of the signed copies of the Offer of Grant. The accepted copy should be returned to the Director, Philadelphia Regional Office, Economic Development Administration, 325 Chestnut Street, 4th floor, Philadelphia, Pennsylvania 19106.

You are cautioned not to make any commitments in reliance on this grant, nor to enter into negotiations relative hereto, until you have carefully reviewed the terms and conditions and have determined that you are in compliance or that you can comply therewith. Any commitments or undertakings entered into prior to obtaining the approval of the Government in accordance with its terms and conditions will be at your own risk.

Sincerely,

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

Acting Assistant Secretary
for Economic Development

Enclosures

25/



Project No.: 01-01-02673

Offer Date: 15 AUG 1985

Public Works and Development Facilities

OFFER OF GRANT

Pursuant to its authority under the Public Works and Economic Development Act of 1965, as amended, (P.L. 89-136), and subject to the Special Conditions (Exhibit "A") and the Standard Terms and Conditions (Exhibit "B", dated October 1, 1978), both incorporated by reference herein, the Economic Development Administration, U.S. Department of Commerce (hereinafter the "Government"), offers a Grant not to exceed \$900,000 to the Municipal Water Works System of the City of Kingwood (Kingwood Water Board), Preston County, West Virginia (hereinafter the "Grantee") in order to aid in the construction or equipping of public works or development facilities presently estimated to cost \$4,570,000 and consisting of water system improvements in Kingwood, Preston County, West Virginia (hereinafter the "Project") provided that in no event shall this Grant exceed whichever is the lower of \$900,000 or 20 percent of the actual cost of the Project as determined by the Government.

This Offer, the Acceptance, the Special Conditions, and the Standard Terms and Conditions including any addenda shall constitute the "Grant Agreement".

Acceptance of this Grant Offer must be returned to the Economic Development Administration prior to 17 SEP 1985.

ECONOMIC DEVELOPMENT ADMINISTRATION

By: [Signature]
Acting Assistant Secretary
for Economic Development

The above Offer of Grant is hereby accepted.

Date: September 11, 1985

Kingwood Water Works
(Name of Grantee)

By: Stephen F. Decker
(Signature & Printed Name)

Chairman
(Title of Accepting Official)

CERTIFICATION (By Official other than Accepting Official)

The person signing this Acceptance is so authorized by the Governing Body or Board of the recipient.

[Signature]
(Signature)
John A. Crogan
(Printed Name)

Secretary
(Title of Certifying Official)
September 11, 1985
(Date)

U.S. DEPARTMENT OF COMMERCE
Economic Development Administration

Public Works and Development Facilities

GRANTEE: Municipal Water Works System
of the City of Kingwood (Kingwood Water Board)
Kingwood, Preston County, West Virginia

Project No: 01-01-02673

SPECIAL CONDITIONS

1. The Grantee agrees to the following project development time schedule:

Time required after EDA approval for:	
Completion of Final Plans	30 days
Advertise for the purpose of competitive bidding	40 days
Award of Construction Contract	180 days
Start of Construction	200 days
Construction Period	24 months

The Grantee shall pursue diligently the development of the project so as to ensure completion within this time schedule. Moreover, the Grantee shall notify the Government in writing of any event which could delay substantially the achievement of the project within the prescribed time limits. The Grantee further acknowledges that failure to meet the development time schedule may result in the Government's taking immediate action to terminate the Grant in accordance with the regulation set forth at 13 CFR 305.99 (b).

2. Department of Labor regulations set forth in 41 CFR 60-4 establish goals and timetables for participation of minorities and women in the construction industry. These regulations apply to all Federally assisted construction contracts in excess of \$10,000. The Grantee shall comply with these regulations and shall obtain compliance with 41 CFR 60-4 from contractors and subcontractors employed in the completion of the project by including such notices, clauses and provisions in the Solicitations for Offers or Bids as required by 41 CFR 60-4. The goal for the participation of women in each trade area shall be as follows:

From April 1, 1981, until further notice: 6.9 percent

All changes to this goal, as published in the Federal Register in accordance with the Office of Federal Contract Compliance Programs regulations at 41 CFR 60-4.6, or any successor regulations, shall hereafter be incorporated by reference into these Special Conditions.

Goals for minority participation shall be as prescribed by Appendix B-80, Federal Register, Volume 45, No. 194, October 3, 1980, or subsequent publications. The Grantee shall include the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" (or cause them to be included, if appropriate) in all Federally assisted contracts and subcontracts. The goals and timetables for minority and female participation may not be less than those published pursuant to 41 CFR 60-4.6.

3. As required by Department of Commerce Administrative Order 213-5, Audit Follow-Up and Resolution, the Grantee should respond in writing to any questioned costs and other audit findings, and provide additional documentation to support such response, within 30 days after the receipt of an audit report from the Office of Inspector General. EDA will consider any response or documentation received during this 30-day period in reaching its final determination concerning eligibility of costs. Any Grantee response or documentation received by EDA more than 30 days after the Grantee's receipt of the audit report, but before EDA's final determination, may be considered. EDA's final determination shall be furnished to the Grantee in writing.

Actions that result from EDA's final determination, such as the establishment of a debt or claim against the Grantee, are not subject to appeal within EDA.

4. The following Condition supersedes Part A, Section 1, paragraph p., of the Standard Terms and Conditions attached as Exhibit "B" to the Offer of Grant:

p. Section 504 of P.L. 93-112 (29 U.S.C. 794), and the implementing regulations in 15 CFR Part 8b prohibiting discrimination against the handicapped under programs or activities receiving Federal financial assistance;

5. Prior to first disbursement and/or advertisement for bids, the Grantee must submit evidence satisfactory to EDA that all easements and rights-of-way necessary to complete the project have been obtained.

PUBLIC WORKS PROJECT LINE ITEM ESTIMATED COSTS

EDA Project No. 01-01-02673 *on all correspondence* State West Virginia County Preston

<u>Line Items</u>	<u>Proposed</u>	<u>Approved</u>	
Administrative Expense	\$	\$	
(a) Interest	100,000	50,000	(a)
(b) Other	363,000	100,000	(b)
Preliminary Expense			
Land, structures, and Rights-of-Way	-0-	2,000	(c)
Architectural/Engineering Basic Fees	265,000	200,000	(d)
Other Architectural Engineering Fees	33,000	33,000	
Project Inspection Fees	120,000	150,000	(e)
Relocation Expenses			
Relocation Payments to Individuals and Businesses			
Demolition and Removal			
(a) Labor			
(b) non-Labor			
Construction and Project Improvement	3,545,268	3,545,300	(f)
(a) Labor			
(b) non-Labor			
Equipment			
Contingencies	<u>169,932</u>	<u>489,700</u>	(g)
Total Estimated Costs	\$ 4,596,200	\$ 4,570,000	(h)

Remarks:

- (a) Reflects reduction to a more reasonable level.
- (b) Reflects reduction of an administrative cost included twice.
- (c) Reflects costs necessary for transfer of title.
- (d) Reduced amount applicant included for additional project supervision.
- (e) Reflects a more reasonable level.
- (f) Reflects rounding.
- (g) Reflects a reasonable percentage.
- (h) Reflects other line items revisions.

CITY OF KINGWOOD

Water Revenue Bonds,
Series 1987 A and Series 1987 B

ACCEPTANCE OF DUTIES OF REGISTRAR

KANAWHA VALLEY BANK, N.A., a national banking association with its principal office in the City of Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the City of Kingwood Water Revenue Bonds, Series 1987 A and Series 1987 B, all dated January 7, 1987, in the aggregate principal amount of \$3,500,000 and agrees to perform all duties of Registrar in connection with such Bonds, all as set forth in the Local Act authorizing issuance of the Bonds.

Dated this 7th day of January, 1987.

KANAWHA VALLEY BANK, N.A.

By

Charlotte S. Morgan

Its CORPORATE TRUST ADMINISTRATIVE

officer

01/02/87
KGWD1-P

CITY OF KINGWOOD

Water Revenue Bonds,
Series 1987 A and Series 1987 B

ACCEPTANCE OF DUTIES OF DEPOSITORY BANK

ALBRIGHT NATIONAL BANK OF KINGWOOD, a national banking association, with principal office in Kingwood, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond and Notes Ordinance of the City of Kingwood, enacted December 2, 1986, authorizing issuance of the City's Water Revenue Bonds, Series 1987 A and Series 1987 B, both dated January 7, 1987, in the aggregate principal amount of \$3,500,000 (collectively, the "Bonds") and agrees to perform all duties of Depository Bank in connection with such Bonds, all as set forth in said Ordinance.

Dated this 7th day of January, 1987.

ALBRIGHT NATIONAL BANK OF KINGWOOD

By Stephen F. Decker
Its President

01/02/87
KGWD1-Q

CITY OF KINGWOOD

Water Revenue Bonds,
Series 1987 A and Series 1987 B

CERTIFICATE OF REGISTRATION OF BONDS

I, CHARLOTTE S. MORGAN Corporate Trust Admin Officer of Kanawha Valley Bank, N.A., as Registrar under the Local Act and Registrar's Agreement providing for the \$3,500,000 aggregate principal amount of Water Revenue Bonds, Series 1987 A and Series 1987 B, of the City of Kingwood (the "Issuer"), hereby certify that on the 7th day of January, 1987, the single fully registered Series 1987 A Bond of the Issuer in the principal amount of \$2,810,612 designated "Water Revenue Bond, Series 1987 A," numbered AR-1, and the single fully registered Series 1987 B Bond of the Issuer in the principal amount of \$689,388 designated "Water Revenue Bond, Series 1987 B," numbered BR-1, were registered as to principal and interest (the Series 1987 B Bond being registered as to principal only) on the date hereof 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 Kanawha Valley Bank, N.A., as Registrar.

WITNESS my signature as of this 7th day of
January, 1987.

KANAWHA VALLEY BANK, N.A.

By

Charlotte S. Morgan
Its Corporate Trust Admin Officer

01/02/87
KGWD1-R

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 7th day of January, 1987, by and between the CITY OF KINGWOOD, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and KANAWHA VALLEY BANK, N.A., a national banking association (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$3,500,000 aggregate principal amount of Water Revenue Bonds, Series 1987 A and Series 1987 B, in fully registered form (collectively, the "Bonds"), pursuant to a Bond and Notes Ordinance enacted December 2, 1986, and a Supplemental Resolution adopted December 9, 1986 (collectively, the "Local Act");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Local Act, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Local Act provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Local Act and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Local Act 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 Local Act, 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, from time to time, the compensation for services rendered as provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection therewith.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Local Act with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Local Act, the terms of the Local Act 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 Local Act 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:

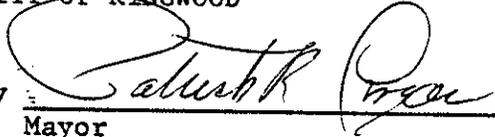
ISSUER: City of Kingwood
 125 East High Street
 Kingwood, West Virginia 26537
 Attention: Mayor

REGISTRAR: Kanawha Valley Bank, N.A.
One Valley Square
Post Office Box 1793
Charleston, West Virginia 25301
Attention: Corporate Trust Department

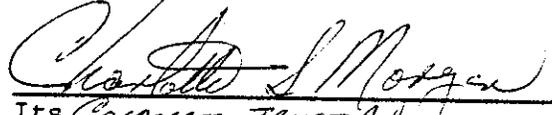
8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Local Act.

IN WITNESS WHEREOF, the CITY OF KINGWOOD and KANAWHA VALLEY BANK, N.A. have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

CITY OF KINGWOOD

By 
Mayor

KANAWHA VALLEY BANK, N.A.

By 
Its CORPORATE TRUST ADMINISTRATIVE
officer

01/02/87
KGWD1-S

EXHIBIT A

[Included in transcript as Document No. 1]

INVOICE



ONE FINANCIAL PLACE
Kanawha Valley Bank, N.A.

Office of the Mayor
City of Kingwood, W V

January 7, 1987

DATE: _____

UNITS	ITEM DESCRIPTION	TOTAL
	<p>\$2,810,612 par CITY OF KINGWOOD, WV WATER REVENUE BONDS- SERIES 1987 A</p> <p>Services serving as Registrar and Authenticating Agent</p>	<p>\$500</p>

SEND REMITTANCE TO:

KANAWHA VALLEY BANK, N.A.
CORPORATE TRUST DEPARTMENT
P.O. BOX 1793
CHARLESTON, W.VA. 25326-1793

ATT: Charlotte S.
Morgan

STEPTOE & JOHNSON

ATTORNEYS AT LAW

SIXTH FLOOR

UNION NATIONAL CENTER EAST

P. O. BOX 2190

CLARKSBURG, W. VA. 26302-2190

(304) 624-8000

TELECOPIER (304) 622-2676

CHARLESTON OFFICE

715 CHARLESTON NATIONAL PLAZA

P. O. BOX 1588

CHARLESTON, W. VA. 25326

(304) 342-2191

May 12, 1987

CHARLESTON

CHARLES W. YEAGER

CARL F. STUCKY, JR.

OTIS L. O'CONNOR

WAYNE A. SINCLAIR

JAMES R. WATSON

DANIEL R. SCHUDA

SPRAGUE W. HAZARD

HERSCHEL H. ROSE III

CHRISTOPHER P. BASTIEN

STEVEN P. MCGOWAN

MARTIN R. SMITH, JR.

OF COUNSEL

ROBERT W. LAWSON, JR.

EDWARD W. EARDLEY

EUGENE G. EASON

WRITER'S DIRECT DIAL NUMBER

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ROBERT G. STEELE

JAMES M. WILSON

PATRICK D. DEEM

ROBERT M. STEPTOE, JR.

ANNE R. WILLIAMS

JAMES D. GRAY

VINCENT A. COLLINS

JAMES A. RUSSELL

FRANK E. SIMMERMAN, JR.

WILLIAM T. BELCHER

MICHAEL L. BRAY

DAVID C. CLOVIS

J. GREG GOODYKOONTZ

IRENE M. KEELEY

EVANS L. KING, JR.

WALTER L. WILLIAMS

SUSAN S. BREWER

RONALD H. HANLAN

C. DAVID MORRISON

HARRY P. WADDELL

CLEMENT D. CARTER III

W. HENRY LAWRENCE IV

WILLIAM E. GALEOTA

GORDON H. COPLAND

RANDALL C. LIGHT

RICHARD M. YURKO, JR.

GARY W. NICKERSON

W. RANDOLPH FIFE

City of Kingwood
Water Revenue Bonds, Series 1987 A

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Internal Revenue Service
Internal Revenue Service Center
Philadelphia, Pennsylvania 19255

Gentlemen:

Enclosed herewith is a completed and executed Internal Revenue Service Form 8038-G and a file copy thereof with regard to the above-captioned bond issue. Please file the original form in the appropriate Internal Revenue Service records and return the copy marked in red as the "File Copy" to me (after acknowledging receipt of the same) in the enclosed self-addressed, stamped envelope. Thank you for your attention to this matter.

Very truly yours,

Vincent A. Collins

Vincent A. Collins

Enclosure

05/12/87

KGWD2-E

Information Return for Tax-Exempt Governmental Bond Issues

Under Section 149(e)
(Use Form 8038-GC if issue price is under \$100,000.)

Part I Reporting Authority Check box if Amended Return

1 Issuer's name
CITY OF KINGWOOD

2 Issuer's employer identification number
55-6000196

3 Number and street
125 East High Street

4 Report number
G1987-1

5 City or town, state, and ZIP code
Kingwood, West Virginia 26537

6 Date of issue
January 7, 1987

Part II Type of Issue (check box(es) that applies)

7 Check box if bonds are tax or other revenue anticipation bonds

8 Check box if bonds are in the form of a lease or installment sale

9 Education

10 Health and hospital

11 Transportation

12 Public safety

13 Environment (including sewage bonds) (Water Revenue Bonds)

14 Housing

15 Utilities

16 Other. Describe (see instructions) ▶ _____

Issue Price
2,810,612

Part III Description of Bonds

	(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
17 Final maturity	10/01/2026	8.38%	\$2,810,612	\$2,810,612			
18 Entire issue			\$2,810,612	\$2,810,612	40 years	8.38	8.38

Part IV Uses of Original Proceeds of Issue (including underwriters' discount) (level amortized payments)

19 Proceeds used for accrued interest	19	-0-
20 Proceeds used for bond issuance costs (including underwriters' discount)	20	-0-
21 Proceeds used for credit enhancement	21	-0-
22 Proceeds allocated to reasonably required reserve or replacement fund	22	-0-
23 Proceeds used to refund prior issues	23	-0-
24 Nonrefunding proceeds of the issue (subtract lines 20, 21, 22, and 23 from line 18, column (c))	24	2,810,612

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

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

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

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

Part VI Miscellaneous

28 Enter the amount (if any) of the state volume cap allocated to this issue ▶ _____

29 Arbitrage rebate:

a Check box if the small governmental unit exception to the arbitrage rebate requirement applies

b Check box if the 6-month temporary investment exception to the arbitrage rebate requirement is expected to apply

c Check box if you expect to earn and rebate arbitrage profits to the U.S.

30 Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(ii) ▶ **2,810,612**

31 Pooled financings:

a Check box if any of the proceeds of this issue are to be used to make loans to other governmental units and enter the amount ▶ _____

b Check box if this issue is a loan made from the proceeds of another tax-exempt issue and enter the name of the issuer ▶ **West Virginia Water Developmt. Auth.** and the date of the issue ▶ **5/1/86**

Please Sign Here

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

Signature of officer: *Henry Vandeventer* Date: 3/30/87 Title: Assistant Manager Mayor

ASSIGNMENT SEPARATE FROM BOND

FOR VALUE RECEIVED, the West Virginia Water Development Authority hereby sells, assigns and transfers unto Kanawha Valley Bank, N.A., Charleston, West Virginia, the Water Revenue Bond, Series 1987 A, of the City of Kingwood in the principal amount of \$2,810,612, numbered AR-1, standing in the name of West Virginia Water Development Authority on the books of said Issuer.

Dated: January 7, 1987.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY



Authorized Representative

01/02/87
KGWD1-T