

**ARMSTRONG PUBLIC SERVICE DISTRICT**

**Water Revenue Bonds, Series 2011 A  
(United States Department of Agriculture)**

**BOND TRANSCRIPT**

**Closing Date: March 28, 2011**

**Table of Contents**

**BASIC DOCUMENTS**

1. Bond Resolution
2. USDA Letter of Conditions, with all amendments
3. Public Service Commission Orders
4. Receipt for Series 2011 A Bonds
5. Specimen Series 2011 A Bonds
6. Registration Book for Series 2011 A Bonds

**OPINIONS OF COUNSEL**

7. Approving Opinion on Series 2011 A Bonds of Steptoe & Johnson PLLC, Bond Counsel
8. A. Opinion on Series 2011 A Bonds of Counsel to Issuer  
B. Title Opinion

**CERTIFICATES**

9. Combined Certificate on Series 2011 A Bonds of Issuer and Attorney
10. A. Certificate of Engineer  
B. Project Budget

**DOCUMENTS OF THE ISSUER**

- 11. County Commission Orders on Creation of District
- 12. County Commission Orders of Appointment of Current Board Members
- 13. Oaths of Office of Current Board Members
- 14. Rules of Procedure
- 15. Minutes of Current Year Organizational Meeting
- 16. Minutes on Adoption of Bond Resolution
- 17. Municipal Bond Commission New Issue Report

**MISCELLANEOUS DOCUMENTS**

- 18. United States Department of Agriculture Loan Resolution
- 19. United States Department of Agriculture Grant Agreement
- 20. Infrastructure & Jobs Development Council Approval
- 21. Infrastructure & Jobs Development Council Grant Agreement
- 22. Closing Memorandum
- 23. Receipt of Depository Bank
- 24. First Draw Resolution
- 25. Consent of USDA to Issuance of Parity Bonds
- 26. Prior Bond Resolutions
  - A. Series 1972 Bonds
  - B. Series 2001 Bonds
  - C. Series 2002 A Bonds

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**ARMSTRONG PUBLIC SERVICE DISTRICT**

**Water Revenue Bonds, Series 2011 A  
(United States Department of Agriculture)**

**BOND RESOLUTION**

**Table of Contents**

**ARTICLE I**

**STATUTORY AUTHORITY, FINDINGS  
AND DEFINITIONS**

Section 1.01	Authority for this Resolution
Section 1.02	Findings and Determinations
Section 1.03	Bond Legislation Constitutes Contract
Section 1.04	Definitions

**ARTICLE II**

**AUTHORIZATION OF  
ACQUISITION AND  
CONSTRUCTION OF THE PROJECT**

Section 2.01	Authorization of Acquisition and Construction of the Project
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**ARTICLE III**

**AUTHORIZATION, TERMS, EXECUTION,  
REGISTRATION AND ISSUE OF BONDS**

Section 3.01	Authorization of Bonds
Section 3.02	Description of Bonds
Section 3.03	Negotiability, Registration, Transfer and Exchange of Bonds
Section 3.04	Bond Registrar
Section 3.05	Execution of Bonds
Section 3.06	Bonds Mutilated, Destroyed, Stolen or Lost
Section 3.07	Bonds Secured by Pledge of Net Revenues
Section 3.08	Form of Bond

**FORM OF BOND**

**ARTICLE IV**  
**SYSTEM REVENUES AND APPLICATION THEREOF;  
DISPOSITION OF BOND PROCEEDS; FUNDS AND ACCOUNTS**

- Section 4.01 Establishment of Funds and Accounts with Depository Bank  
Section 4.02 Bond Proceeds; Project Construction Account  
Section 4.03 Covenants of the Issuer as to System Revenues and Funds

**ARTICLE V**  
**GENERAL COVENANTS, ETC.**

- Section 5.01 General Statement  
Section 5.02 Rates  
Section 5.03 Sale of the System  
Section 5.04 Issuance of Additional Parity Bonds or Obligations  
Section 5.05 Insurance and Bonds  
Section 5.06 Statutory Mortgage Lien  
Section 5.07 Events of Default  
Section 5.08 Enforcement  
Section 5.09 Fiscal Year; Budget  
Section 5.10 Compensation of Members of Governing Body  
Section 5.11 Covenant to Proceed and Complete  
Section 5.12 Books and Records; Audits  
Section 5.13 Maintenance of System  
Section 5.14 No Competition

**ARTICLE VI**  
**RATES, ETC.**

- Section 6.01 Initial Schedule of Rates and Charges; Rules

**ARTICLE VII**  
**MISCELLANEOUS**

- Section 7.01 Payment of Bonds  
Section 7.02 Modification or Amendment  
Section 7.03 Delivery of Bonds  
Section 7.04 Severability of Invalid Provisions  
Section 7.05 Conflicting Provisions Repealed  
Section 7.06 Table of Contents and Headings  
Section 7.07 Covenant of Due Procedure, Etc.  
Section 7.08 Effective Time  
SIGNATURES  
CERTIFICATION

ARMSTRONG PUBLIC SERVICE DISTRICT

RESOLUTION

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF ARMSTRONG PUBLIC SERVICE DISTRICT, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$765,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2011 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF ARMSTRONG PUBLIC SERVICE DISTRICT:

ARTICLE I

**STATUTORY AUTHORITY, FINDINGS  
AND DEFINITIONS**

Section 1.01. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law. Armstrong Public Service District (the "Issuer") is a public corporation, public service district and political subdivision of the State of West Virginia in Fayette County of said State, duly created pursuant to the Act by The County Commission of Fayette.

Section 1.02. Findings and Determinations. It is hereby found, determined and declared as follows:

A. The Issuer currently owns and operates a public waterworks system and desires to finance and acquire, construct, operate and maintain certain additional public service properties consisting of additions, improvements and extensions to such existing waterworks facilities with all appurtenant facilities, within the boundaries of the Issuer to be owned and operated by the Issuer.

B. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer, and, accordingly, it is hereby ordered that there be constructed and designed certain additions, improvements and extensions to the existing waterworks facilities of the Issuer, consisting construction of minor improvements to the water treatment plant, waterline extension, decommissioning of the Deepwater plant, water tank replacement,

valve replacements, and waterline upgrades (the "Project"), particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Secretary of the Public Service Board (the "Governing Body") of the Issuer. The existing waterworks facilities of the Issuer, together with the Project and any further additions, improvements or extensions thereto, are herein called the "System." The design of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

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

D. The estimated maximum cost of the Project is \$1,975,000 of which \$765,000 will be obtained from the proceeds of sale of the Series 2011 A Bonds, herein authorized, \$880,000 will be obtained as a grant from the Purchaser, \$310,000 will be obtained as a grant from the West Virginia Infrastructure Fund and \$20,000 will be obtained from a grant from the Fayette County Commission.

E. It is necessary for the Issuer to issue its Water Revenue Bonds, Series 2011 A (United States Department of Agriculture), in the aggregate principal amount of \$765,000 (the "Series 2011 A Bonds"), to permanently finance a portion of the cost of such acquisition and construction in the manner herein provided. The cost of such acquisition and construction shall be deemed to include, without being limited to, the acquisition and construction of the Project; the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest on the Series 2011 A Bonds prior to, during and for six months after completion of such design of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and other expenses necessary or incident to determining the feasibility or practicability of the Project, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized; provided that, reimbursement to the Issuer for any amounts expended by it for the repayment of indebtedness incurred for costs of the Project by the Issuer shall be deemed costs of the Project.

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

G. There are outstanding obligations of the Issuer which will rank on a parity with the Series 2011 A Bonds as to liens, pledge and source of and security for payment being the Issuer's Water Revenue Bonds, Series 2001 A (United States Department of Agriculture), dated December 13, 2001, issued in the original aggregate principal amount of \$550,000 (the "Series 2001 A Bonds") and Water Revenue Bonds, Series 1974 (United States Department of Agriculture), dated January 30, 1974, issued in the original aggregate principal amount of \$338,000 (the "Series 1974 Bonds") (collectively, the "Prior Bonds"). Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which rank prior to or on a parity with the Series 2011 A Bonds as to liens, pledge and/or source of and security for payment.

The Issuer is not in default under the terms of the Prior Bonds, or the resolutions authorizing issuance of the Prior Bonds or any document in connection therewith, and has complied with all requirements of all the foregoing with respect to the issuance of parity bonds or has obtained a sufficient and valid consent or waiver thereof.

H. It is in the best interest of the Issuer that the Series 2011 A Bonds be sold to the Purchaser, pursuant to the terms and provisions of the Letters of Conditions, dated June 20, 2008, and all amendments thereto, if any (collectively, the "Letter of Conditions").

I. The Issuer has complied with all requirements of law relating to the authorization of the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Series 2011 A Bonds, or will have so complied prior to issuance of the Series 2011 A Bonds, including, among other things and without limitation, obtaining a certificate of public convenience and necessity and approval of the financing and necessary user rates and charges from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired or shall have been duly waived or otherwise provided for.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2011 A Bonds by those who shall be the Registered Owner of the same from time to time, this Resolution (the "Bond Legislation") shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owner, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owner of the Series 2011 A Bonds.

Section 1.04. Definitions. In addition to capitalized terms defined elsewhere herein, the following terms shall have the following meanings herein unless the text otherwise expressly requires:

"Act" means Chapter 16, Article 13A of the West Virginia Code of 1931, as amended.

"Bond Legislation" means this Resolution and all resolutions supplemental hereto and amendatory hereof.

"Bond Registrar" means the Issuer, which shall usually so act by its Secretary.

"Bonds" means, collectively, the Series 2011 A Bonds and the Prior Bonds.

"Chairman" means the Chairman of the Governing Body.

"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 Engineer” means E.L. Robinson Engineering Company, Beckley, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

“Costs” or “Costs of the Project” means those costs described in Section 1.02 (F) hereof.

“Depository Bank” means City National Bank, Montgomery, West Virginia, a bank or trust company which is a member of FDIC (herein defined), and its successors and assigns.

“Facilities” or “waterworks facilities” means all the tangible properties of the System and also any tangible properties which may hereafter be added to the System by additions, betterments, extensions and improvements thereto and properties, furniture, fixtures or equipment therefor, hereafter at any time constructed or acquired.

“FDIC” means the Federal Deposit Insurance Corporation.

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

“Governing Body” means the Public Service Board of the Issuer.

“Government Obligations” means direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America.

“Grants” means, collectively, all grants committed for the Project.

“Herein” or “herein” means in this Bond Legislation.

“Issuer,” “Borrower” or “District” means Armstrong Public Service District, a public service district, a public corporation and a political subdivision of the State of West Virginia, in Fayette County, West Virginia, and includes the Governing Body.

“Letter of Conditions” means, collectively, the Letter of Conditions of the Purchaser dated June 20, 2008, and all amendments thereto, if any.

“Minimum Reserve” means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2011 A Bonds in the then current or any succeeding year.

“Net Revenues” means the balance of the Gross Revenues, as defined below, remaining after deduction of Operating Expenses, as defined below.

“Operating Expenses” means the current expenses, paid or accrued, of operation and maintenance of the Project and the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the

Issuer relating and chargeable solely to the Project and the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting principles and retention of a sum not to exceed one-sixth of the budgeted Operating Expenses stated above for the current year as working capital, and language herein requiring payment of Operating Expenses means also retention of not to exceed such sum as working capital; provided that, all monthly amortization payments upon the Bonds and into all funds and accounts have been made to the last monthly payment date prior to the date of such retention.

“Prior Bonds” means the Series 1974 Bonds and the Series 2001 A Bonds.

“Prior Resolution” means, collectively, the resolutions of the Issuer, respectively, adopted authorizing the issuance of the Prior Bonds.

“Project” shall have the meaning stated in Section 1.02B above.

“Purchaser” or “Government” means United States Department of Agriculture, Rural Utilities Service, and any successor thereof, acting for and on behalf of the United States of America.

“Qualified Investments” means and includes any of the following, to the extent such investments are permitted by law:

- (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 (hereinbefore defined) or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

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

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

(h) The West Virginia "consolidated fund" managed by the West Virginia Board of Treasury Investments to Chapter 12, Article 6C of the West Virginia Code of 1931, as amended; and

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

"Registered Owners," "Bondholders," "Holders of the Bonds" or any similar term means any person who shall be the registered owner of the Bonds.

"Resolutions" means, collectively, the Prior Resolutions and the Bond Legislation.

“Revenues” or “Gross Revenues” means all rates, rents, fees, charges or other income received by the Issuer, or accrued to the Issuer, or any department, board, agency or instrumentality thereof in control of the management and operation of the System, from the operation of the System, and all parts thereof, all as calculated in accordance with sound accounting practices.

“Secretary” means the Secretary of the Governing Body.

“Series 1974 Bonds” means the Issuer’s Water Revenue Bonds, Series 1974 (United States Department of Agriculture), dated January 30, 1974, issued in the original aggregate principal amount of \$338,000.

“Series 2001 A Bonds” means the Issuer’s Water Revenue Bonds, Series 2001 A (United States Department of Agriculture), dated December 13, 2001, issued in the original aggregate principal amount of \$550,000.

“Series 2011 A Bonds” means the Water Revenue Bonds, Series 2011 A (United States Department of Agriculture), authorized hereby to be issued pursuant to this Bond Legislation.

“Series 2011 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 2011 A Bonds in the then current or any succeeding year.

“System” means the complete public waterworks system of the Issuer, presently existing in its entirety or any integral part thereof, and shall include the Project and any improvements and extensions thereto hereafter acquired or constructed for the System from any sources whatsoever.

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

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 neuter gender shall include any other gender; and any requirement for execution or attestation of the Bonds or any certificate or other document by the Chairman or the Secretary shall mean that such Bonds, certificate or other document may be executed or attested by an Acting Chairman or Acting Secretary.

## ARTICLE II

### AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of \$1,975,000, 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 estimated maximum cost of the Project is \$1,975,000 of which \$765,000 will be obtained from the proceeds of sale of the Series 2011 A Bonds, herein authorized, \$880,000 will be obtained as a grant from the Purchaser, \$310,000 will be obtained as a grant from the West Virginia Infrastructure Fund and \$20,000 will be obtained from a grant from the Fayette County Commission.

## ARTICLE III

### AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BONDS

Section 3.01. Authorization of Bonds. Subject and pursuant to the provisions of the Bond Legislation, the Series 2011 A Bonds of the Issuer, to be known as "Water Revenue Bonds, Series 2011 A (United States Department of Agriculture)", are hereby authorized to be issued in the aggregate principal amount of \$765,000, for the purpose of (i) financing a portion of the cost of the acquisition and construction of the Project, and (ii) paying certain costs of issuance and related costs not otherwise provided for.

Section 3.02. Description of Bonds. The Series 2011 A Bonds shall be issued in single form, numbered AR-1, only as a fully registered Bond, and shall be dated the date of delivery thereof. The Series 2011 A Bonds shall bear interest from the date of delivery, payable monthly at the rate of 3.375% per annum, and shall be sold for the par value thereof. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and \$2,984, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Bond.

The Series 2011 A Bonds shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, and shall be payable as provided in the respective Bond forms hereinafter set forth.

Section 3.03. Negotiability, Registration, Transfer and Exchange of Bonds. The Series 2011 A Bonds shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but the Series 2011 A Bonds, and the right to principal of and stated interest on the Series 2011 A Bonds, may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Series 2011 A Bonds for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Bond Registrar.

Whenever the Series 2011 A Bonds shall be surrendered for registration of transfer, the Issuer shall execute and deliver a new Bond or Bonds in authorized denominations, for a like aggregate principal amount. The Bond Registrar shall require the payment by the new owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer, but the Issuer shall pay any other expenses incurred by the Bond Registrar with respect to such transfer.

No registration of transfer of the Series 2011 A Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on the Series 2011 A Bonds.

Section 3.04. Bond Registrar. The Issuer shall be the Bond Registrar and will keep, or cause to be kept by its agent, at its office, sufficient books for the registration and transfer of the Series 2011 A Bonds, and, upon presentation for such purpose, the Bond Registrar shall, under such reasonable regulations as it may prescribe, register the Series 2011 A Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Series 2011 A Bonds as hereinbefore provided.

The Bond Registrar shall accept the Series 2011 A Bonds for registration or transfer only if ownership thereof is to be registered in the name of the Purchaser, an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or the social security numbers of the settlor and beneficiaries of each trust and the federal employer identification number and date of each trust and the name of the trustee of each trust and/or such other identifying number and information as may be required by law. The Series 2011 A Bonds shall initially be fully registered as to both principal and interest in the name of the United States of America. So long as the Series 2011 A Bonds shall be registered in the name of the United States of America, the address of the United States of America for registration purposes shall be National Finance Office, St. Louis, Missouri 63103, or such other address as shall be stated in writing to the Issuer by the United States of America.

Section 3.05. Execution of Bonds. The Series 2011 A Bonds shall be executed in the name of the Issuer by the Chairman and its corporate seal shall be affixed thereto and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed the Series 2011 A Bonds shall cease to be such officer of the Issuer before the Series 2011 A Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. The Series 2011 A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Series 2011 A Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bonds or in lieu of and substitution for the Bonds destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Series 2011 A Bonds so surrendered shall be canceled and held for the account of the Issuer. If the Series 2011 A Bonds shall have matured or be about to mature, instead of issuing a substitute Bond the Issuer may pay the same, and, if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2011 A Bonds shall be secured forthwith by a first lien on the Net Revenues derived from the System, on a parity with the Prior Bonds. The Net Revenues derived from the System in an amount sufficient to pay the principal of and interest on the Series 2011 A Bonds and the Prior Bonds, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 2011 A Bonds and the Prior Bonds as the same become due.

Section 3.08. Form of Bond. Subject to the provisions hereof, the text of the Series 2011 A Bonds and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or by any resolution adopted after the date of adoption hereof and prior to the issuance thereof:

[Remainder of Page Intentionally Blank]

(FORM OF BOND)

UNITED STATES OF AMERICA  
ARMSTRONG PUBLIC SERVICE DISTRICT  
WATER REVENUE BONDS, SERIES 2011 A  
(UNITED STATES DEPARTMENT OF AGRICULTURE)

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

No. AR-1

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

FOR VALUE RECEIVED, ARMSTRONG PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of \_\_\_\_\_ (\$ \_\_\_\_\_), plus interest on the unpaid principal balance at the rate of \_\_\_\_\_% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and \$ \_\_\_\_\_, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Bond, in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly

or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Borrower hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond is issued to (i) pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public waterworks system of the Issuer, and (ii) to pay costs of issuance and related costs.

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of additions, extensions and improvements to the waterworks system (the "System") of the Borrower, is payable solely from the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Resolutions and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the

West Virginia Code, as amended (the "Act"), and a Resolution of the Borrower duly adopted \_\_\_\_\_, 2011, authorizing issuance of this Bond (the "Resolution").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farm and Rural Development Act of 1965, as amended. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

THIS BOND IS ISSUED ON A PARITY, AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, WITH THE BORROWER'S WATER REVENUE BONDS, SERIES 1974 (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED JANUARY 30, 1974, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$338,000 (THE "SERIES 1974 BONDS") AND WATER REVENUE BONDS, SERIES 2001 A (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED DECEMBER 13, 2001, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$550,000 (THE "SERIES 2001 A BONDS") (COLLECTIVELY, THE "PRIOR BONDS").

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

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, ARMSTRONG PUBLIC SERVICE DISTRICT has caused this Bond to be executed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, all as of the date hereinabove written.

ARMSTRONG PUBLIC SERVICE DISTRICT  
(Name of Borrower)

[CORPORATE SEAL]

\_\_\_\_\_  
(Signature of Executive Official)

Chairman:

P.O. Box 156  
(P.O. Box No. or Street Address)

Kimberly , West Virginia 25535  
(City, State and Zip Code)

ATTEST:

\_\_\_\_\_  
(Signature of Attesting Official)

Secretary:

EXHIBIT A

RECORD OF ADVANCES

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

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

(Form of Assignment)

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: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

## ARTICLE IV

### **SYSTEM REVENUES AND APPLICATION THEREOF; DISPOSITION OF BOND PROCEEDS; FUNDS AND ACCOUNTS**

#### Section 4.01.

A. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created (or continued if established by Prior Resolution) 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 (established by Prior Resolution);
- (2) Renewal and Replacement Fund (established by Prior Resolution); and
- (3) Series 2011 A Bonds Project Construction Account.

B. Establishment of Funds and Accounts with Commission. The following special funds or accounts are created (or continued if established by Prior Resolution) with and shall be held by the Commission, separate and apart from all other funds or accounts of the Commission and from each other:

- (1) Series 1974 Bonds Sinking Fund;
- (2) Series 1974 Bonds Reserve Account;
- (3) Series 2001 A Bonds Reserve Account; and
- (4) Series 2011 A Bonds Reserve Account.

Section 4.02. Bond Proceeds; Project Construction Account. The proceeds of the sale of the Series 2011 A Bonds shall be deposited upon receipt by the Issuer in the Series 2011 A Bonds Project Construction Account. The monies in the Series 2011 A Bonds Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by the Depository Bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Monies in the Series 2011 A Bonds Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

Monies in the Series 2011 A Bonds Project Construction Account shall be used solely to pay the cost of acquisition and construction of the Project upon vouchers and other documentation approved by the Purchaser.

Until completion of acquisition and construction of the Project, the Issuer will additionally transfer from the Series 2011 A Bonds Project Construction Account and pay to the Purchaser on or before the due date, such sums as shall be from time to time required to make the

monthly installments on the Series 2011 A Bonds if there are not sufficient Net Revenues to make such monthly payment.

Pending application as provided in this Section 4.02, money and funds in the Series 2011 A Bonds Project Construction Account shall be invested and reinvested at the direction of the Issuer, to the extent possible in accordance with applicable law, in Qualified Investments.

When acquisition and construction of the Project has been completed and all costs thereof have been paid or provision for such payment has been made, any balance remaining in the Series 2011 A Bonds Project Construction Account shall be disposed of in accordance with the regulations of the Purchaser.

Section 4.03. Covenants of the Issuer as to System Revenues and Funds. So long as any of the Series 2011 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2011 A Bonds Reserve Account, a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Series 2011 Bonds remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the Holders of the Series 2011 A Bonds as follows:

A. **REVENUE FUND.** The entire Gross Revenues derived from the operation of the System, and all parts thereof, and all Tap Fees received, shall be deposited as collected by the Issuer in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in the Resolutions and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner provided in the Resolutions.

B. **DISPOSITION OF REVENUES.** All Revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority, subject to the provisions of the Prior Resolutions not otherwise modified herein:

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

(2) The Issuer shall next, each month, on or before the due date thereof, transfer from the Revenue Fund and simultaneously remit (i) to the National Finance Office the amount required by the Prior Resolutions to pay the interest on the Prior Bonds; and (ii) to the National Finance Office the amount required to pay interest on the Series 2011 A Bonds.

(3) The Issuer shall next, each month, transfer from the Revenue Fund and simultaneously, on or before the due date thereof, remit (i) to the National Finance Office the amount required by the Prior Resolutions to pay the principal of the Prior Bonds; and (ii) remit to the National Finance Office, commencing 24 months following the date of delivery of the Series 2011 A Bonds, the amount required to amortize the principal of the Series 2011 A Bonds.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously (i) remit to the Commission the amounts required by the Prior Resolutions to be deposited in the Reserve Account for the Prior Bonds; and (ii) beginning on the date specified by the purchaser, but in any event not later than the 24th monthly anniversary of the Closing Date, and continuing on each monthly anniversary of the Closing Date thereafter, transfer from the Revenue Fund and remit to the Commission, for deposit in the Series 2011 A Bonds Reserve Account, an amount equal to 10% of the monthly payment amount, until the amount in the Series 2011 A Bonds Reserve Account equals the Series 2011 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2011 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 2011 A Bonds Reserve Requirement.

(5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund, an amount equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, improvements or extensions to the System; provided that, any deficiencies in any Reserve Accounts (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

Whenever the money in the Series 2011 A Bonds Reserve Account shall be sufficient to prepay the Series 2011 A Bonds in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Series 2011 A Bonds at the earliest practical date and in accordance with applicable provisions hereof.

The Commission is hereby designated as the Fiscal Agent for the administration of the Series 2011 A Bonds Reserve Account. All amounts required for the Series 2011 A Bonds Reserve Account will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written advice stating the amount remitted for deposit into each such fund.

The Revenue Fund shall constitute a Trust Fund and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a lien thereon for further

securing payment of the Series 2011 A Bonds and the interest thereon, on a parity with the Prior Bonds.

The Series 2011 A Bonds Reserve Account shall constitute a trust fund and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a lien thereon for further securing payment of the Series 2011 A Bonds and the interest thereon.

If on any payment date the Revenues are insufficient to make the payments and transfers as hereinabove provided, the deficiency shall be made up in the subsequent payments and transfers in addition to those which would otherwise be required to be made on the subsequent payment dates.

Principal, interest or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 2011 A Bonds and the Prior Bonds, in accordance with the respective principal amounts then Outstanding.

Subject to the Prior Resolutions, the Commission shall keep the monies in the Series 2011 A Bonds Reserve Account invested and reinvested to the fullest extent possible in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund or account under this Bond Legislation shall, unless otherwise provided herein or required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia Board of Treasury Investments. Any investment shall be held in and at all times deemed a part of the fund or account in which such monies were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. Earnings from monies in the Series 2011 A Bonds Reserve Account, so long as the Minimum Reserve is on deposit and maintained therein, shall be paid annually by the Commission to the Issuer and deposited in the Revenue Fund.

C. CHANGE OF DEPOSITORY BANK. The Issuer may designate another bank or trust company insured by FDIC as Depository Bank if the Depository Bank should cease for any reason to serve or if the Governing Body determines by resolution that the Depository Bank or its successor should no longer serve as Depository Bank. Upon any such change, the Governing Body will cause notice of the change to be sent by registered or certified mail to the Purchaser.

D. USER CONTRACTS. The Issuer shall, prior to delivery of the Series 2011 A Bonds, provide evidence that there will be at least 958 bona fide users upon the System on completion, in full compliance with the requirements and conditions of the Purchaser.

E. CHARGES AND FEES. The Issuer shall remit from the Revenue Fund to the Depository Bank and the Commission such additional sums as shall be necessary to pay the charges and fees of the Depository Bank or the Commission then due.

F. INVESTMENT OF EXCESS BALANCES. The monies in excess of the sum

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

G. REMITTANCES. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

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

## ARTICLE V

### GENERAL COVENANTS, ETC.

Section 5.01. General Statement. So long as the Series 2011 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2011 A Bonds Reserve Account sums sufficient to prepay the entire remaining unpaid principal of the Series 2011 A Bonds, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenant between the Issuer and the Holder of the Series 2011 A Bonds.

Section 5.02. Rates. So long as the Prior Bonds are outstanding, the Issuer will maintain rates as required in the Prior Resolutions. So long as the Series 2011 A Bonds are outstanding, the Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide Revenues in each Fiscal Year sufficient to produce Net Revenues equal to not less than 110% of the annual debt service on the Series 2011 A Bonds and the Prior Bonds and sufficient to make the payments required herein into all funds and accounts and all the necessary expenses of operating and maintaining the System during such Fiscal Year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate Revenues for such purposes.

Section 5.03. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of the System or any part thereof, except as provided in the Prior Resolutions. The System will not be sold without the prior written consent of the Purchaser so long as the Series 2011 A Bonds are outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 5.04. Issuance of Additional Parity Bonds or Obligations. No additional Parity Bonds or obligations payable out of any of the Revenues of the System shall be issued, except with the prior written consent of the Purchaser. No Parity Bonds shall be issued after issuance of the Series 2011 A Bonds unless the provisions contained in the Prior Resolution respecting issuance of Parity Bonds have been satisfied.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2011 A Bonds.

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

So long as the Series 2011 A Bonds and the Prior Bonds are Outstanding, 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, reciting the conclusion that the Net Revenues for the Fiscal Year following the year in which such Parity Bonds are to be issued shall be at least 120% of the average annual debt service requirements on the following:

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

The foregoing limitation may be waived or modified by the written consent of the Holders of the Prior Bonds, representing 75% of the then-outstanding principal indebtedness.

Section 5.05. Insurance and Bonds. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Series 2011 A Bonds remain outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

- (a) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System and mechanical and electrical equipment in place or stored on the site in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.
- (b) PUBLIC LIABILITY INSURANCE, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not

less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Series 2011 A Bonds.

(c) VEHICULAR PUBLIC LIABILITY INSURANCE, in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated at any time or times for the benefit of the Issuer, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle for the Issuer.

(d) WORKERS' COMPENSATION COVERAGE FOR ALL EMPLOYEES OF THE DISTRICT ELIGIBLE THEREFOR AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds have been or will be filed with the Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39. Workers' compensation coverage shall be maintained as required by the laws of the State of West Virginia.

(e) FLOOD INSURANCE to be procured, to the extent available at reasonable cost to the Issuer; however, if the System is located in a community which has been notified as having special flood or mudslide prone areas, flood insurance must be obtained.

(f) FIDELITY BONDS will be provided as to every member of the Governing Body and as to every officer and employee thereof having custody of the Revenue Fund or of any revenues or other funds of the Issuer in such amount as may be requested by the Purchaser from time to time.

(g) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Series 2011 A Bonds are outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Purchaser may specify, with insurance carriers or bonding companies acceptable to the Purchaser.

Section 5.06. Statutory Mortgage Lien. For the further protection of the Holder of the Series 2011 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, on a parity with the Prior Bonds, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of the Series 2011 A Bonds.

Section 5.07. Events of Default. Each of the following events is hereby declared an “Event of Default”:

- (a) Failure to make payment of any monthly amortization installment upon the Series 2011 A Bonds at the date specified for payment thereof;
- (b) Failure to duly and punctually observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Series 2011 A Bonds or herein, or violation of or failure to observe any provision of any pertinent law; and
- (c) If a default occurs with respect to the Prior Bonds or the Prior Resolutions.

Section 5.08. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, the Purchaser may proceed to protect and enforce its rights by an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement, or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights.

Upon application by the Purchaser, such court may, upon proof of such default, appoint a receiver for the affairs of the Issuer and the System. The receiver so appointed shall administer the System on behalf of the Issuer, shall exercise all the rights and powers of the Issuer with respect to the System, shall proceed under the direction of the court to obtain authorization to increase rates and charges of the System, and shall have the power to collect and receive all revenues and apply the same in such manner as the court may direct; provided that, all rights and remedies of the Holders of the Prior Bonds shall be on a parity with the Series 2011 A Bonds.

Section 5.09. Fiscal Year; Budget. While the Series 2011 A Bonds are outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a Fiscal Year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than 30 days prior to the beginning of each Fiscal Year, the Issuer agrees to adopt the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such Fiscal Year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each Fiscal Year.

If for any reason the Issuer shall not have adopted the Annual Budget before the 1st day

of any Fiscal Year, it shall adopt a Budget of Current Expenses from month to month until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the next year preceding by more than 10%; and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

Section 5.10. Compensation of Members of Governing Body. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Governing Body in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Net Revenues to fall below the amount required to meet all payments provided for herein, nor when there is default in the performance of or compliance with any covenant or provision hereof.

Section 5.11. Covenant to Proceed and Complete. The Issuer hereby covenants to proceed as promptly as possible with the acquisition and construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer on file with the Secretary on the date of adoption hereof, subject to permitted changes.

Section 5.12. Books and Records; Audits. 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 the Purchaser shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

The Issuer shall, at least once a year, cause said books, records and accounts of the System to be properly audited by an independent competent firm of certified public accountants and shall mail a copy of such audit report to the Purchaser. The Issuer shall further comply with the Act with respect to such books, records and accounts.

Section 5.13. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Series 2011 A Bonds are outstanding.

Section 5.14. No Competition. To the extent legally allowable, the Issuer will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

## ARTICLE VI

### RATES, ETC.

#### Section 6.01. Initial Schedule of Rates and Charges; Rules.

A. The initial schedule of rates and charges for the services and facilities of the System, subject to change consistent with the provisions hereof, shall be as set forth in the Recommended Decision of the Public Service Commission of West Virginia dated June 18, 2010, Commission order dated January 28, 2011 and Commission Order dated March 15, 2011 in Case No. 09-1984-PWD-CN and are incorporated herein by reference as a part hereof.

B. There shall not be any discrimination or differential in rates between customers in similar circumstances.

C. All delinquent fees, rates and charges for services or facilities of the System shall be liens on the premises served of equal degree, rank and priority with the lien on such premises of state, county, school and municipal taxes, as provided in the Act. The Issuer shall have all remedies and powers provided under the Act and other applicable provisions of law with regard to the collection and enforcement of such fees, rates and charges.

D. The Issuer will not render or cause to be rendered any free services of any nature by the System nor any of the facilities; and in the event that the Issuer or any department, agency, officer or employee thereof should avail itself or themselves of the services or facilities of the System, the same fees, rates and charges applicable to other customers receiving like services under similar circumstances shall be charged, such charges shall be paid as they accrue, and revenues so received shall be deposited and accounted for in the same manner as other Revenues of the System.

E. The Issuer may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

F. The Issuer, to the extent permitted by law, will not accept payment of any water bill from a customer served with water and sewer services by the Issuer without payment at the same time of a sewer bill owed by such customer for the same premises.

## ARTICLE VII

### MISCELLANEOUS

Section 7.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid, to the Holder of the Series 2011 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 2011 A Bonds, the pledge of Net Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Series 2011 A Bonds, shall thereupon cease, terminate and become void and be discharged and satisfied.

Except through such direct payment to the Holder of the Series 2011 A Bonds, the Issuer may not defease the Series 2011 A Bonds or otherwise provide for payment thereof by escrow or like manner.

Section 7.02. Modification or Amendment. The Bond Legislation may not be modified or amended after final passage without the prior written consent of the Purchaser.

Section 7.03. Delivery of Bonds. The Chairman, Secretary and Treasurer of the Governing Body are hereby authorized and directed to cause the Series 2011 A Bonds, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 7.04. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed severable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Series 2011 A Bonds.

Section 7.05. Conflicting Provisions Repealed. The Prior Resolutions and all parts thereof not expressly hereby changed shall continue in full force and effect and this Bond Legislation shall be supplemental to the Prior Resolutions.

All resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed; provided that this Section shall not be applicable to the Loan Resolution (Form FmHA 442-47) or the Prior Resolutions.

Section 7.06. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

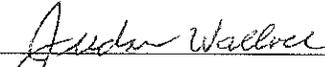
Section 7.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairman, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 7.08. Effective Date. This Resolution shall take effect immediately upon its adoption.

[Remainder of Page Intentionally Blank]

Adopted this 24th day of March, 2011.

ARMSTRONG PUBLIC SERVICE DISTRICT

By:   
Its: Chairman

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of ARMSTRONG PUBLIC SERVICE DISTRICT on the 24th day of March, 2011.

Dated: March 28, 2011.

[SEAL]

  
Secretary

03.18.11  
028331.00001



United States Department of Agriculture  
Rural Development  
West Virginia State Office

Mr. Judson Wallace, Chairman  
Armstrong Public Service District  
P.O. Box 156  
Kimberly, WV 25535

RE: Amendment No. 1 to  
Letter of Conditions

Dear Mr. Wallace:

This letter, with Attachment No. 1 amends the letter of conditions dated June 20, 2008 and further establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan and grant will be administered by the State and Area staff of USDA, Rural Development. Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by USDA, Rural Development by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

The docket may be completed on the basis of an RD loan in the amount of \$765,000, an initial RD grant in the amount of \$610,000, a subsequent RD grant in the amount of \$270,000, and other funding in the amount of \$330,000, for a total project cost of \$1,975,000. The other funding is planned in the form of a \$310,000 grant from the West Virginia Infrastructure and Jobs Development Council, and a contribution of \$20,000 from the Fayette County Commission.

Subject to the requirements noted herein, all of the conditions of the June 20, 2008 letter of conditions remain in effect and must be satisfied prior to loan and grant closing.

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

Enclosed are the following:

Attachment No. 1 - Project Construction Budget (All Copies)

The conditions referred to above are as follows:

1. Public Service Commission Approval - You must obtain PSC approval of the project's proposed financing and user rates as may result from this amendment to the letter of conditions.

1550 Earl Core Road • Suite 101 • Morgantown, WV 26505  
Phone: (304) 284-4860 OR 1-800-295-8228 • Fax: (304) 284-4893 • TDD: (304) 284-4836  
Web: <http://www.rurdev.usda.gov/wv>

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To file a complaint of discrimination write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W.,  
Washington, DC 20250-9410 or call (800)795-3272 (voice) or (202) 720-8382 (TDD).

2. At a properly called meeting, you must adopt and properly execute the following forms, and minutes showing the adoption must be provided (you must also provide us with a copy of the minutes showing the adoption of the forms associated with the original letter of conditions):

RUS Bulletin 1780-12 - "Water or Waste System Grant Agreement"  
Form 1940-1 - "Request for Obligation of Funds"  
Form RD 1942-46 - "Letter of Intent to Meet Conditions"

3. Any applicant contribution shall be considered as the first funds expended. After providing for all authorized costs, any remaining RD project funds will be considered to be RD grant funds and refunded to RD. If the amount of unused RD project funds exceeds the RD grant, that part would be RD loan funds and would be applied as an extra payment toward the loan balance.

If the conditions set forth in this letter are not met within six (6) months from the date hereof, RD reserves the right to discontinue processing of the application. In the event the project has not advanced to the point of loan closing within the six-month period and it is determined the PSD still wishes to proceed, it will be necessary that the proposed budget be reviewed again in detail. If, during that review, it is determined the budget is no longer current and/or adequate, RD reserves the right to require that it be revised or replaced.

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

Sincerely,



BOBBY LEWIS  
State Director

Enclosures

cc: Tracey Rowan, Area Director  
Cross Lanes, WV

Teed and Associates, PLLC  
3624 McCorkle Avenue, SE  
Charleston, WV 25304

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Fayetteville, WV 25840

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E.L. Robinson Engineering  
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P.O. Box 3713  
Charleston, WV 25337-3713



United States Department of Agriculture  
Rural Development  
West Virginia State Office

June 20, 2008

Mr. Judson Wallace, Chairman  
Armstrong Public Service District  
P.O. Box 156  
Kimberly, West Virginia 25535

Dear Mr. Wallace:

This letter, with Attachments 1 through 7 and enclosures, establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area staff of USDA, Rural Development. Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by USDA, Rural Development, by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

The docket may be completed on the basis of an RUS loan in the amount of \$765,000, and other funding in the amount of \$610,000, for a total project cost of \$1,375,000. The other funding is planned in the form of a grant from RUS.

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

Extra copies of this letter are being provided for use by your engineer, attorney, bond counsel and accountant. All parties may access our web-site located at [www.usda.gov/rus/water/](http://www.usda.gov/rus/water/) for the following:

- a. RUS Instruction 1780
- b. RUS Bulletin 1780-26, "Guidance for the Use of EICDC Standard Documents on Water and Waste Projects with RUS Financial Assistance"
- c. RUS Bulletin 1780-30, "Water Programs Audit Guide and Compliance Supplement"
- d. RUS Bulletin 1780-31, "Water Programs Compliance Supplement For OMB Circular A-133 Audits"

75 High Street, Federal Building, Suite 320, Morgantown, WV 26505-7500  
804.284.4880 • 1.800.295.8228 • 304.284.4899 • TTY/TDD 304.284.4836 • Web: <http://www.rurdev.usda.gov>

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

RECEIVED  
2008 FEB 17 AM 9 05  
W VA PUBLIC SERVICE DISTRICT  
COMMISSION  
SECRETARY'S OFFICE

Government Auditing Standards (Revision 2007) (Accountant Copy) may be accessed at [www.gao.gov/govaud/ybk01.ttm](http://www.gao.gov/govaud/ybk01.ttm).

The enclosures and attachments listed below are attached to the copies as noted.  
Enclosed are the following:

- Attachment No. 1 – Project Construction Budget (All copies)
- Attachment No. 2 – Water and Waste Processing Checklist
- Attachment No. 3 – Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way" (Attorney Copy)
- Attachment No. 4 – Form RD 1927-9, "Preliminary Title Opinion" (Attorney Copy)
- Attachment No. 5 – Form RD 1927-10, "Final Title Opinion" (Attorney Copy)
- Attachment No. 6 – Sample Credit Agreement (Applicant Copy)
- Attachment No. 7 – Various other RD Forms as identified in Attachment No. 2.

The conditions referred to above are as follows:

1. Fund Usage – Funds obligated under the terms of this letter of conditions are committed on the basis that your project will proceed to the construction stage in an expedient manner. RUS regulatory requirements (RUS Instruction 1782) now direct that any funds not disbursed within 60 months from the date of obligation will be de-obligated and returned to the Department of Treasury for further disposition to other RUS project applicants. In the event that USDA determines that your project is not progressing within the five (5) year timeline and that funds *will be recaptured, you will be given appeal rights and due process to document reasons why you believe the decision to de-obligate your project funds is not justified.*
2. Loan Repayment – The loan will be scheduled for repayment over a period of 40 years. The payments due the first 12 months will consist of interest only. Payments for the remaining 468 months will be equal amortized monthly installments. For planning purposes use a 3.75% interest rate and a monthly amortization factor of .00407, which provides for a monthly payment of \$3,114. You are strongly encouraged to participate in the PREAUTHORIZED DEBIT (PAD) payment process. It will allow for your payment to be electronically debited from your account on the day your payment is due. Your authority must establish and fund monthly a debt service reserve account, which equals 10% of your monthly payment each month until you accumulate the equivalent of one annual installment on your loan. You will be required to establish this debt service reserve account with the West Virginia Municipal Bond Commission. We also recommend that, as a part of this financing, you move any existing debt service reserve accounts to the Municipal Bond Commission as well. Your bond counsel will be able to assist you with this.

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

3. Security – The loan must be secured by a statutory lien of shared first priority, a pledge of the system's revenues and other agreements between you and RUS as set forth in the bond resolution which must be properly adopted and executed by the appropriate officials of your organization. Additional security requirements are contained in RUS Bulletin 1780-27 which is mentioned later.
4. Users – This conditional commitment is based upon you providing evidence that there will be at least 958 bona fide users on the proposed system when it has been completed and is placed in operation. This evidence will consist of a certification from you that identifies and attests to the number of users that are actually connected to the PSD's existing water system which is to be partially replaced by the new system, at the time you request authorization to advertise the project for construction bids.

Before RUS can agree to the project being advertised for construction bids, you must provide evidence that the total required number of bona fide users are currently using the system.

5. Bond Counsel Services – The services of a recognized bond counsel are required. The bond counsel will prepare the form of resolution to be used, in accordance with Subpart D of RUS Instruction 1780. You should immediately provide your bond counsel with a copy of this letter of conditions, its attachments and enclosures.
6. Engineering Services – It will be necessary for you to obtain the services of an engineer. EJCDC No. E-510-FA, "Standard Form of Agreement between Owner and Engineer for Professional Services" (2002 Funding Agency Edition) should be used to obtain the services of an engineer. The EJCDC document is issued under copyright and cannot be provided by RUS.
7. Legal Services – It will be necessary for you to obtain the services of a local attorney. For your convenience "RUS Legal Services Agreement" is enclosed for your use.
8. Accounting Services – It will be necessary for you to obtain the services of a qualified accountant. The accountant must agree to develop and provide the following:
  - a. All necessary accounting material required by the Public Service Commission of West Virginia (Rule 42 Exhibit).

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

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

The RUS regulations outline requirements for the submission of management reports and audits. Appropriate state statutes place certain audit requirements on your PSD. The "Government Auditing Standards (Revised 2007)", and RUS Bulletins 1780-30 and 1780-31 outline all necessary audit requirements. This information is available at the web-sites referenced on pages one and two of this letter.

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

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

- a. A right-of-way map showing clearly the location of all lands and rights needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.
- b. A copy of deeds, contracts or options for any lands needed other than rights-of-way, along with a preliminary title opinion covering such lands. Form RD 1927-9; "Preliminary Title Opinion" may be used. In the case of your existing system or where the PSD already acquired real property (land or facilities), a preliminary title opinion(s) concerning all such property(s) will be provided.

- c. A narrative opinion from your attorney concerning all permits, certifications and other items necessary to show that all legal requirements can be met and stating how they will be met. This narrative should also identify any condemnation proceedings that are anticipated and state how they will be handled.
  - d. A certification and legal opinion relative to title to rights-of-way and easements. Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way," may be used. This form may contain a few exceptions such as properties that must be condemned; however, prior to the start of construction or loan closing, whichever occurs first, a new Form RD 442-22, must be provided which does not provide for any exceptions. The attorney's legal opinion should include a certification that all requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and West Virginia State Code Chapter 54 have been met in the acquisition of both real property and rights-of-way. Such requirements may include, but are not limited to, distributing informational material to all affected property owners, and completing appraisals of the affected properties.
  - e. On the day of loan closing, the PSD's attorney must furnish final title opinions on all land(s) being acquired. Form RD 1927-10, "Final Title Opinion" may be used. In the case of your existing system or where the PSD has already acquired real property(s) (land or facilities), the PSD's attorney will provide a separate final title opinion(s) covering such property(s) on the day of loan closing.
10. Permits – Copies of all permits needed for the project must be provided for review prior to advertisement for construction bids. Such permits will include but are not limited to the following:
- West Virginia Department of Highways
  - Railroads
  - State Department of Health
  - Department of Environmental Protection
  - Corps of Engineers
  - Public Land Corporation
11. Public Service Commission Approvals – You must obtain the following from the West Virginia Public Service Commission:
- a. A Certificate of Convenience and Necessity.
  - b. Approval of user charges that are acceptable to you and the Rural Utilities Service.

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

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

- 12. Insurance and Bonding Requirements – Prior to loan closing or start of construction, whichever occurs first, you must acquire the types of insurance and bond coverage shown below. The use of deductibles may be allowed providing you have the financial resources to cover potential claims requiring payment of the deductible. RD strongly recommends that you have your engineer, attorney, and insurance provider(s) review proposed types and amounts of coverage, including any exclusions and deductible provisions. It is your responsibility and not that of RD to assure that adequate insurance and fidelity or employee dishonesty bond coverage is maintained.

- a. General Liability Insurance – This should include vehicular coverage.
- b. Workers' Compensation – In accordance with appropriate State laws.
- c. Position Fidelity Bond(s) – All positions occupied by persons entrusted with the receipt and/or disbursement of funds must be bonded. As a good business practice you will probably wish to have each position bonded in an amount equal to the maximum amount of funds to be under the control of that position at any one time. During the construction phase of your project, this maximum amount will be much greater than normal; therefore, it is our recommendation that you temporarily increase your coverage to \$200,000 (estimated highest monthly construction drawdown). Once construction is complete, you may decrease the amount of your coverage. Please note that the cost of the temporary increase in coverage is an eligible project cost.

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

- d. National Flood Insurance – In addition to meeting the requirements for the type of assistance requested, the following requirements must be met for financial assistance for acquisition and/or construction in designated special flood or mudslide-prone areas:
  - i. If flood insurance is available, you must purchase a flood insurance policy at the time of loan closing.
  - ii. Applicants whose buildings, machinery or equipment are to be located in a community which has been notified as having special

flood or mudslide prone areas will not receive financial assistance where flood insurance is not available.

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

13. Environmental Requirements –

Project Modifications – The project as proposed has been evaluated to be consistent with all applicable environmental requirements. If the project or any project element deviates from or is modified from the original approved project, additional environmental review may be required.

14. Vulnerability Assessments (VA) and Emergency Response Plans (ERP) –

Congress enacted the Public Health Security and Bioterrorism Preparedness Response Act of 2002, Public Law 107-188 (Bioterrorism Act). The Bioterrorism Act amended the Safe Drinking Water (SDWA) to require all medium and large sized community water systems (serving populations greater than 3,300) to assess vulnerability to terrorist attack and develop emergency plans for response to such an attack. Medium and large community water systems are being monitored by the U.S. EPA for completion of VA's and ERP's.

Rural Development requires all financed water and wastewater systems to have a vulnerability assessment (VA) and an emergency response plan (ERP) in place. New water or wastewater systems must provide a certification that an ERP is complete prior to the start of operations. A certification that a VA is complete must be submitted within one year of the start of operations. All other borrowers must provide a certification that a VA and ERP are complete prior to bid authorization.

You will also be required to provide a certification that the VA and ERP is complete and is current every three years after the start of operations. RD does not need or want a copy of the VA or ERP. The requested certification will be sufficient to meet our needs. Technical assistance providers are available to provide you with on site assistance if desired.

15. Civil Rights & Equal Opportunity – You should be aware of and will be required to comply with other federal statute requirements including but not limited to:

Section 504 of the Rehabilitation Act of 1973 – Under section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped

individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving RD financial assistance.

Civil Rights Act of 1964 – All borrowers are subject to, and facilities must be operated in accordance with, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and subpart E of part 1901 of this title, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by paragraph 1901.202(e) of this title.

The Americans with Disabilities Act (ADA) of 1990 – This Act (42 U.S.C. 12101 *et seq.*) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications. Title II of the Act applies to facilities operated by State and local public entities which provides services, programs and activities. Title III of the Act applies to facilities owned, leased, or operated by private entities which accommodate the public.

Age Discrimination Act of 1975 – This Act (42 U.S.C. 6101 *et seq.*) provides that no person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

RD financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap.

16. Contract Documents, Final Plans and Specifications –

a. The contract documents should consist of the following:

i. EJCDC Document No. C-521, 2002 Edition, "Suggested Form of Agreement between Owner and Contractor on the Basis of Stipulated Price" and EJCDC Document No. C-710, 2002 Edition, "Standard General Conditions of the Construction Contract – Funding Agency Edition" and Attachments. The EJCDC document is issued under copyright and cannot be provided by RUS.

ii. "RUS Supplemental General Conditions."

RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Standard Documents on Water and Waste Projects with RUS Financial Assistance (September 10, 2003 Version)," is available for use by your engineer at the web-site referenced on page one of this letter.

- b. The contract documents must provide, as a minimum, the following insurance:
- i. Liability Insurance – Personal Liability - \$500,000; Property Damage - \$200,000 - \$200,000. This coverage must include indemnification of the PSD and its engineer. EJCDC Document C-710, "Standard General Conditions of the Construction Contract" (Funding Agency Edition) and Exhibit G to RUS Bulletin 1780-26, "Supplementary Conditions" both suggest certain limits of liability for insurance coverage. Those limits should be considered as minimum requirements only. It is recommended you consider increasing the given limits of liability after analyzing your specific needs.
  - ii. Builder's Risk Insurance – On all structures and mechanical and electrical equipment in place or stored on the site to the full insurable value thereof.
  - iii. Workers' Compensation – In accordance with applicable State laws.
- c. The contract documents and final plans and specifications must be submitted to RUS for approval.
- d. The project must be designed in compliance with Section 504 of the Rehabilitation Act of 1973.
17. State Prevailing Wage Law - You should ensure that all requirements of Article 5A of the West Virginia State Prevailing Wage Law, "Wages for Construction of Public Improvements" are met during construction of the project.
18. Interim Financing – Interim financing will be used for the RUS loan if it is available at reasonable rates and terms. You must provide RUS with a copy of the tentative agreement reached in connection with interim financing. A copy of the proposed agreement should be provided for RUS review. A Sample Credit Agreement is attached for your use in meeting this requirement (Attachment No.6).
19. Disbursement of Funds – The RUS funds will be advanced as they are needed in the amount(s) necessary to cover the RUS proportionate share of any disbursements required of your PSD, over 30 day periods. Funds will be disbursed by electronic transfer of funds.

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

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

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

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

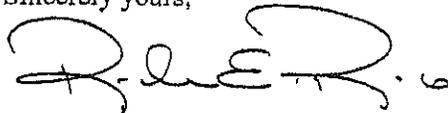
21. The enclosed Water and Waste Processing Checklist (Attachment No. 2) outlines the items needed to complete the loan docket. All the items listed must be included in the loan docket when it is forwarded to the USDA – Rural Development State Office with a request for loan closing instructions to be issued.
22. Upon receipt of the loan docket, which contains all the items required above, RUS may authorize you to advertise the project for construction bids. Such advertisement must be in accordance with appropriate State statutes. Immediately after bid opening you must provide RUS with (a) a bid tabulation, (b) recommendations from you and your engineer as to the acceptability of the bids received, and (c) your recommendations for contract awards. If all parties then agree the construction bids received are acceptable, it is determined that adequate funds are available to cover the total facility costs, and that all the administrative conditions of loan approval have been satisfied, loan closing instructions will be issued. The closing instructions, a copy of which will be forwarded to you, will set forth any further requirements that must be met before the loan can be closed. When all parties agree that the closing requirements can be met, a mutually acceptable date for the loan closing will be scheduled.

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

If the conditions set forth in this letter are not met within twelve (12) months from the date hereof, RUS reserves the right to discontinue processing of the application. In the event the project has not advanced to the point of loan closing within the twelve-month period and it is determined the authority still wishes to proceed, it will be necessary that the proposed budget be reviewed again in detail. If during that review, it is determined the budget is no longer current and/or adequate, RUS reserves the right to require that it be revised or replaced.

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

Sincerely yours,



RICKIE E. RICE  
State Director

Enclosures

cc: Rural Development Specialist  
Cross Lanes, West Virginia

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Charleston, West Virginia 25326-1588

**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 15<sup>th</sup> day of March 2011.

CASE NO. 09-1984-PWD-CN

**ARMSTRONG PUBLIC SERVICE DISTRICT (REOPENED)**

Application for a certificate of convenience and necessity to construct minor improvements to the water treatment plant, waterline extension, decommissioning of the Deepwater plant, water tank replacement, valve replacements, and waterline upgrades in Fayette County.

**COMMISSION ORDER**

The Commission reopens this case and approves additional funding for a water system improvement project.

**BACKGROUND**

On June 18, 2010, the Division of Administrative Law Judges entered a Recommended Decision that became a final order of the Commission on July 8, 2010, granting the Armstrong Public Service District (District) a certificate of convenience and necessity for a water system improvement project (Project), and approved funding related thereto. The approved funding consisted of a \$610,000 grant from the United States Rural Utilities Service (RUS), and a \$765,000 RUS loan payable over 40 years at 3.75% interest per annum.

On January 24, 2011, the District filed certified bid tabulations for the Project. All the bids exceeded the amount of approved Project funding. On January 28, 2011, the Commission entered an order making corrections to the District's post-project tariff and required the District to publish notice of those changes. On February 10, 2011, the District filed an affidavit of publication for the required notice.

On March 4, 2011, pursuant to W.Va. Code §24-2-11(j), the District petitioned to reopen this case for Commission approval for additional grant funds and for expedited consideration of this petition so that the Commission Order could issue no later than March 16, 2011. The District

represented that the West Virginia Infrastructure and Jobs Development Council (WVIJDC) approved a \$310,000 grant contingent upon District receipt of a letter of conditions from RUS for an additional \$270,000 RUS grant, and that the Fayette County Commission had committed \$20,000 from its annual budget for the Project.

The District filed with its petition the required CPA affidavit verifying that the additional funding made necessary by the change in the Project cost will not affect customer rates and charges. On March 8, 2011, the District filed a copy of minutes from the January 28, 2011 meeting of the Fayette County Commission, reflecting the commitment to contribute \$20,000 to the Project. Also on March 8, 2011, Staff filed a copy of correspondence from the WVIJDC reflecting a commitment for a \$310,000 Infrastructure Fund grant contingent upon the District securing an additional \$270,000 RUS grant. On March 10, 2011, Staff filed a letter from the United States Department of Agriculture Rural Development Office (USDA-RD), of which RUS is an operating unit, stating that it had determined that the District was eligible for the additional grant funds. The letter, which was sent by the West Virginia State Office of USDA-RD, stated the intent to commit the \$270,000 in grant funds upon receipt of a satisfactory review from the National Office.

On March 11, 2011, Commission Staff filed its Initial and Final Joint Staff Memorandum, recommending approval of the additional funding. On March 14, 2011, the District filed a response, concurring with Staff.

### DISCUSSION

The District has petitioned the Commission for approval of further funding for the Project because W.Va. Code §24-2-11(j) requires a utility to seek Commission approval for a cost overrun not affecting the rates on a certificated project when the project has not been approved by the WVIJDC. Prior to seeking funding for the cost overrun, the District had not filed the Project with the WVIJDC because, up to that point, all funding had been obtained from federal sources.

The District is still in negotiations with the low bidder for an agreement to extend the bid hold period of March 21, 2011, but the District informed the Commission that as of the date of the petition to reopen, those negotiations did not appear promising. The District has, therefore, requested expedited treatment in the form of a Commission order by March 16, 2011, approving the proposed additional funding so the District might close on existing funding commitments prior to the expiration of the bid holding period.

The Commission has reviewed the petition and considered the recommendation of Staff and will reopen the case and grant its approval for the District to accept the additional grant monies from the WVIJDC and RUS, and the contribution from the Fayette County Commission. The additional funding will allow the District, with no rate impact, to complete the project the Commission previously approved. The Commission will require filing of the final RUS letter of conditions upon receipt of same by the District.

## FINDINGS OF FACT

1. The Commission previously granted the District a certificate of convenience and necessity for the Project, and approved funding related thereto.
2. The bids for the Project exceeded the amount of approved Project funding.
3. Additional funding for the Project that will have no rate impact is available in the form of a contribution of \$20,000 from the Fayette County Commission, and a \$310,000 grant from the WVIJDC contingent upon the District securing an additional \$270,000 RUS grant.

## CONCLUSIONS OF LAW

1. W.Va. Code §24-2-11(j) requires a utility to seek Commission approval for a cost overrun not affecting the rates on a certificated project when the project has not been approved by the WVIJDC.
2. Because the proposed additional funding for the Project will allow the District to complete the project the Commission previously approved with no change in customer rates, it is reasonable for the Commission to approve the additional funding.

## ORDER

IT IS THEREFORE ORDERED that this matter is reopened and that the Commission grants its approval for the Armstrong Public Service District to accept additional funding of a contribution of \$20,000 from the Fayette County Commission and a \$310,000 grant from the WVIJDC contingent upon the District securing an additional \$270,000 RUS grant, in order to complete the water system improvement project previously certificated by the Commission in this case.

IT IS FURTHER ORDERED that upon its receipt of the final letter of conditions from RUS in connection with the proposed \$270,000 grant, the Armstrong Public Service District file a copy of same with the Commission.

IT IS FURTHER ORDERED that upon entry of this Order, this matter is removed from the Commission docket of active cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this order by electronic service on all parties of record who have filed an e-service agreement, and by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Commission Staff by hand delivery.

A True Copy, Testes:

  
Sandra Squire  
Executive Secretary

RWC:tt  
091984cb.wpd

**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 28<sup>th</sup> day of January 2011.

CASE NO. 09-1984-PWD-CN

**ARMSTRONG PUBLIC SERVICE DISTRICT**

Application for a certificate of convenience and necessity to construct minor improvements to the water treatment plant, waterline extension, decommissioning of the Deepwater plant, water tank replacement, valve replacements, and waterline upgrades in Fayette County.

**COMMISSION ORDER**

The Commission reopens this case, grants a joint application for modification of a previous Order, and adopts modified rates.

**BACKGROUND**

On June 18, 2010, the Division of Administrative Law Judges (ALJ) entered a Recommended Decision that granted a certificate of convenience and necessity to the Armstrong Public Service District (Armstrong) for a proposed improvement project. The Recommended Decision included a schedule of rates to become effective upon substantial completion of that project. On August 18, 2010, Armstrong filed a joint application (Application) with Commission Staff for the modification of that Recommended Decision, which had become the final order of the Commission on July 18, 2010. Specifically, the parties requested that the Commission modify the rate schedule to correct several errors. According to the Application, on Schedule No. 1, the minimum charge stated does not match the charge for the smallest meter size. On Schedule No. 2, the minimum charge stated does not accurately state the volume that serves as the basis for the minimum charge and the minimum charge itself is misstated. The parties also note that on both Schedule No. 1 and No. 2, the security deposit for residential customers is misstated. The parties included a revised tariff with the Application reflecting the requested corrections.

On September 30, 2010, Staff filed an Initial and Final Joint Staff Memorandum identifying further corrections and attaching another revised schedule of rates, recommending adoption thereof. Armstrong filed correspondence with the Commission on October 12, 2010, concurring with the Staff recommendation.

## DISCUSSION

The Commission has reviewed this matter and will adopt the revised schedule of rates recommended by Armstrong and the Commission Staff, attached hereto as Appendix A. For purposes of clarity, the Commission has made changes to the applicability and availability of Schedule No. 3. The Commission will require that Armstrong apprise its customers of these further changes by publishing a Class I legal advertisement in a qualified newspaper as provided in W. Va. Code §. 59-3-1 et seq., published and in general circulation in Fayette County, West Virginia, making due return to the Commission of a proper certification of publication immediately thereafter. With the exception of the changes made by this Order, the June 18, 2010 Recommended Decision remains in full force and effect.

## FINDINGS OF FACT

1. On June 18, 2010, the ALJ entered a Recommended Decision that granted a certificate of convenience and necessity to Armstrong for a proposed improvement project. The Recommended Decision included a schedule of rates to become effective upon substantial completion of that project.

2. On August 18, 2010, Armstrong filed the Application with Commission Staff for the modification of that Recommended Decision, which had become the final order of the Commission on July 18, 2010. Specifically, the parties requested that the Commission modify the rate schedule to correct several errors.

3. On September 30, 2010, Staff filed an Initial and Final Joint Staff Memorandum identifying further corrections and attaching another revised rate schedule, recommending adoption thereof. Armstrong concurred with the Staff recommendation by means of correspondence filed with the Commission on October 12, 2010.

## CONCLUSIONS OF LAW

1. It is reasonable to reopen this matter and to adopt the revised rate schedule submitted by Armstrong and the Commission Staff, attached hereto as Appendix A, in place of the rate schedule adopted in the June 18, 2010 Recommended Decision.

2. With the exception of the changes made by this Order, the June 18, 2010 Recommended Decision remains in full force and effect.

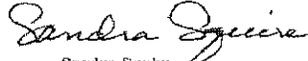
## ORDER

IT IS THEREFORE ORDERED that this matter is reopened and the schedule of rates attached hereto as Appendix A is adopted in place of the rate schedule adopted in the Recommended Decision of June 18, 2010. In all other respects, that Recommended Decision remains in full force and effect.

IT IS FURTHER ORDERED that upon entry of this Order, this matter is removed from the Commission docket of active cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this order by electronic service on all parties of record who have filed an e-service agreement, and by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Commission Staff by hand delivery.

A True Copy, Teste:

  
Sandra Squire  
Executive Secretary

RWC:tt  
091984e.wpd

ARMSTRONG PUBLIC SERVICE DISTRICT  
CASE NO. 09-1984-PWD-CN

APPROVED RATES

SCHEDULE NO. 1

APPLICABILITY

Applicable within the entire territory served (except area formerly served by Deepwater)

AVAILABILITY OF SERVICE

Available for the general residential, commercial and industrial service

RATE

First	2,000 gallons used per month	\$ 14.87	per 1,000 gallons
Next	3,000 gallons used per month	\$ 10.18	per 1,000 gallons
All Over	5,000 gallons used per month	\$ 6.25	per 1,000 gallons

(C) MINIMUM CHARGE

No minimum bill will be rendered for less than the following, according to the size of meter installed.

5/8 x 3/4	inch meter	\$ 29.74
3/4	inch meter	\$ 44.61
1	inch meter	\$ 74.35
1-1/2	inch meter	\$ 148.70
2	inch meter	\$ 237.93
3	inch meter	\$ 475.85
4	inch meter	\$ 743.52
6	inch meter	\$1,487.04

RETURNED CHECK CHARGE

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

DELAYED PAYMENT PENALTY

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

RECONNECTION FEE - \$20.00

To be charged whenever the supply of water is turned off for violation of rules, non-payment of bills or fraudulent use of water.

TAP FEE

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

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

LEAK ADJUSTMENT

\$0.55 per 1,000 gallons is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

(C) SECURITY DEPOSIT

Not to exceed two-twelfths (2/12) of the average usage of the applicant's specific customer class, or fifty dollars (\$50.00), whichever is greater. This fee may be changed by applicable statutory provisions.

SCHEDULE NO. 2APPLICABILITY

Applicable within the entire territory served (area formerly served by Deepwater)

AVAILABILITY

Available for the general residential, commercial and industrial service

RATE

First	3,000 gallons used per month	\$ 8.89	per 1,000 gallons
Next	3,000 gallons used per month	\$ 7.61	per 1,000 gallons
Next	4,000 gallons used per month	\$ 6.52	per 1,000 gallons
All Over	10,000 gallons used per month	\$ 4.34	per 1,000 gallons

(C) MINIMUM CHARGE

No minimum bill will be rendered for less than the following, according to the size of meter installed.

5/8	inch meter	\$ 26.67
3/4	inch meter	\$ 40.01
1	inch meter	\$ 66.68
1 - 1/4	inch meter	\$ 97.35
1 - 1/2	inch meter	\$ 133.35
2	inch meter	\$ 213.36
3	inch meter	\$ 426.72

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the District or a maximum of \$15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

DELAYED PAYMENT PENALTY

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

RECONNECTION FEE - \$20.00

To be charged whenever the supply of water is turned off for violation of rules, non-payment of bills or fraudulent use of water.

TAP FEE

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

A tap fee of \$150.00 will be charged to customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

(C) SECURITY DEPOSIT

Not to exceed two-twelfths (2/12) of the average usage of the applicant's specific customer class, or fifty dollars (\$50.00), whichever is greater. This fee may be changed by applicable statutory provisions.

SCHEDULE NO. 3APPLICABILITY

- (C) Sales for Resale

(C) AVAILABILITY

Sale to West Virginia American Water Company

RATE

\$4.34 per 1,000 gallons

MINIMUM CHARGE

No minimum bill will be rendered for less than \$202.24 per month.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the District or a maximum of \$15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

DELAYED PAYMENT PENALTY

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

C = Change

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

CASE NO. 09-1984-PWD-CN

ARMSTRONG PUBLIC SERVICE DISTRICT

Application for a certificate of convenience and necessity to construct minor improvements to the water treatment plant, waterline extension, decommissioning the Deepwater plant, water tank replacement, valve replacements, and water line upgrades in Fayette County.

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

AFFIDAVIT

I, Rick Barnett, CPA, after making an oath of affirmation to tell the truth, say that, I have reviewed the Recommended Decision dated June 18, 2010 and Commission Order dated January 28, 2011 in Case No. 09-1984-PWD-CN of the Public Service Commission of West Virginia which, among other things, approved a certificate of convenience and necessity, approved rates and charges and approved the project financing consisting of:

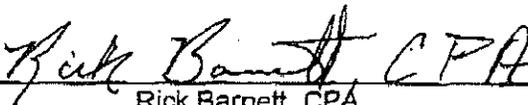
- (i) \$610,000 grant from the United States Department of Agriculture Rural Utilities Service ("USDA"), and
- (ii) \$765,000 loan for 40 years at 3.75% interest from the USDA,

and, based upon all the information that has been provided to me to date, I am of the opinion that the rates and charges are not affected by the revised funding consisting of:

- (i) \$610,000 grant from the USDA,
- (ii) \$765,000 loan for 40 years at 3.75% interest from the USDA;
- (iii) \$270,000 grant from USDA;
- (iv) \$ 20,000 grant from Fayette County Commission; and
- (v) \$310,000 grant from the West Virginia Infrastructure and Jobs Development Council;

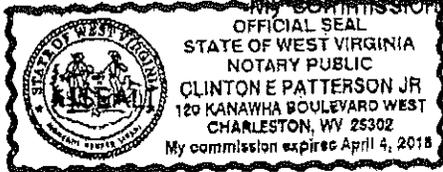
and the rates and charges will be sufficient to provide revenues which, together with other revenues of the System, will allow me to provide the CPA certification required for the issuance of the Bonds.

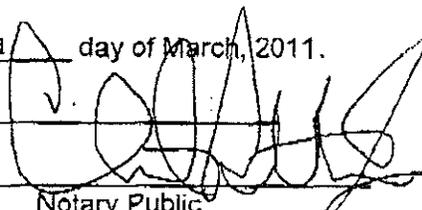
This Affidavit is executed on the 3 day of March, 2011

  
Rick Barnett, CPA

Taken, subscribed and sworn to before me this 3rd day of March, 2011.

My commission expires April 4, 2018



  
Notary Public

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

Entered: June 18, 2010

CASE NO. 09-1984-PWD-CN

## ARMSTRONG PUBLIC SERVICE DISTRICT

Application for a certificate of convenience and necessity to construct minor improvements to the water treatment plant, waterline extension, decommissioning of the Deepwater plant, water tank replacement, valve replacements, and waterline upgrades in Fayette County.

RECOMMENDED DECISION

On November 25, 2009, Armstrong Public Service District (Armstrong or District) filed an application for a certificate of convenience and necessity to make minor improvements to the District's existing water treatment plant, construct a water line extension to connect the District to the facilities of the former Deepwater Public Service District (Deepwater), decommission the Deepwater plant, construct a water tank replacement, and make valve replacements and waterline upgrades.

By Commission Order dated November 25, 2009, the District was directed to give notice of the filing of its application by publishing a copy of said Order once in a qualified newspaper, published and in general circulation in Fayette County, West Virginia, making due return to the Commission of a proper certification of publication immediately thereafter. Anyone interested in the application was given thirty (30) days in which to file written protests or petitions to intervene. The Order further noted that, if no protests were received within the thirty-day period, the Commission could waive formal hearing and grant the application based on the evidence submitted with the application and the Commission's review thereof.

On December 4, 2009, the District filed an affidavit of publication from The Fayette Tribune which reflected that on December 3, 2009, the Notice of Filing had been published in that newspaper which is generally circulated in Fayette County.

~~On December 10, 2009, the District filed a revised Statement H as part of its Rule 42 Exhibit.~~

On December 23, 2009, West Virginia-American Water Company (WVAW) filed a petition to intervene. WVAW purchases water from the District to supply fifty (50) of its customers and expressed a concern that the District would not be able to meet the 2012 requirements of the

Environmental Protection Agency for the removal of disinfection by-products (DBPs) after the proposed project is complete.

On December 29, 2009, Staff Attorney Cassius Toon filed the Initial Joint Staff Memorandum to which was attached the December 21, 2009 Initial Staff Memorandum prepared by James Weimer, P.E., Engineering Division, and James Boggess, Utilities Analyst II, Utilities Division. Staff reported on the District's application. The project is estimated to cost \$1,375,000, and is to be financed by a United States Department of Agriculture (USDA), Rural Utilities Service (RUS), loan in the amount of \$765,000 and a USDA RUS grant in the amount of \$610,000. The loan is for forty (40) years at 3.75% interest. The District proposed no increase in rates to support the additional debt. A corrected Statement H to the Rule 42 Exhibit was submitted on December 10, 2009, due to an error in debt service coverage. Although Statement H reflects \$541,683 as the amount of available cash, the total is actually \$508,743. At pro forma, the result is a \$19,763 deficit in cash and a debt service coverage of 80.92%. The project can not be supported with revenues as presented on Statement H. The District proposes to upgrade its water treatment plant at Armstrong, install a connection between its Armstrong and Deepwater systems, decommission the Deepwater plant, construct a new Deepwater tank, install a booster station, add new sedimentation tanks and valve replacements at the Armstrong plant and install new telemetry. Additional information was necessary in order for Staff to make a final recommendation.

On December 29, 2009, Staff filed its first set of interrogatories, data requests or requests for information to the District.

On January 13, 2010, the District filed a revised Rule 42 Exhibit.

On January 15, 2010, the District filed a response to Staff's first discovery requests.

On January 25, 2010, the Commission granted WVAW's petition to intervene. The Commission further referred the matter to the Division of Administrative Law Judges requiring a decision due date of on or before June 30, 2010.

On February 1, 2010, WVAWC filed its first set of discovery requests to the District.

On February 5, 2010, the District filed its first supplemental response to Staff's first set of discovery requests.

On February 11, 2010, Staff filed its second discovery request to the District.

On February 22, 2010, the District filed its response to WVAWC's first set of discovery requests.

On February 23, 2010, Staff Attorney Toon filed the Further Joint Staff Memorandum and indicated that final recommendations would be filed within one (1) week.

On February 24, 2010, Staff Attorney Toon filed the Final Joint Staff Memorandum to which was attached the February 23, 2010 Joint Final Recommendation prepared by Mr. Weimer and Mr. Boggess. Staff reported that the District serves approximately 877 water customers in Fayette County, 50 of which are WVAWC customers. Staff examined the various permits that were required for the project and indicated the following: (a) a performance bond was required for the WVDOH permit; (b) WVDEP authority to operate under the General Water Pollution Permit WV0115924 will be required; (c) the WVDEP Division of Air Quality clearance letter did not anticipate any demolition operations; (d) a WVDNR Right of Entry Permit will be needed for stream entry needs; (e) a permit from the Corps of Engineers may be required for an anticipated 30 stream crossings; (f) a sedimentation control plan will be needed; (g) a required railroad crossing permit is pending the submission of the \$1000 fee; and (h) a Vulnerability Analysis and Emergency Response Plan must be submitted to the RUS. Land is being acquired for the booster station and some rights-of-way may still be needed. Staff indicated that the loan cost for the plant improvements is approximately \$0.86 per customer per month. For the extension project, it is \$1.55 per customer per month. The costs will be reduced by removing the O&M cost for the Deepwater plant. Staff opined that the engineering cost is very reasonable.

The need for a project to connect both the Armstrong and Deepwater service areas is unquestioned. The need to secure the water supply for both areas is also unquestioned. However, Staff expressed great concern regarding spending funds on an aged and poorly maintained water plant which will soon require significant additional investment. The District has been encouraged to take the plant out of service and consolidate water operations with the Kanawha Falls Public Service District (Kanawha Falls) water system. The Kanawha Falls plant was constructed as a regional water plant to supply the Kanawha Falls, Gauley River, Armstrong and Deepwater Public Service Districts. The Armstrong plant is located 1200 feet across the Kanawha River from the Kanawha Falls plant. Prior reviews have recommended that Armstrong and Deepwater connect with the Kanawha Falls plant. Staff estimated that water losses have cost the District's customers over \$400,000 since 2004. Staff believes that significant additional investment beyond filter improvements will be required to operate the plant for the duration of the 40-year loan. Staff expressed concern that the application included no cost for legal services other than bond counsel; a low cost for the Deepwater tank; and no funding for tank demolition. Staff noted that no work was planned for the raw water intake area. Staff expressed concern that water operations can be maintained during filter restoration. Funds for a portable plant should be included in the project cost.

Staff opined that failure to obtain water service from Kanawha Falls would be a serious disservice to Armstrong's customers who are already burdened with high rates. A river crossing would result in a revised project cost of \$2,025,727.33, and assuming the same loan/grant ratio, would add \$21,000 to debt service and reserve funds. The \$21,000 additional expense is less than half the amount the District spends annually on lost water. Staff opined that consolidation would significantly reduce the cost of water for Armstrong and Kanawha Falls customers. Staff also estimated that the current O&M cost per Armstrong residential customer is double the O&M cost per Kanawha Falls residential customer. Staff opined that the Armstrong system is badly in need of

repairs, replacements and improvement. Very little funding will be available to control water loss or make system replacements. The Armstrong plant has been cited for water quality violations. From a pure rate standpoint, the proposed project is convenient, but fails to provide long-term water security or rate stability. An alternate is available for a 40-year solution to the water supply needs.

The Utilities Division reviewed the project as proposed by the District. The projected annual debt service principal and interest is \$35,299, plus an additional ten percent (10%) for the debt service reserve requirement. In response to the District's overstatement of total available cash, the District submitted a revised Rule 42 Exhibit on January 13, 2010, with a corrected Cash Flow Analysis. The District then proposed an across-the-board nine percent (9%) rate increase. Staff adjusted it to an across-the-board four and one-half percent (4.5%) rate increase which results in a debt service coverage of 122.6%, a cash surplus of \$457 and a depreciation reserve of \$12,414. The Staff-recommended rate increase of 4.5% will provide an estimated \$21,383 in additional revenues.

Staff recommended the following: (a) the project be modified to eliminate or postpone the \$450,000 Armstrong plant upgrade until consolidation can be more fully evaluated; (b) the extension project be approved; (c) the District be required to evaluate, within three (3) months, consolidation with Kanawha Falls PSD; (d) the District be required to submit the results of the evaluation to this Commission and the Fayette County Commission; (e) the Commission recommend to the Fayette County Commission and the Districts that the Districts be consolidated, if supported by the evaluation; (f) that, should the Commission decline to accept Staff's recommended modifications, the project be approved as is; (g) approval be contingent upon the filing of all outstanding permits and clearances; (h) approval of the funding committed by the RUS, consisting of a loan in the amount of \$765,000, and a grant in the amount of \$610,000, for a total funding package of \$1,375,000; and (i) the Staff-recommended rates become effective upon the substantial completion of the project.

On March 5, 2010, the USDA, the District's creditor, petitioned the Commission to intervene. On the same date, the USDA indicated that it opposed the District being required to consider consolidation with Kanawha Falls, because Kanawha Falls had not fully funded its debt service reserve accounts. USDA further argued that delaying the upgrades to the District's plant might jeopardize the health and welfare of the District's customers. The USDA further indicated that it was not inclined to consent to any consolidation of the District and Kanawha Falls.

~~On March 8, 2010, the District objected to the Staff recommendation that the plant upgrade be delayed. It further objected to being required to study consolidation with Kanawha Falls. The District argued that the USDA's indication that it was not inclined to consent to the consolidation made such a consolidation an unrealistic alternative. The District encouraged the Commission to adopt Staff's alternative recommendation and simply approve the project.~~

On March 8, 2010, the District also filed a letter in support of the USDA's petition to intervene and a copy of a License and Right of Entry issued on March 4, 2010, to the District by the West Virginia Division of Natural Resources.

On March 9, 2010, the District provided a Revised Notice of Filing. The District indicated that, under its original notice of filing, it anticipated no rate increase, but that it concurred with the Staff analysis that the project would require a rate increase of approximately 4.5%.

On March 9, 2010, the District filed a revised project budget.

On March 9, 2010, the District filed its response to Staff's second request for information and production of documents.

On March 29, 2010, the District filed a copy of a resolution adopted by the Fayette County Commission on March 24, 2010, regarding the proposed project.

By Procedural Order dated April 1, 2010, the petition to intervene filed by the USDA was granted; the District was required to publish a copy of the Revised Notice of Filing and to comply with all further Commission notice requirements regarding the revised notice; and the parties were granted ten (10) days in which to request a hearing.

On April 9, 2010, the District filed an affidavit of publication reflecting that the Revised Notice of Filing had been published in The Fayette Tribune on April 8, 2010.

On April 12, 2010, Staff Attorney Toon filed the Further Joint Staff Memorandum. Staff indicated that it desired to have a hearing in the matter.

On April 12, 2010, the District filed a letter in which the District indicated that a hearing should be held. The District indicated that all parties to the proceeding are available for hearing on May 10, 2010, or May 20, 2010.

By Procedural Order dated April 15, 2010, a procedural schedule, including a hearing on May 10, 2010, was established. The parties were also advised that, if substantial protest was made, a public hearing would be scheduled for May 20, 2010.

On April 23, 2010, a letter of protest was filed.

On May 7, 2010, the District filed a Certificate of Separate Mailing of ~~Notice to Customers of Proposed Change in Rates~~ which reflected that the Notice had been mailed to all of the District's customers on April 15, 2010.

On May 10, 2010, the hearing took place as scheduled. James V. Kelsh, Esquire, represented the District. Linda S. Bouvette, Esquire, represented WVAW. Gary L. Call, Esquire, represented the USDA. Cassius Toon, Esquire, represented Commission Staff.

On May 17, 2010, a transcript of the proceeding consisting of 163 pages was filed. Fifteen (15) exhibits were attached to the transcript. Staff Exhibit 1 was not attached.

By Procedural Order dated May 18, 2010, the parties were informed that no additional protest hearing would be scheduled.

On June 4, 2010, WVAWC, the USDA and the District filed separate initial briefs.

On June 11, 2010, the District filed a reply brief. No other briefs were filed in this proceeding.

As of the date of this Order, no other letters or protests have been filed.

#### STATEMENTS OF COUNSEL

At hearing, Mr. Toon agreed that purchasing water at bulk rate from either Kanawha Falls Public Service District (Kanawha) or WVAW would be economically unfeasible. However, Mr. Toon indicated that Commission Staff would present alternatives to that issue. (Tr. pp. 8-9).

Mr. Kelsh stated that in 2006 the Commission had approved the merger of Armstrong Public Service District and the former Deepwater Public Service District. At that time there was a plan to interconnect the two (2) systems. Mr. Kelsh indicated that the instant project resulted from the 2006 order. The Deepwater treatment plant will be decommissioned and an interconnection between Deepwater and Armstrong will be made. The Armstrong water treatment plant will be improved and the Deepwater tank will be replaced (Tr. p. 11). Although Commission Staff recommends that improvements to the Armstrong water plant be delayed in order for an alternative involving Kanawha Falls to be studied, Kanawha Falls has no interest in a joint venture with Armstrong. The Fayette County Commission has passed a resolution stating that it does not support the merger of Armstrong and Kanawha Falls. The RUS, a bond holder to both Kanawha Falls and Armstrong, does not support the merger of the two. (Tr. p. 11). Staff's proposed delay would result in further reliance on an untrustworthy system. The Armstrong plant needs to be upgraded in very short order. Although the District does not believe Staff's proposed alternative is realistic, the District supports Staff's recommendation of a 4.5% rate increase. (Tr. p. 12).

Mr. Toon believes that the position of RUS and the resolution of the Fayette County Commission were based upon little or no information regarding Staff's alternatives. (Tr. pp. 12-13). The Kanawha Falls regional plant has been approved by federal, state and local agencies. ~~It operates at approximately fifty percent (50%) capacity. The Deepwater and Armstrong plants are old and subject to failure. It makes no sense to Staff to eliminate one dilapidated plant and put a band-aid on another dilapidated plant when there is a regional plant. Staff believes its plan will produce much lower rates for Armstrong's customers.~~ (Tr. p. 13).

Ms. Bouvette stated that WVAW began purchasing water from Deepwater in 1997 to serve fifty (50) customers in Montgomery Heights. Since 2008,

WVAW has become concerned with water quality. It is the position of WVAW that Deepwater/Armstrong is not meeting the DBP water quality standards and will not be able to meet those standards in the future under stage two rule. Health department records indicate that monitoring is not taking place and monitoring reports are not being submitted in a timely fashion. WVAW firmly supports the interconnection between Deepwater and Armstrong. (Tr. p. 14). Ms. Bouvette also does not believe that the agreement reached between Staff and Armstrong regarding the economic feasibility of using Kanawha Falls or WVAW water takes into consideration improvements needed for Armstrong to meet the DBP stage two rule. (Tr. pp. 14-15).

Gary Call, Esquire, stated that the USDA and RUS are on record as being in support of the District's proposal. That position continues. (Tr. p. 15).

#### EVIDENCE

The District called Rick Barnett as its first witness. Mr. Barnett is a certified public accountant with Teed & Associates, an accounting firm in Charleston. He prepared the Rule 42 Exhibit for the District. (Tr. p. 17). Mr. Barnett proposed an across-the-board post-project increase of nine percent (9%) to the District's rates. Staff recommended a four and a half percent (4.5%) increase instead. The District concurs with Staff's recommendations. (Tr. p. 18).

The District called Tracey Rowan as its second witness. Ms. Rowan has been employed by the RUS for the past two (2) years. (Tr. p. 20). The District uses the Rural Development Grant and Loan Fund. The District's application for funding included previous Commission orders. (Tr. p. 21). The Commission merged operations of the Armstrong and Deepwater utilities. (Tr. p. 22). A portion of the project for which she is responsible is right out of the Commission's order. However, RUS approved a project that had a smaller scope than what was identified in the order. It was determined that the District could only afford a \$765,000 loan and still have affordable rates. The District was also given a \$610,000 grant for a total project cost of \$1,375,000. The project would take the Deepwater plant offline. Sewer rates were also considered because RUS always looks at combined rates. (Tr. p. 24). Armstrong and the former Deepwater PSD have high sewer rates. Their water rates are high as well. (Tr. p. 25).

The USDA holds bonds issued by Armstrong. Armstrong is current on all of its bonds. The USDA also holds bonds issued by Kanawha Falls. Kanawha Falls is not current on its reserve requirements and it is a little behind on its actual bond requirements. Kanawha Falls is currently in monetary default with its bonds on its sewer system. (Tr. p. 26). ~~A utility which is in technical default is usually also in violation of its coverage requirements.~~ (Tr. p. 27). The USDA objects to Staff's recommendations that Armstrong postpone the plant upgrade portion of the project and instead study a consolidation with Kanawha Falls. USDA's consent to consolidation is required. USDA urges the Commission to approve the project as proposed by Armstrong in its application. (Tr. p. 28).

The Fayette County Commission has taken a position consistent with the USDA's position. (Tr. p. 29). A river crossing costing approximately a half million dollars would be necessary for Armstrong to purchase water from Kanawha Falls. The USDA would be concerned with loaning Armstrong more money which would result in an additional rate increase. (Tr. p. 30). The USDA funded the project based upon the Commission's order. Alternatives have been examined and nothing financially feasible has been seen. The project design has been done since last February or March. Ms. Rowan is concerned that, if the project is delayed, costs may go up. The project needs to be done because no proposed alternatives are viable and affordable for Armstrong. (Tr. p. 31).

On cross-examination by Ms. Bouvette, Ms. Rowan testified that the engineer defines the scope of the project which is approved by USDA. A grant/loan mix is then determined. (Tr. p. 32). Armstrong has already begun discussion with the USDA for a Phase II project which would include the Powellton tank and some other improvements. The USDA potentially has some alternative financing to recommend to it. However, the USDA wants the first phase let out for bid before discussions are held on another project. (Tr. p. 33).

On cross-examination by Mr. Toon, Ms. Rowan testified that USDA's counsel would make the final call on a Kanawha Falls consolidation. (Tr. pp. 33-34). Kanawha Falls is \$98,000 in arrears on the reserves for its water bonds. (Tr. p. 34). She was told that the USDA decided to intervene in this proceeding due to the fiscal condition of Kanawha Falls. She was unaware of whether USDA had ever filed petitions for the implementation of surcharges. (Tr. p. 35). She did not know why the USDA did not support Kanawha Falls' rate increase filing. (Tr. p. 36).

The state office made the decision to fund the project through Armstrong. (Tr. p. 39). Ms. Rowan agreed that the USDA is supposed to cooperate with other federal agencies and their determinations. (Tr. p. 40). The Fayette County Water Resources Committee, which consisted of the Southern Soil Conservation District, the West Virginia Soil Conservation Agency and the USDA Natural Resource Conservation Services, recommended as Alternate W-3 that Kanawha Falls supply Gauley River Public Service District, Armstrong Public Service District, Deepwater Public Service District and Kanawha Falls CWA. (Tr. pp. 42-43). Ms. Rowan disagreed that her agency ignored the comprehensive plant plan. The 1998 study was not attached to the application. However, the Commission's order to merge the two districts was attached. (Tr. p. 43). Ms. Rowan indicated that her agency, in good faith, thought it was doing what the Commission wanted. (Tr. pp. 43-44). Alternatives were considered, but no financially feasible alternative was available at the time. A regulatory agency's guidance was taken when RUS funded the project. ~~At the time the project was proposed, it seemed to be the best project.~~ (Tr. p. 44).

The District applied for funding only from the USDA. The District did not apply for funding from the West Virginia Infrastructure and Jobs Development Council (WVIJDC or IJDC). (Tr. p. 44). IJDC funds are funds of last resort. The District had the merger order in 2006. (Tr. p. 45). Ms. Rowan thought that if the Commission was a member of the infrastructure body, the Commission would have been in support of the project as

proposed. Ms. Rowan does not believe that her agency would withdraw funding if the project is modified. (Tr. p. 46). The IJDC process takes a minimum of ninety (90) days. Ms. Rowan stated that there is no quick, fast track. (Tr. p. 47).

She also indicated that her agency did not see the river crossing as a viable option. (Tr. p. 47). Purchasing bulk water at \$3.33 is not financially feasible for the District. (Tr. p. 48).

On redirect, Ms. Rowan testified that RUS has no flexibility to overlook monetary defaults. (Tr. p. 50). In processing the application, she reviewed the Commission order which merged Deepwater and Armstrong. That order contemplated the project her agency is funding. In 2004 the Fayette County Commission issued an order which merged Deepwater and Armstrong. She viewed the County Commission's order as superseding the 1998 Fayette County Resource Committee report. (Tr. p. 52). She believes the District has given serious consideration to the alternative of connecting to Kanawha Falls. (Tr. pp. 52-53).

The District called Brian Morton as its next witness. Mr. Morton is employed as a licensed professional engineer with E. L. Robinson in Cross Lanes, West Virginia. (Tr. p. 54). Mr. Morton prepared a revised project budget. (Tr. pp. 57-58). The Armstrong treatment plant has two (2) sedimentation tanks. The larger tank is in poor condition with extensive corrosion. The smaller tank is in a little better condition. However, both tanks are too small and in bad condition. Mr. Morton agreed that engineers can not predict with accuracy how long a facility will work. However, he can judge whether it is prudent to continue to rely on a structure. (Tr. p. 59). It is imprudent for the District to rely on the existing sedimentation tanks for any lengthy period of time. The project will completely replace the tanks with two (2) new larger tanks which will allow for one to be taken out of service for cleaning or maintenance. (Tr. p. 60). The project will replace the filter media when the filter is rehabilitated. The media can not be inspected. (Tr. p. 61). The under drain and filter bottom will be inspected and rehabilitated as necessary. The foundation of the filter tank is in bad condition. (Tr. p. 62). The Armstrong plant's proposed improvements include replacement of the sedimentation tanks, filter media and filter foundation. (Tr. p. 63). The filter tank will also be rehabilitated from the side walls to the extent it can. A chemical injection valve is also proposed. (Tr. p. 63). Mr. Morton opined that the proposed upgrades are the most significant the Armstrong plant would undergo. However, he acknowledged that some items will need to be addressed in the future. He agreed the plant upgrades are critical for the safety and continued operation of the plant. He thought it was possible that a filter replacement may be required within fifteen (15) years. All water treatment plants need to replace filters from time to time. The ~~Deepwater treatment plant, scheduled to be decommissioned, will remain in~~ service while the Armstrong treatment plant is upgraded. The project includes an interconnection facility between Deepwater and Armstrong. (Tr. p. 64). The Deepwater plant may be able to provide some water to the Armstrong plant. (Tr. p. 65). After the project is completed, the Armstrong plant will run two (2) additional hours. (Tr. pp. 65-66). Consolidation will result in less operating costs. The project will replace the Deepwater storage tank, which is in poor condition and too small to provide Deepwater with fire protection. It is imprudent for the

District to continue to rely upon this tank. The tank will be replaced with a larger tank. (Tr. p. 66). The Deepwater distribution system presently does not provide fire protection to its customers. (Tr. pp. 66-67). After the project is completed, there will be some fire protection in the Deepwater area. A booster pump station will be installed for the interconnection between Deepwater and Armstrong. Telemetry is also planned for the interconnection. Armstrong has evaluated the alternative of connecting with Kanawha Falls. (Tr. p. 67). Mr. Morton does not believe that it would be prudent for the District to delay or decline to pursue the project while waiting for further consideration of the Kanawha Falls' option. (Tr. p. 68).

On cross-examination by Ms. Bouvette, Mr. Morton testified that there were no apparent problems with DBP at the time of his work on the project. (Tr. p. 68). Although Armstrong is officially not in compliance with stage one DBP rule according to the health department, the current test results have not been filed. The numbers are good due to some operational changes which have been made. The pre- and post-coordination points have been changed, which has drastically reduced DBPs under the stage one rule. (Tr. p. 69). As an engineer, Mr. Morton would recommend trying to keep chlorine from making contact with organics to prevent the formation of DBPs. In general, DBPs also form in more remote parts of the system. DBPs can be minimized, but they inevitably form when organics come in contact with chlorine. He agreed that, under the proposed project, water will be in sedimentation tanks for a longer period of time. (Tr. p. 70). Storage capacity will be increased at Deepwater with the installation of a new tank. (Tr. pp. 70-71). Water produced by Armstrong will be piped a longer distance to reach customers in Deepwater and Montgomery Heights. Mr. Morton disagreed that DBPs would be greater because the Elkridge sampling site is further away from the Armstrong plant than from the Deepwater plant and system. He would anticipate that the readings would be less. It is his understanding that, under the stage two rule, the worst locations have to be found. Maximum containment levels do not change. (Tr. p. 71). Mr. Morton thinks the worst case is where they are sampling now because it is one of the more remote parts of the system. Armstrong has not considered making any additional system improvements to address the DBP concern because Armstrong is well within the regulations and the concern is not shared. Mr. Morton was unaware of the boil-water advisory that was issued for the Montgomery Heights customers over the past weekend. He was also unaware of the problems with the Armstrong water system this past weekend. (Tr. p. 72).

On cross-examination by Mr. Toon, Mr. Morton testified that there are currently two (2) sedimentation tanks and one (1) filter. Half of the filter can be taken down for cleaning and maintenance. If one filter breaks while work is being done on the other filter, no water can be produced. ~~(Tr. p. 73). He thought a new filter could be installed in~~ three (3) months if everything was ready. He has seen the health department's sanitary survey. (Tr. p. 74). He does not remember the time period in which responses must be made regarding deficiencies. On looking at the report, Mr. Morton agreed that a response was required no later than 45-days after receipt of the sanitary report. He does not have a copy of the response. He did not prepare a response. (Tr. p. 75). He is not sure if the District responded. (Tr. p. 76).

The District concluded its presentation of witnesses. (Tr. p. 78).

The USDA called no witnesses. (Tr. p. 78).

WVAW called Billie J. Suder as its first witness. Ms. Suder is the water quality and environmental compliance manager for WVAW. (Tr. p. 79). WVAW purchases water from Armstrong for its Montgomery Heights system which has approximately fifty (50) customers. Armstrong is the only source of water. The piping for the Montgomery Heights system is less than a mile long. The Kanawha Valley Wastewater Plant is the only non-residential customer. (Tr. p. 80). WVAW acquired the Montgomery Heights system in 1997. WVAW supports the interconnection of Deepwater and Armstrong. Armstrong staff presently run the Deepwater plant. (Tr. p. 81).

Since 2008 WVAW has seen haloacetic acid issues. WVAW has also had concerns regarding service continuity. (Tr. p. 81). The outages affect the perception of the reliability and quality of service provided by WVAW. During the past several years, WVAW has had to obtain information for its customer confidence reports from the health department in Charleston. Armstrong has started to provide WVAW with monthly operating reports. However, the District has not provided Notice of Violations (NOV) information to WVAW. The public notification rule requires WVAW to submit that information to its customers. (Tr. P. 82). WVAW had no knowledge of the NOVs until they were obtained from the health department. The NOVs were for monitoring and reporting problems, failure to have a certified operator on duty, failure to report bacteriological results and a whole host of problems like that. The latest violation Ms. Suder is aware of occurred in late 2009. (Tr. p. 83).

In 2010, there have been service continuity issues, including a recent one. There are also extremely elevated haloacetic acids in the Montgomery Heights system. (Tr. p. 83). WVAW monitors for DBPs. (Tr. pp. 83-84). WVAW also monitors, as required, for chlorine residuals and bacteriological integrity. Although not required to monitor for DBPs, WVAW has been monitoring for DBPs since 2004 in anticipation of the stage two DBP rule. Currently, if WVAW calculated a year-long running average, as will have to be done under stage two, there are 84.1 parts per billion of HAA5, or haloacetic acids. The Maximum Contaminant Level is 60 for this contaminant. The Deepwater plant water for Montgomery Heights customers does not meet the stage one rule. (Tr. p. 84). WVAW monitors at the Kanawha Falls wastewater treatment facility which is located at one of the further ends of the Montgomery Heights system. (Tr. p. 85).

WVAW has not received any NOVs. WVAW has provided notice to customers for the 2008 and 2009 violations. By April 1<sup>st</sup> of each year WVAW is supposed to receive a full accounting of all of Armstrong's required regulatory compliance information. (Tr. p. 85). The information was not received for 2009. (Tr. p. 86).

DBPs are carcinogenic and have potential reproductive implications, requiring them to be regulated under both stage one and stage two. Areas to be tested must be high in THM and HAA5. (Tr. p. 86). Under stage one, compliance is based on one running annual average. (Tr. pp. 86-87). In stage two, the running annual average has to be met at every location. The longer water is in contact with a disinfectant, the higher the DBPs.

Disinfectants can not completely be eliminated for fear of waterborne disease outbreaks. WVAW optimizes water treatment by minimizing the use of pre-chlorine and the use of alternate oxidants such as potassium permanganate. By optimizing treatment, reducing the amount of organic loading in the front of the plant and reducing any type of pre-chlorine as much as possible, the formation of DBPs can be delayed. (Tr. p. 87). Treatment optimization is key. Use of granular activated carbon as filter media, as well as looking at different coagulants, can help reduce DBPs. A whole litany of things can be done which hinge on optimizing treatment at the facility. (Tr. p. 88).

Although originally the Deepwater plant had a waiver, the health department has since required quarterly monitoring for stage one. (Tr. p. 88). Even if the water purchased from Armstrong meets 80/60 levels when it hits WVAW's pipe, WVAW will be forced out of compliance. Under stage two, as a purchaser system, WVAW has to meet the 80/60 levels, which are 80 parts per billion of total trihalomethanes and 60 parts per billion of HAA5. The DBPs continue to form in the water as the water travels from the plant to the consumer which could result in an NOV for WVAW. WVAW will have to report to its customers if the water does not meet water quality standards. (Tr. p. 89).

Armstrong's proposed improvements do not directly impact DBP formation. Holding water longer in the sedimentation tank basin and storage tanks has the potential to increase DBP formation. WVAW's issue with Armstrong mainly concerns water quality. WVAW had to issue a boil water advisory this past weekend for its Montgomery Heights customers. (Tr. p. 90). The Montgomery Heights system was completely depressurized and no water was available for WVAW's customers. Any time depressurization occurs or pressure drops below 20 PSI, the health department mandates a precautionary boil water advisory. Ms. Suder does not know how long WVAW customers were without water. The system depressurized because no water was being produced. (Tr. p. 91).

On cross-examination by Mr. Toon, Ms. Suder indicated that she did not know if WVAW would feel more comfortable with water provided by Kanawha Falls because she did not know Kanawha Falls' water quality. (Tr. p. 92).

WVAW next called Brett Morgan as its witness. Mr. Morgan is the senior planning engineer for WVAW. (Tr. p. 93). He managed the Kanawha Valley treatment plant for sixteen (16) years. (Tr. pp. 93-94). The Kanawha Valley treatment plant uses chlorine disinfectant methods similar to those used at the Armstrong plant. At the Kanawha Valley treatment plant he was responsible for managing the stage one rule for DBPs. (Tr. p. 94). Disinfection points were moved. Pre-chlorination before the filters was reduced through the use of potassium permanganate. Minimal amounts of post-chlorine were used. The filter media was changed to GAC. (Tr. p. 94). A process of changes was made to comply. The system had to be closely monitored. The Kanawha Valley plant serves a vast area, resulting in water that is in the mains and tanks for a considerable amount of time. (Tr. p. 95).

Mr. Morgan believes that part of the Armstrong plant is in decent condition. (Tr. p. 96). Proposed improvements in the certificate filing do not address water quality and DBPs. The proposed improvements will

help the plant continue operations. However, testing, maintenance and cleaning must be done. (Tr. p. 97). A lot of older equipment will not be rehabilitated or replaced. WVAW is willing to assist Armstrong in reducing its DBPs. (Tr. p. 98).

WVAW made proposals to Armstrong to provide water service. (Tr. p. 98). The first proposal was to install a master meter and sell Armstrong all its water in lieu of Armstrong running a treatment plant. (Tr. p. 99). Service would be done through a main extension and a booster station. WVAW also proposed an emergency connection with Kanawha Falls at WVAW's Montgomery facility to provide all the water for Armstrong and Deepwater. WVAW's concern was that it might be hard-pressed to meet demand if an emergency arose. The cost was going to be about \$2,000,000 with WVAW paying \$1,350,000 and Armstrong paying \$650,000. Water rates would be \$4.00 per thousand gallons. A second option would have Armstrong paying nothing, with water rates set at \$5.20 per thousand gallons. (Tr. p. 100). WVAW also offered to provide management services for \$40,000 per year. A third proposal was to transfer the Montgomery Heights customers to Armstrong. (Tr. p. 101). Armstrong rejected the proposals. (Tr. p. 102).

On cross-examination by Mr. Kelsh, Mr. Morgan indicated that Armstrong had not accepted the customer transfer offer. (Tr. p. 102). Not all upgrades at the Kanawha Valley plant are done on the basis of a 40-year life. (Tr. p. 103).

On cross-examination by Mr. Toon, Mr. Morgan testified that he is unfamiliar with Kanawha Falls' water quality. (Tr. p. 103).

WVAW concluded its presentation of witnesses. (Tr. p. 104).

Staff called John Stafford as its first witness. (Tr. p. 104). Mr. Stafford is employed as a supervisory engineer with the Office of Environmental Health Services, Beckley District Office. He conducted a sanitary survey of Armstrong in 2008. (Tr. p. 105). He found significant deficiencies which required Armstrong to make a response within forty-five (45) days. No response has ever been received. (Tr. p. 106). Mr. Stafford is familiar with Kanawha Falls' water quality. Kanawha Falls is compliant and conducts all of its monitoring and testing as required by the State. Kanawha Falls' water quality meets both state and federal requirements. He can not say the same for Armstrong on a continuous basis. (Tr. p. 107).

On cross-examination by Mr. Kelsh, Mr. Stafford stated that either an operator or a manager can respond to the sanitary survey. Armstrong's compliance has improved since Mr. Walton was hired. Mr. Stafford has not worked in Fayette County for the last two (2) years. (Tr. p. 108). He began working in Fayette County probably three (3) years ago. As a supervisor, he is responsible for the actions of his office. Mr. Stafford was aware that one Armstrong water operator's license had expired. (Tr. p. 109). He was unaware that the operator had not advised the District that his license had expired. (Tr. p. 110).

Staff called Sandy Mitchell as its next witness. (Tr. p. 110). Ms. Mitchell is employed as a Utilities Analyst in the Commission's Utilities

Division. (Tr. p. 111). Ms. Mitchell adopted Mr. Boggess' work as her testimony. (Tr. p. 112).

On cross-examination by Mr. Kelsh, Ms. Mitchell adopted the Utilities Division's recommendations. (Tr. p. 113). She did not disagree with Mr. Barnett's testimony. (Tr. p. 114).

Staff called James Weimer as its next witness. Mr. Weimer is an engineer in the Commission's Engineering Division. (Tr. p. 115). Mr. Weimer attended a March 18, 2010 Kanawha Falls board meeting and received a copy of the minutes of that meeting. (Tr. pp. 116-117). The minutes accurately reflected his recollection of the meeting. (Tr. p. 117).

Mr. Weimer testified that there has always been a concern about investment in multiple plants when there are other large plants in the area. (Tr. pp. 117-118). It would be in the best interest of customers to connect Kanawha Falls and Armstrong. It would require approximately 1200 feet of a river crossing or a river bore to connect Kanawha Falls with Deepwater. The Deepwater plant is probably the most critical plant in the Armstrong system. The project is uneconomic if all the water consumed at Armstrong is purchased from Kanawha Falls. (Tr. p. 119). Exhibit 8 of Staff Exhibit One shows the cost of water production for Kanawha Falls and Armstrong. Any increase in rates where rates are already too high is not a good idea. There should be some investigation as to how rates might be controlled. (Tr. p. 119). According to the sanitary survey, the Armstrong system requires significant additional investment to make other improvements. (Tr. pp. 119-120). These improvements would have significant additional rate impact because there would have to be loan monies associated with these improvements. If the two (2) districts would take advantage of the economics of the regional plant, which had been recognized as such by the Fayette County Commission, possibly some of the costs for improvements would be offset. (Tr. p. 120).

One big issue in purchasing water is the level of unaccounted for water, for which, over the past five (5) years, the District has spent approximately \$400,000. Any connection based purely on purchased water costs is completely uneconomic. (Tr. p. 120). The Kanawha Falls Board was willing, for some undetermined period of time, to sell Armstrong a quantity of water which would be equal to the sum of all Armstrong meter readings plus fifteen percent (15%). The cost of the project would probably have zero impact for customers and generate a small amount of revenue for Kanawha Falls and some additional revenue for Armstrong. (Tr. p. 121).

Armstrong is now approaching sixty percent (60%) for unaccounted water. It would be more appropriate to get water from a low-cost provider. ~~If costs were kept down, additional badly needed investments could be made to the system. Additional line work is needed. Valves and hydrants need to be replaced.~~ (Tr. p. 122). Mr. Weimer testified he would start making improvements to get water loss down while purchasing water at a lower cost. (Tr. p. 123).

The money for improvements to the treatment plant would not cover the cost of a river crossing. The District only applied to RUS for funding. (Tr. p. 123). Mr. Weimer is aware that the Deepwater plant is

in critical condition. Whatever happens should happen relatively quickly in order that there is not a significant loss of water for some period of time. (Tr. p. 124). The question is how to accelerate the project and lower costs. Mr. Weimer indicated that he had spoken with Angela Chestnut at the IJDC about the possibility of infrastructure funding for a project which would take two (2) existing plants offline, take advantage of a regional plant, make improvements to reduce water loss and improve storage. (Tr. p. 125). The availability of significant additional grants would not be known until an application was submitted. Mr. Weimer's incentive to make the inquiry was to see if the District's project could improve the system, provide better water and set the system up for more reliable service on a long-term basis. Staff supports all the other improvements. Staff suggested the District make an application to the IJDC to see if the matter could be resolved in the next three (3) months with the end result of lower rates for Armstrong's consumers. (Tr. p. 126). He thinks issues have been left out of the real costs of the project which are unknown at this time. The project does not include the full cost of tank demolition. (Tr. p. 127).

National drilling companies have indicated that the river crossing can be done in six (6) weeks. (Tr. p. 127-128). Mr. Weimer believes that the District should look at something else before going with a project that more or less guarantees increased rates now and in the future. (Tr. p. 128). Mr. Weimer's concern was to make this a project that benefits the District for the next forty (40) years rather than trying to get something through just because it happens to be on the table. (Tr. p. 129).

Consolidation is a sensitive issue which all utilities are going to have to address because of costs and water quality issues. (Tr. p. 129). The District has a long history of mismanagement. (Tr. pp. 129-130). The current board is to be commended for some significant improvements. Mr. Weimer is very interested in the board looking at either an operations and maintenance agreement or consolidation in which a general manager is hired by both boards to make improvements to both systems. (Tr. p. 130). Pratt and Upper Kanawha Valley have a water purchase agreement which is based on meter readings plus fifteen percent (15%). Mr. Weimer believes the Armstrong situation to be very similar and the same arrangement could apply. (Tr. p. 131). Mr. Weimer thinks the best way to address costs is to use the assets of both utilities advantageously. (Tr. p. 132).

On cross-examination by Mr. Kelsh, Mr. Weimer agreed that it was imprudent to continue to rely upon the sedimentation tanks at the Armstrong water treatment plant and the Deepwater storage tank. (Tr. p. 133). Mr. Weimer also agreed that the District's cost of producing water is \$1.61 per thousand gallons. (Tr. p. 134).

Mr. Weimer did not advise Armstrong of the Kanawha Falls meeting which discussed the sale of water to Armstrong. (Tr. p. 134). The purpose of the meeting was to discuss consolidation and the sale of water to Armstrong. (Tr. p. 135). Mr. Weimer neither wrote nor approved the minutes of the meeting. (Tr. p. 135-136). He agreed his presentation at the March 18<sup>th</sup> meeting included his position that consolidation is the best solution for economic reasons. Consolidation would mean the merger of Armstrong and Kanawha Falls. (Tr. p. 136). Although the USDA staff

in Morgantown would not consider the merger of the districts, there may be others who would be involved in such a decision. Kanawha Falls' failure to fully comply with the terms of its bonds would be a barrier to consolidation. However, funds exist to cure the default. (Tr. p. 137). Mr. Weimer believes that consolidation may take several years. Curing the default could occur at the same time. (Tr. p. 138).

Mr. Weimer believes that, due to the condition of the existing water treatment plant, an interim step is needed while the districts are in the process of merging. A river crossing would have to be constructed across the Kanawha River for Armstrong to purchase water from Kanawha Falls. (Tr. p. 138). An application needs to be filed to determine if other grant funds are available. His discussions with Ms. Chestnut led him to believe that some future project might be eligible for as much as eighty percent (80%) in grant funding because of plants being taken offline, the use of the regional plant and the need that has been demonstrated. It would appear foolish to Mr. Weimer to not at least investigate the possibility of such funding. (Tr. p. 139). There is already an engineering estimate. The cost for some additional line work would need to be estimated. The tank in Powellton needs replaced and its cost could be estimated fairly quickly. The project would be reconfigured at a much higher cost, but with much more grant money. Mr. Weimer only asks that they look at it. The Commission would not want to review the design for the river crossing. (Tr. p. 140). If everything about the river crossing looked appropriate, he would not go any further in reviewing it. He is aware that the executive director of the IJDC is somewhat upset with the pace of projects. (Tr. p. 142). While he does not disagree with Mr. Jarrett's statement that, from date of filing until date of completion of construction, five (5) years' passes, he believes that a quick review can be made of the instant case. (Tr. P. 142).

The post-project cost, which would also recognize \$20,000 in O&M savings, would be \$1.98 per thousand gallons. (Tr. p. 143). Mr. Weimer agrees that the Kanawha Falls bulk rate of \$3.33 per thousand gallons which is charged to Gauley River PSD would also apply to Armstrong. Armstrong and Kanawha Falls would have to have some other agreement similar to what Pratt has. Armstrong would have to take significant efforts to reduce unaccounted for water. (Tr. p. 144).

Although the O&M agreement has not been drafted, such agreements are available and are simple. (Tr. p. 144). Mr. Weimer calculated the cost of production of water for Kanawha Falls to be \$0.99 per thousand gallons. (Tr. pp. 145-146). Kanawha Falls would only incur additional costs for power and chemicals to provide water for Armstrong and Deepwater. Without any additional labor expenses, costs would go down. (Tr. p. 146). Assuming consolidation and current rates being left in place, excess revenue in the amount of \$70,000 could be applied to the ~~Armstrong system for repairs and improvements after the river crossing debt was paid.~~ (Tr. p. 147). The first phase would be an O&M agreement and a merging of operations. Consolidation would be a second phase. Armstrong would have to cover the cost of the river crossing itself. Mr. Weimer believes the net impact would be less cost for Armstrong. (Tr. p. 148).

The chairman of the Kanawha Falls board expressed apprehension over consolidation. (Tr. pp. 148-149). A Kanawha Falls sewer project with

Smithers involved a river crossing that took a year and a half. The bonds came due without a river crossing and additional revenue from Smithers. (Tr. p. 150). Armstrong would be one customer under an O&M agreement where Kanawha Falls would charge total meter readings volume plus fifteen percent (15%). (Tr. p. 152). Kanawha Falls bills for Armstrong and Deepwater sewer by meter readings. (Tr. p. 153). Mr. Weimer disagreed that Armstrong would be better off under the bulk rate of \$3.33 per thousand because of its 50-60% unaccounted for water level. (Tr. p. 154). Under the O&M Agreement, Armstrong would be responsible for all of its own separate costs, such as prior debt. (Tr. p. 155). Armstrong would pay total volume at \$3.33 and the additional volume at \$3.33. However, there is no O&M agreement. (Tr. p. 155). Kanawha Falls was not present at the hearing. Mr. Weimer agreed that other improvements on the Armstrong system, such as the Powellton tank are needed. No matter where Armstrong gets its water, the tank will need to be replaced. There is no reason to believe that Kanawha Falls could get better funding than Armstrong for the tank replacement. (Tr. p. 157).

Mr. Weimer agreed that it is difficult to hire people in uncertain situations. He also agreed that it is difficult to hire people when rates are as high as they are. The general investigation created uncertainty with respect to the District's future. The biggest impediment to hiring a general manager is cost. (Tr. p. 158). Mr. Weimer is in favor of general managers, which makes him in favor of an O&M merger and/or consolidation where single assets can be taken advantage of. (Tr. pp. 158-159).

On redirect, Mr. Weimer indicated that the Kanawha Falls sewer river crossing was done by an electrical contractor. (Tr. p. 160). He believes that the District's engineer has also contacted rock boring companies as part of its development of river crossing costs. (Tr. pp. 160-161).

On recross, Mr. Weimer testified that the electrical contractor was hired by the general contractor who was under contract to Kanawha Falls. (Tr. p. 161).

Staff concluded its presentation of witnesses. (Tr. p. 162).

The hearing was adjourned. (Tr. p. 163).

#### DISCUSSION

##### 1. The District's proposed project versus Staff's proposed alternative.

Staff has made considerable effort in attempting to put Armstrong and its customers on solid footing for years to come. Staff is to be commended for trying to develop creative plans to ensure that water service is available to Armstrong's customers at the lowest rates possible. However, Staff's proposed alternative seems to be based upon too many contingencies which could spell trouble for the customers of a dilapidated water system. The record is replete with evidence that Armstrong's water system is in extremely poor condition. The undersigned is not convinced that Staff's proposed alternative could be implemented in a timely fashion to prevent a serious water outage for Armstrong's 877

customers, of which 50 are WVAW customers in Montgomery Heights. Staff's proposal has too many possibilities and not enough certainties. There is no written agreement between Kanawha Falls and Armstrong for metered sales plus fifteen percent (15%), nor is there any guarantee that one could be timely negotiated. There is not yet an application or guarantee of funding for a very expensive river crossing which is needed to get water from the Kanawha Falls treatment plant to Armstrong. While Mr. Weimer's testimony indicated that WVIJDC could likely provide a turn-around response in three (3) months' time, an application would still need to be prepared and many other processes would obviously need to be completed both pre- and post-application. Staff's proposed alternative has potential. It makes sense to use economies of scale to benefit water customers. However, Armstrong and its customers clearly need help now. Therefore, the project to repair the Armstrong treatment plant should be adopted.

2. Excessive levels of unaccounted-for-water.

Much testimony at the hearing focused on water rates for Armstrong customers. There was some discussion regarding Armstrong's extremely high levels of unaccounted-for-water, and even less testimony regarding how to tackle this problem. Although Staff Witness James Weimer discussed how, under Staff's alternative plan, Armstrong would have the resources to reduce unaccounted levels, there appears to be little or no testimony regarding how to reduce unaccounted levels under the District's proposal. Nevertheless, Armstrong has a serious water loss problem which testimony indicated was in the range of 55-60%. Neither Armstrong nor its customers can afford to let this huge waste of an expensive resource continue. Armstrong should be required to develop a plan to address what actions it will take to reduce unaccounted-for-water levels. Armstrong should also be required to file monthly reports until it reduces its water losses to the fifteen percent (15%) level permitted by the Commission. Staff should be prepared to provide technical assistance to help Armstrong reduce its water loss.

3. Disinfection-by-products.

WVAW has raised the serious environmental issue of DBP. WVAW has offered its assistance to Armstrong to ensure that Armstrong will be able to comply with the stage two rule for DBPs. The undersigned understands that there would be a cost associated with this assistance, and, therefore, Armstrong may not want nor may Armstrong be able to accept such help. However, the record reflects that Armstrong has been out of compliance in the past with the stage one rule for DBPs and the stage two rule for DBPs will be more stringent. Although the Commission does not regulate compliance with these rules, it is possible that WVAW, a purchaser of water from Armstrong, could file a future complaint about ~~water quality if Armstrong violates these rules.~~ Armstrong will need to make every effort to stay in compliance and provide WVAW with any required information related to said compliance.

FINDINGS OF FACT

1. On November 25, 2009, Armstrong Public Service District filed an application for a certificate of convenience and necessity to make minor

improvements to its existing water treatment plant, construct an interconnection between the District's facilities and the facilities of the former Deepwater Public Service District, decommission the Deepwater plant, construct a water tank replacement and make valve replacements and waterline upgrades. The proposed project will be financed with an USDA loan in the amount of \$765,000 for forty (40) years at 3.75% interest and an RUS grant in the amount of \$610,000. (See, filing dated November 25, 2009).

2. On December 4, 2009, the District filed an Affidavit of Publication reflecting that the Notice of Filing had been published on December 3, 2009, in The Fayette Tribune, a qualified newspaper which is generally circulated in Fayette County. (See, filing dated December 4, 2009).

3. On April 9, 2010, the District filed an Affidavit of Publication reflecting that the Revised Notice of Filing had been published on April 8, 2009, in The Fayette Tribune, a qualified newspaper which is generally circulated in Fayette County. (See, filing dated April 9, 2010).

4. One (1) letter of protest was filed. (See, filing dated April 23, 2010).

5. Commission Staff recommended the following: the project be modified to eliminate or postpone the Armstrong plant upgrade until consolidation can be more fully evaluated; the extension project be approved; the District be required within three (3) months to evaluate a consolidation with Kanawha Falls Public Service District and submit the results to the Commission and the Fayette County Commission; if Staff's modifications are denied, the project be approved as is; and approval of the funding committed by the RUS, consisting of a loan in the amount of \$765,000 for forty (40) years at 3.75% interest and a grant in the amount of \$610,000, for a total funding package of \$1,375,000.

6. Commission Staff recommended an across-the-board rate increase of 4.5%, which results in debt service coverage of 122.6%, a cash surplus of \$457 and a depreciation reserve of \$12,414. (See, Staff Exhibit 1).

7. The Armstrong Public Service District concurs with Staff's recommended rate increase. (See, Tr. p. 18).

8. The USDA/RUS did not see the proposed river crossing as a viable option. (See, Tr. p. 47).

9. Purchasing bulk water at \$3.33 is not financially feasible for Armstrong Public Service District. (See, Tr. p. 48).

10. Plant upgrades are critical for the safe and continued operation of the plant. (See, Tr. p. 64).

11. The large sedimentation tank is in poor condition with extensive corrosion, while the smaller tank is in only slightly better condition. Both tanks are too small and in bad condition. The proposed project would completely replace these tanks with two new larger tanks. (Tr. pp. 59-60).

12. The existing Deepwater storage tank is in poor condition, and too small for fire protection. The project will replace that tank. (Tr. p. 66).

13. There have been haloacetic acid (HAA5) issues in the Montgomery Heights system since 2008 and service continuity has been a concern. (See, Tr. p. 81).

14. Water supplied for Montgomery Heights customers from the Deepwater plant does not meet the stage one rule for disinfection-by-products. (See, Tr. p. 84).

15. The Montgomery Heights system was completely depressurized and no water was available for WVAW's customers the weekend before the May 10, 2010 hearing. (See, Tr. p. 91).

16. Armstrong has never filed a required response to significant deficiencies reported in a 2008 health department sanitary survey. (See, Tr. pp. 105-106).

17. If all the water consumed at Armstrong is purchased from Kanawha Falls, the project would be uneconomic. Any connection based purely on purchased water costs is completely uneconomic. (See, Tr. pp. 118-120).

18. Improvements should happen relatively quickly in order that there is not a significant loss of water for some period of time. (See, Tr. p. 124).

19. Armstrong's cost of producing water is \$1.61 per thousand gallons. (See, Tr. p. 134).

20. Armstrong's post-project cost to produce water would be \$1.98 per thousand gallons. (See, Tr. p. 143; Staff Exhibit 1, Exhibit VIII).

21. The level of the unaccounted-for-water for the Armstrong Public Service District is approximately 55-60%. (See, Tr. pp. 122, 154).

#### CONCLUSIONS OF LAW

1. The public convenience and necessity require the issuance of a certificate of convenience and necessity to Armstrong Public Service District to make minor improvements to the District's existing water treatment plant, construct a water line extension to connect the District to the facilities of the former Deepwater Public Service District, decommission the Deepwater plant, construct a water tank replacement, and make valve replacements and waterline upgrades. Approval is contingent ~~upon the filing of all outstanding permits and clearances.~~

2. It is reasonable to approve the financing for the project, which consists of a USDA RUS loan in the amount of \$765,000 for forty (40) years at 3.75% interest and a USDA RUS grant in the amount of \$610,000.

3. The Staff-recommended rates attached hereto as Appendix A, are sufficient, but not more than sufficient, to cover the District's

operation and maintenance expenses, taxes other than income taxes, debt service requirements and routine capital additions, including the additional expenses and debt service requirements generated by the project certificated herein. Accordingly, the Staff-recommended rates should be approved to become effective for all service rendered by the District on and after the date of substantial completion of the project certificated herein.

ORDER

IT IS, THEREFORE, ORDERED that the application filed herein on November 25, 2009, by Armstrong Public Service District for a certificate of convenience and necessity to make minor improvements to the District's existing water treatment plant, construct a water line extension to connect the District to the facilities of the former Deepwater Public Service District, decommission the Deepwater plant, construct a water tank replacement, and make valve replacements and waterline upgrades, be, and hereby is, granted.

IT IS FURTHER ORDERED that the financing of the project, consisting of a \$610,000 grant from the United States Department of Agriculture Rural Utilities Service and a \$765,000 loan for 40 years at 3.75% interest from USDA RUS, be, and it hereby is, approved.

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

IT IS FURTHER ORDERED that Armstrong Public Service District file an original and at least five (5) copies of a revised tariff reflecting the rates set forth in Appendix A within thirty (30) days of the date of substantial completion of the project certificated herein.

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

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

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

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

IT IS FURTHER ORDERED that, if this project requires the use of Division of Highways' rights of way, Armstrong Public Service District

comply with all rules and regulations of the Division of Highways regarding the use of those rights-of-way.

IT IS FURTHER ORDERED that Armstrong Public Service District, as required, timely respond to all sanitary surveys and also provide WVAW with water quality information and reports as required.

IT IS FURTHER ORDERED that Armstrong Public Service District address its level of unaccounted-for-water by filing, within sixty (60) days of the date this order becomes final, a plan of corrective actions to be taken to reduce water loss. The District will file monthly progress reports with the Commission by the first day of each month until the District's level of unaccounted-for water is reduced to fifteen percent (15%) or below.

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

The Executive Secretary is hereby ordered to serve a copy of this order upon the Commission by hand delivery, and by electronic service upon all parties of record who have filed an e-service agreement with the Commission and by United States Certified Mail, return receipt requested, upon all parties of record who have not filed an e-service agreement with the Commission.

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

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

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

*Deborah Yost VanDervort*  
Deborah Yost/VanDervort  
Administrative Law Judge

DYV:s:bam  
091984ac.wpd

ARMSTRONG PUBLIC SERVICE DISTRICT  
CASE NO. 09-1984-PWD-CN

APPROVED RATES

SCHEDULE NO. 1

APPLICABILITY

Applicable within the entire territory served (except area formerly served by Deepwater)

AVAILABILITY OF SERVICE

Available for the general residential, commercial and industrial service

RATE

First	2,000 gallons used per month	\$	14.87 per 1,000 gallons
Next	3,000 gallons used per month	\$	10.18 per 1,000 gallons
All Over	5,000 gallons used per month	\$	6.25 per 1,000 gallons

MINIMUM CHARGE

No minimum bill will be rendered for less than \$28.46 per month, which is the equivalent of 2,000 gallons.

5/8 x 3/4	inch meter	\$	29.74	
	3/4	inch meter	\$	44.61
1	inch meter	\$	74.35	
1-1/2	inch meter	\$	148.70	
2	inch meter	\$	237.93	
3	inch meter	\$	475.85	
4	inch meter	\$	743.52	
6	inch meter	\$	1,487.04	

RETURNED CHECK CHARGE

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

DELAYED PAYMENT PENALTY

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

RECONNECTION FEE - \$20.00

To be charged whenever the supply of water is turned off for violation of rules, non-payment of bills or fraudulent use of water.

TAP FEE

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

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

LEAK ADJUSTMENT

\$0.55 per 1,000 gallons is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

SECURITY DEPOSIT

Not to exceed one-twelfth (1/12) of the annual estimated charge for residential service or one-sixth (1/6) of the annual estimated charge for commercial service, or fifty dollars (\$50.00), whichever is greater.

SCHEDULE NO. 2

APPLICABILITY

Applicable within the entire territory served (area formerly served by Deepwater)

AVAILABILITY

Available for the general residential, commercial and industrial service

RATE

First	3,000 gallons used per month	\$	8.89 per 1,000 gallons
Next	3,000 gallons used per month	\$	7.61 per 1,000 gallons
Next	4,000 gallons used per month	\$	6.52 per 1,000 gallons
All Over	10,000 gallons used per month	\$	4.34 per 1,000 gallons

MINIMUM CHARGE

No minimum bill will be rendered for less than \$28.46 per month, which is the equivalent of 2,000 gallons.

	5/8 inch meter	\$	26.68
	3/4 inch meter	\$	40.02
<del>1</del>	<del>1</del> inch meter	<del>\$</del>	<del>66.70</del>
1	1 - 1/4 inch meter	\$	97.38
1	1 - 1/2 inch meter	\$	133.39
2	2 inch meter	\$	213.43
3	3 inch meter	\$	426.86

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the District or a maximum of \$15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

DELAYED PAYMENT PENALTY

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

RECONNECTION FEE - \$20.00

To be charged whenever the supply of water is turned off for violation of rules, non-payment of bills or fraudulent use of water.

TAP FEE

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

A tap fee of \$150.00 will be charged to customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

SECURITY DEPOSIT

Not to exceed one-twelfth (1/12) of the annual estimated charge for residential service or one-sixth (1/6) of the annual estimated charge for commercial service, or fifty dollars (\$50.00), whichever is greater.

SCHEDULE NO. 3

APPLICABILITY

Applicable to service to Montgomery Heights

AVAILABILITY

Available for Kanawha Water Company

RATE

\$4.34 per 1,000 gallons

MINIMUM CHARGE

~~No minimum bill will be rendered for less than \$202.24 per month.~~

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the District or a maximum of \$15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

DELAYED PAYMENT PENALTY

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

**AFFIDAVIT OF PUBLICATION**  
**BECKLEY NEWSPAPERS**  
**BECKLEY, WEST VIRGINIA 25801**

December 03, 2009

COPY OF PUBLICATION

STATE OF WEST VIRGINIA  
COUNTY OF FAYETTE, to wit:

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

of NOTICE OF FILING  
(Description of notice)

was duly published in said newspaper once a week for one successive weeks (Class 1), commencing with the issue of the 3rd day of December, 2009, and ending with the issue of the 3rd day of December, 2009, (and was posted at the Fayette County Courthouse

on the 3rd day of December, 2009); that said annexed notice was published on the following dates: \_\_\_\_\_

12/03/09 and that the

cost of publishing said annexed notice as aforesaid was \$ 407.52

Signed Michelle Dunn  
Michelle Dunn  
Legal Advertising Clerk  
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:  
3rd day of December, 2009

My commission expires March 27, 2011  
NOTARY PUBLIC  
STATE OF WEST VIRGINIA  
FRANK S. [Signature]  
Notary Public of Raleigh County,  
Beckley, West Virginia 25801

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA CHARLESTON

Entered by the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA, in the City of Charleston on the 25th day of November, 2009.

CASE NO. 09 -1984-PWD-CN  
ARMSTRONG PUBLIC SERVICE DISTRICT

Application for a certificate of convenience and necessity to construct minor improvements to the water treatment plant, waterline extension, decommissioning of the Deepwater plant, water tank replacement, valve replacements, and waterline upgrades in Fayette County.

NOTICE OF FILING

On November 25, 2009, Armstrong Public Service District ("District") filed an application ("Application"), duly verified, for a certificate of convenience and necessity to undertake a project ("Project") consisting of minor improvements to the District's existing water treatment plant, a waterline extension connecting the District and the facilities of the former Deepwater Public Service District ("Deepwater PSD") systems, decommissioning of the Deepwater plant, water tank replacement, valve replacements, and waterline upgrades. The Project will implement the inter-connection of potable water facilities between the District and the facilities of the former Deepwater PSD.

The District estimates that the Project will cost approximately \$1,375,000. The District will pay for the Project with a USDA RUS loan in the amount of \$765,000 payable over 40 years at 3.75% interest and a USDA RUS grant in the amount of \$610,000.

The District anticipates continuing to charge the following rates, which are the District's present rates:

APPLICABILITY

Applicable in entire territory served (except area formerly served by Deepwater PSD).

AVAILABILITY

Applicable for general domestic, commercial and industrial service.

RATES

First	2,000 gallons used per month	\$14.23 per 1,000 gallons
Next	3,000 gallons used per month	\$9.74 per 1,000 gallons
All Over	5,000 gallons used per month	\$5.98 per 1,000 gallons

MINIMUM CHARGE

No minimum bill will be rendered for less than \$28.46 per month which is the equivalent of 2,000 gallons.

5/8 x 3/4 inch meter	\$28.46
3/4 inch meter	\$42.69
1 inch meter	\$71.15
1 x 1/2 inch meter	\$142.30
2 inch meter	\$227.68
3 inch meter	\$455.36
4 inch meter	\$711.50
6 inch meter	\$1,423.00

RETURNED CHECK CHARGE

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

DELAYED PAYMENT PENALTY

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

RECONNECTION FEE \$20.00

To be charged whenever the supply of water is turned off for violation of rules, non-payment of bills or fraudulent use of water.

TAP FEE

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

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

LEAK ADJUSTMENT

\$0.56 per 1,000 gallons is to be used when the bill reflects unusual consumption, which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

SECURITY DEPOSIT

Not to exceed one-twelfth (1/12) of the annual estimated charge for residential service or one-sixth (1/6) of the annual estimated charge for commercial service, or fifty dollars (\$50.00), whichever is greater.

SCHEDULE NO. 2

APPLICABILITY

Applicable in entire territory served (area formerly served by Deepwater PSD).

AVAILABILITY

Applicable for general domestic, commercial and industrial service.

RATES

First	3,000 gallons used per month	\$ 8.51 per 1,000 gallons
Next	3,000 gallons used per month	\$ 7.28 per 1,000 gallons
Next	4,000 gallons used per month	\$ 6.24 per 1,000 gallons
All Over	10,000 gallons used per month	\$ 4.15 per 1,000 gallons

MINIMUM CHARGE

No minimum bill will be rendered for less than \$25.53 per month which is the equivalent of 3,000 gallons.

5/8 inch meter	\$ 25.53
3/4 inch meter	\$ 38.30
1 inch meter	\$ 63.83
1-1/4 inch meter	\$ 93.19
1-1/2 inch meter	\$ 127.65
2 inch meter	\$ 204.24
3 inch meter	\$ 408.48

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the District up to a maximum of \$15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

DELAYED PAYMENT PENALTY

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

RECONNECTION FEE \$20.00

To be charged whenever the supply of water is turned off for violation of rules, non-payment of bills or fraudulent use of water.

TAP FEE

The following charges are to be made whenever the utility installs a new tap to serve an applicant. A tap fee of \$150.00 will be charged to customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

SECURITY DEPOSIT

Not to exceed one-twelfth (1/12) of the annual estimated charge for residential service or one-sixth (1/6) of the annual estimated charge for commercial service, or fifty dollars (\$50.00), whichever is greater.

*SCHEDULE NO.3*

APPLICABILITY

Applicable to service to Montgomery Heights.

AVAILABILITY

Available for Kanawha Water Company.

RATE

\$4.15 per 1,000 gallons

MINIMUM CHARGE

No bill will be rendered for less than \$204.24 per month.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the District or a maximum of \$15.00 will be imposed upon any customer whose check for payment of charges is returned by their bank due to insufficient funds.

DELAYED PAYMENT PENALTY

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

These rates represent the following project-related increases:

	MONTHLY (\$) INCREASE	(%) INCREASE
Residential	\$0	0%
Commercial (56,000 gallons per month)	\$0	0%

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

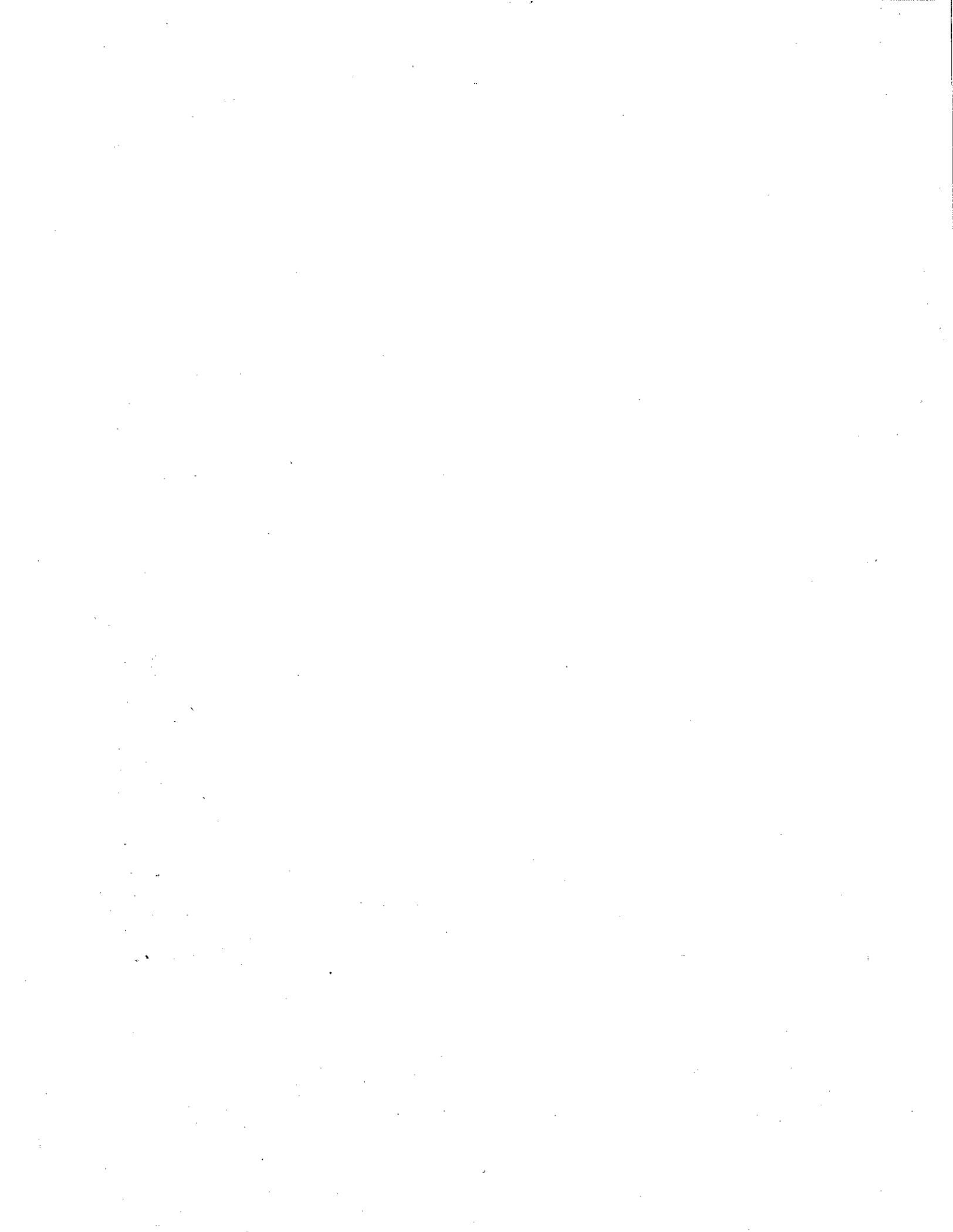
Pursuant to West Virginia Code §24-2-11, IT IS ORDERED that the Armstrong Public Service District give notice of the filing of said application, by publishing a copy of this order once in a duly qualified newspaper as provided in West Virginia Code §59-3-1 et seq, published and of general circulation in Fayette County, making due return to this Commission of proper certification of publication immediately after publication. Anyone desiring to protest or intervene should file a written protest or notice of intervention within 30 days following the date of this publication unless otherwise modified by Commission order. Failure to timely protest or intervene can affect your right to protest aspects of this certificate case, including any associated rate increases, or to participate in future proceedings. All protests or requests to intervene should briefly state the reason for the protest or intervention. Requests to intervene must comply with the Commission's rules on intervention set forth in the Commission's Rules of Practice and Procedure. All protests and interventions should be addressed to Sandra Squire, Executive Secretary, P. O. Box 812, Charleston, West Virginia 25323.

IT IS FURTHER ORDERED that if there is no substantial protest to the Application received within said thirty day period, the Commission may waive formal hearing and grant the application based on the evidence submitted with said application and its review thereof.

FOR THE COMMISSION:

Sandra Squire  
Executive Secretary

SS/s  
091984s  
12-3-THUR-1-FT; LG 620



ARMSTRONG PUBLIC SERVICE DISTRICT

Water Revenue Bonds, Series 2011 A  
(United States Department of Agriculture)

RECEIPT FOR SERIES 2011 A BONDS

The undersigned, authorized representative of the United States Department of Agriculture, Rural Utilities Service, for and on behalf of the United States of America (the "Purchaser"), hereby certifies this 28th day of March, 2011 as follows:

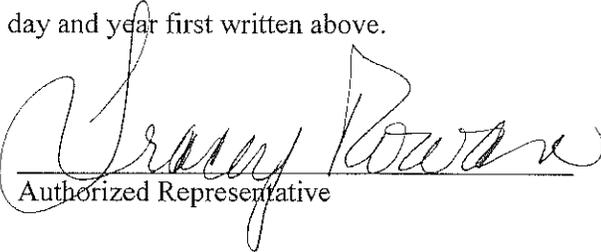
1. On the 28th day of March, 2011, at Kimberly, West Virginia, the undersigned received for the Purchaser the Armstrong Public Service District Water Revenue Bonds, Series 2011 A (United States Department of Agriculture), No. AR-1 (the "Series 2011 A Bonds"), issued as a single, fully registered Bond, in the principal amount of \$765,000, dated the date hereof, bearing interest at the rate of 3.375% per annum, payable in monthly installments as stated in the Bond. The Series 2011 A Bonds represent the entire above captioned Bond issue.

2. At the time of such receipt, the Series 2011 A Bonds had been executed and sealed by the designated officials of the Public Service Board of Armstrong Public Service District (the "Issuer").

3. At the time of such receipt, there was paid to the Issuer the sum of \$135,524.98 being a portion of the principal amount of the Series 2011 A Bonds. The balance of the principal amount of the Series 2011 A Bonds will be advanced by the Purchaser to the Issuer as acquisition and construction of the Project progresses.

[Remainder of Page Intentionally Blank]

WITNESS my signature on the day and year first written above.

  
Authorized Representative

03.18.11  
028331.00001

# SPECIMEN

UNITED STATES OF AMERICA  
ARMSTRONG PUBLIC SERVICE DISTRICT  
WATER REVENUE BONDS, SERIES 2011 A  
(UNITED STATES DEPARTMENT OF AGRICULTURE)

\$765,000

No. AR-1

Date: March 28, 2011

FOR VALUE RECEIVED, ARMSTRONG PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of SEVEN HUNDRED SIXTY-FIVE THOUSAND DOLLARS (\$765,000), plus interest on the unpaid principal balance at the rate of 3.375% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and \$2,984, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Bond, in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a

calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Borrower hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond is issued to (i) pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public waterworks system of the Issuer, and (ii) to pay costs of issuance and related costs.

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of additions, extensions and improvements to the waterworks system (the "System") of the Borrower, is payable solely from the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Resolutions and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the

West Virginia Code, as amended (the "Act"), and a Resolution of the Borrower duly adopted March 24, 2011, authorizing issuance of this Bond (the "Resolution").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farm and Rural Development Act of 1965, as amended. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

THIS BOND IS ISSUED ON A PARITY, AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, WITH THE BORROWER'S WATER REVENUE BONDS, SERIES 1974 (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED JANUARY 30, 1974, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$338,000 (THE "SERIES 1974 BONDS") AND WATER REVENUE BONDS, SERIES 2001 A (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED DECEMBER 13, 2001, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$550,000 (THE "SERIES 2001 A BONDS") (COLLECTIVELY, THE "PRIOR BONDS").

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

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, ARMSTRONG PUBLIC SERVICE DISTRICT has caused this Bond to be executed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, all as of the date hereinabove written.

ARMSTRONG PUBLIC SERVICE DISTRICT  
(Name of Borrower)

[CORPORATE SEAL]

*James W. ...*  
(Signature of Executive Official)

Chairman:

P.O. Box 156  
(P.O. Box No. or Street Address)

Kimberly, West Virginia 25535  
(City, State and Zip Code)

ATTEST:

*...*  
(Signature of Attesting Official)

Secretary:

EXHIBIT A

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$135,524.98	03/28/2011	(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

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

(Form of Assignment)

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: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

ARMSTRONG PUBLIC SERVICE DISTRICT

WATER REVENUE BONDS, SERIES 2011 A  
(UNITED STATES DEPARTMENT OF AGRICULTURE)

\$765,000

REGISTRATION BOOKS

(No writing on these Books except by the Issuer as Registrar)

<b>Bond No.</b>	<b>Date of Registration</b>	<b>In Whose Name Registered</b>	<b>Signature of Secretary of Registrar</b>
AR-1	March 28, 2011	United States Department of Agriculture	<i>Delma Newman</i>

03.18.11  
028331.00001

March 28, 2011

Armstrong Public Service District  
Water Revenue Bonds, Series 2011 A  
(United States Department of Agriculture)

Armstrong Public Service District  
Kimberly, West Virginia

United States Department of Agriculture  
Beckley, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by Armstrong Public Service District in Fayette County, West Virginia (the "Issuer"), of its \$765,000 Water Revenue Bonds, Series 2011 A (United States Department of Agriculture) dated the date hereof (the "Bonds"), pursuant to Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), and a Bond Resolution duly adopted by the Issuer on March 24, 2011 (the "Bond Legislation"). We have examined the law and such certified copies of proceedings and other papers as we deem necessary to render this opinion.

As to questions of fact material to our opinion, we have relied upon the representations of the Issuer contained in the Bond Legislation and in the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The Issuer is duly created and validly existing as a public service district and as a public corporation and a political subdivision of the State of West Virginia with full power to adopt and enact the Bond Legislation, perform the agreements on its part contained therein and issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The Bond Legislation has been duly and effectively adopted and enacted by the Issuer and constitutes a valid and binding obligation of the Issuer enforceable upon the Issuer.

3. Pursuant to the Act, the Bond Legislation creates a valid lien on the funds pledged by the Bond Legislation for the security of the Bonds, on a parity with the Issuer's Water Revenue Bonds, Series 1974 (United States Department of Agriculture), dated January 30, 1974, issued in the original aggregate principal amount of \$338,000 (the "Series 1974 Bonds") and Water Revenue Bonds, Series 2001 A (United States Department of Agriculture), dated December 13, 2001, issued in the original aggregate principal amount of \$550,000 (the "Series 2001 A Bonds") (collectively, the "Prior Bonds").

4. The Bonds have been duly authorized, executed and delivered by the Issuer and are valid and binding special obligations of the Issuer, payable solely from the sources provided therefor in the Bond Legislation.

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

6. The Bonds are, under the Act, exempt from taxation by the State of West Virginia, and the other taxing bodies of the State, and interest on the Bonds is exempt from personal income taxes and corporate net income taxes imposed directly thereon by the State of West Virginia.

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

Very truly yours,



STEPHENS & JOHNSON PLLC

028331.00001

LAW OFFICE OF  
JAMES V. KELSH

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(304) 343-1654

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P.O. Box 3713  
Charleston, WV 25337-3713  
kelshlaw@yahoo.com  
WV State Bar #6617

Facsimile  
(304) 343-1657

March 28, 2011

Armstrong Public Service District  
Water Revenue Bonds, Series 2011 A  
(United States Department of Agriculture)

Armstrong Public Service District  
Kimberly, West Virginia

United States Department of Agriculture  
Cross Lanes, West Virginia

Steptoe & Johnson PLLC  
Charleston, West Virginia

Ladies and Gentlemen:

I am counsel to Armstrong Public Service District, a public service district in Fayette County, West Virginia (the "Issuer"). As such counsel, I have examined copies of the approving opinion of Steptoe & Johnson PLLC, as bond counsel, a resolution of the Issuer duly adopted March 24, 2011 (the "Resolution"), other documents and papers relating to the Issuer and the above-captioned Bonds of the Issuer (the "Bonds") and documents and orders of The County Commission of Fayette County relating to the creation of the Issuer and the appointment of members of the Public Service Board of the Issuer. All capitalized terms used in the Resolution and not otherwise defined herein shall have the same meanings as defined in the Resolution when used herein.

I am of the opinion that:

1. The Issuer is duly created and validly existing as a public service district and as a public corporation and political subdivision of the State of West Virginia.
2. The members and officers of the Public Service Board of the Issuer have been duly, lawfully and properly appointed and elected, have taken the requisite oaths, and are authorized to act in their respective capacities on behalf of the Issuer.
3. The Resolution has been duly adopted by the Issuer and is in full force and effect.
4. The execution and delivery of the Bonds and the consummation of the transactions

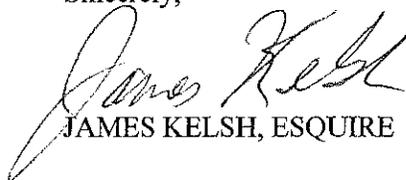
contemplated by the Bonds and the Resolution, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any agreement, document or instrument to which the Issuer is a party or by which the Issuer or its properties are bound or any existing law, regulation, rule, order or decree to which the Issuer is subject.

5. The Issuer has duly published a notice of the acquisition and construction of the Project as required under Chapter 16, Article 13A, Section 25 of the West Virginia Code of 1931, as amended, and has duly complied with the provisions thereof.

6. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, the receipt of all requisite orders, certificates and approvals from The County Commission of Fayette County, the West Virginia Bureau for Public Health, and the Recommended Decision of the Public Service Commission of West Virginia dated June 18, 2010, Commission order dated January 28, 2011 and Commission Order dated March 15, 2011 in Case No. 09-1984-PWD-CN among other things, granting to the Issuer a certificate of public convenience and necessity for the Project, approving rates for the System and approving the financing for the Project. Such Orders remain in full force and effect..

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

Sincerely,

  
JAMES KELSH, ESQUIRE

Form RD 1927-10  
(Rev. 7-98)

## FINAL TITLE OPINION

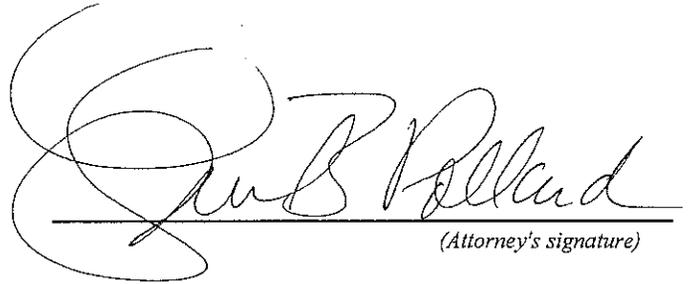
LOAN APPLICANT Armstrong Public Service District	ADDRESS OR PROPERTY COVERED BY THIS OPINION Valley District, Map 51G, Parcel 20 .09 AC Surf Armstrong CK	
APPLICANT FOR TITLE EXAMINATION Armstrong Public Service District	COUNTY Fayette	STATE West Virginia

- I. I have examined title to the property described in the security instrument described in paragraph II. B. below. My examination covered the period from the time of termination of title search covered by my Preliminary Title Opinion on Form RD 1927-9; or the time of recordation of the initial loan security instrument if this opinion covers land already owned by the loan applicant in a subsequent loan case, to March 28, \_\_\_\_\_, at 2011 a.m. (including the time of filing the current security instrument).  
(Date) p.m.
- II. Based on said title examination, my preliminary title examination if any, and any additional information concerning the title which has come to my attention, it is my opinion that:
- A. Good and marketable title, in accordance with title examination standards prevailing in the area, to said property (real estate and any water rights offered as security) is now vested in Armstrong Public Service District, a public corporation  
as \_\_\_\_\_  
(Joint tenants, tenants by the entirety, etc.)
- B. The United States of America holds a valid First Priority lien on said property as required by Rural  
(Priority) (Mortgage, etc.)  
Development or the Farm Service Agency, or their successor (Agency), which lien was filed for record on \_\_\_\_\_,  
(Date)  
\_\_\_\_\_, at \_\_\_\_\_ a.m. and is recorded in \_\_\_\_\_  
p.m. (Book, page, and office)
- C. Said property and lien are subject only to encumbrances, reservations, exceptions, and defects which were approved by written administrative waivers of the Agency attached hereto or to my Preliminary Title Opinion.
- III. If a water right is involved and is not covered by the current security instrument, it is subject only to the encumbrances, reservations, exceptions, and defects set forth in said administrative waivers and was made available as security in the following manner (Water stock would normally be reissued in the names of said land owners and the United States of America and delivered to the Agency Official at the time of loan closing):

- IV. The term "encumbrances, reservations, exceptions, and defects" means all matters which would prevent the United States from obtaining the required lien on the property identified in paragraph I, including but not limited to (a) mortgages, deeds of trust, and vendors', mechanics', materialmen's, and all other liens, including any provisions thereof for future advances which could take priority over the said lien to the United States, (b) Federal, State, and local taxes, including county, school, improvement, water, drainage, sewer, inheritance, personal property, and income, (c) State and Federal bankruptcy, insolvency, receivership, and probate proceedings, (d) judgments and pending suits, in State and Federal courts, (e) recorded covenants; conditions; restrictions; reservations; liens; encumbrances; easements; rights-of-way; leases; mineral, oil, gas, and geothermal rights (regardless of the right of surface entry); timber rights; water rights; pending court proceedings and other matters of record which affect the title of the property or the ability of the buyer or seller to convey or accept title.
- V. This opinion is issued expressly for the benefit of the above-named applicant for title examination and the United States of America acting through the United States Department of Agriculture Agency which provided the assistance, and I assume liability to each hereunder.

03-18-2011

*(Date)*



*(Attorney's signature)*

PO Box 959  
Fayetteville, WV 25840

*(Address, include ZIP Code)*

Attachments

ARMSTRONG PUBLIC SERVICE DISTRICT

Water Revenue Bonds, Series 2011 A  
(United States Department of Agriculture)

COMBINED CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. AUTHORIZATION AND AWARD OF BONDS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES, ETC.
6. CERTIFICATION OF COPIES OF DOCUMENTS
7. INCUMBENCY AND OFFICIAL NAME, ETC.
8. DELIVERY AND PAYMENT AND USE OF PROCEEDS
9. LAND AND RIGHTS-OF-WAY
10. MEETINGS; PUBLICATION AND POSTING OF NOTICES, ETC.
11. CONTRACTORS' INSURANCE, ETC.
12. CONNECTIONS, ETC.
13. MANAGEMENT
14. CONFLICT OF INTEREST
15. PROCUREMENT OF ENGINEERING SERVICES
16. EXECUTION OF COUNTERPARTS

We, the undersigned CHAIRMAN and SECRETARY of the Public Service Board of Armstrong Public Service District, in Fayette County, West Virginia (the "Issuer"), and the undersigned COUNSEL for the Issuer, acting for the Issuer and in its name, hereby state and certify on this 28th day of March, 2011, in connection with the Armstrong Public Service District Water Revenue Bonds, Series 2011 A (United States Department of Agriculture), No. AR-1, dated the date hereof, fully registered, in the principal amount of \$765,000 (the "Series 2011 A Bonds") as follows:

1. AUTHORIZATION AND AWARD OF BONDS: The undersigned are authorized to execute this certificate on behalf of the Issuer and are knowledgeable with respect to the matters set forth herein. The entire issue of the Series 2011 A Bonds have been duly awarded to the United States of America, acting by the United States Department of Agriculture, Rural Utilities Service (the "Purchaser"), pursuant to a Letter of Conditions from the Purchaser, dated June 20, 2008, and all amendments thereto, and the Resolution of the Issuer duly adopted on March 24, 2011, authorizing issuance of the Series 2011 A Bonds (the "Resolution" or "Bond Resolution"). All capitalized terms used herein and not otherwise defined herein shall have the same meaning as defined in the Bond Resolution when used herein. The Series 2011 A Bonds are being issued on this date to (i) finance a portion of the cost associated with the acquisition and construction of the Project, and (ii) pay certain costs associated with the cost of issuance and related costs not otherwise provided for.

2. NO LITIGATION: No controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the issuance and delivery of the Series 2011 A Bonds or receipt of any grant monies, if any, committed for the System, hereinafter defined; nor questioning the proceedings and authority by which the Issuer authorized the issuance and sale of the Series 2011 A Bonds; nor in any way questioning or affecting the validity of the grants, if any, committed for the System or the validity of the Series 2011 A Bonds or any provisions made or authorized for the payment thereof, including, without limitation, the pledge or application of any monies or security therefor; nor questioning the existence, powers or proceedings of the Issuer or its Public Service Board (the "Governing Body") or the title of the members and officers thereof to their respective offices; nor questioning the operation of the System or the acquisition and construction of the Project, a portion of the cost of which is being financed out of the proceeds of sale of the Series 2011 A Bonds; nor questioning the rates and charges provided for services of the System.

3. GOVERNMENTAL APPROVALS: All applicable and necessary approvals, permits, authorizations, registrations, exemptions, consents and certificates required by law for the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Series 2011 A Bonds have been duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project were 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.

The Issuer has received a Recommended Decision of the Public Service Commission of West Virginia (the "PSC") dated June 18, 2010, Commission order dated January 28, 2011 and Commission Order dated March 15, 2011 in Case No. 09-1984-PWD-CN among other things, granting to the Issuer a certificate of public convenience and necessity for the Project, approving rates for the System and approving the financing for the Project. Such Orders 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 by the Purchaser of a loan to assist in the acquisition and construction of the Project.

There are outstanding obligations of the Issuer which will rank on a parity with the Series 2011 A Bonds as to liens, pledge and source of and security for payment, and in all respects, being the Issuer's Water Revenue Bonds, Series 1974 (United States Department of Agriculture), dated January 30, 1974, issued in the original aggregate principal amount of \$338,000 (the "Series 1974 Bonds") and Water Revenue Bonds, Series 2001 A (United States Department of Agriculture), dated December 13, 2001, issued in the original aggregate principal amount of \$550,000 (the "Series 2001 A Bonds") (collectively, the "Prior Bonds"). Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which rank prior to or on a parity with the Series 2011 A Bonds as to liens, pledge and/or service of and security for payment.

The Issuer is not in default under the terms of the Prior Bonds or the resolutions authorizing issuance of the Prior Bonds or any document in connection therewith, and has complied with all requirements of all the foregoing with respect to the issuance of Parity Bonds or has obtained a sufficient and valid consent or waiver thereof.

5. SIGNATURES, ETC.: The undersigned Chairman and Secretary did, for the Issuer on the date hereof, officially execute and seal the Series 2011 A Bonds with the official corporate seal of the Issuer, an impression of which seal is on this certificate above our signatures and said officers are the duly elected or appointed (as applicable), qualified and serving officers as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Series 2011 A Bonds for the Issuer.

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

Bond Resolution

Prior Bond Resolutions

Consent of USDA to Issuance of Parity Bonds

USDA Letter of Conditions, with all amendments

Public Service Commission Order(s)

County Commission Orders on Creation of District

County Commission Orders of Appointment of Current Board Members

Oaths of Office of Current Board Members

Rules of Procedure

Minutes of Current Year Organizational Meeting

Minutes on Adoption of Bond Resolution

United States Department of Agriculture Loan Agreement

United States Department of Agriculture Grant Agreement

7. INCUMBENCY AND OFFICIAL NAME, ETC.: The proper corporate title of the Issuer is "Armstrong Public Service District" and its principal office and place of business are in Fayette County, West Virginia. The Issuer is a public service district and public corporation and political subdivision of the State of West Virginia. The governing body of the Issuer is its Public Service Board consisting of five duly appointed, qualified and acting members, whose names and dates of commencement and termination of current terms of office are as follows:

Name	Date of Commencement of Office	Date of Termination of Office
Judson Wallace	04/01/2010	04/01/2016
Donald Navarro	04/01/2009	04/01/2015
Velma Newman	03/01/2007	03/01/2013
Stanley Garten	01/05/2007	04/01/2011
Randy Bowen	03/06/2009	03/06/2015

The names of the duly elected, appointed, qualified and acting officers of said Public Service Board of said Issuer for the calendar year 2011 are as follows:

Chairman	–	Judson Wallace
Secretary	–	Velma Newman
Treasurer	–	Donald Navarro

The duly appointed and acting Attorney for the Issuer is James V. Kelsh, Esquire, of Charleston, West Virginia.

8. DELIVERY AND PAYMENT AND USE OF PROCEEDS: On the date hereof, the Series 2011 A Bonds were delivered to the Purchaser at Kimberly, West Virginia, by the undersigned Chairman for the purposes set forth herein, and at the time of such delivery, the Series 2011 A Bonds have been duly and fully executed and sealed on behalf of the Issuer in accordance with the Resolution.

At the time of delivery of the Series 2011 A Bonds, the undersigned Chairman received \$135,524.98, being a portion of the principal amount of the Series 2011 A Bonds. Further advances of the balance of the principal amount of the Series 2011 A Bonds will be paid to the Issuer as acquisition and construction of the Project progresses.

The Series 2011 A Bonds are dated the date hereof, and interest on advances of the principal thereof at the rate of 3.375% per annum is payable from the date of each respective advance.

The Series 2011 A Bonds and the entire proceeds thereof will be used for the purposes herein set forth and for no other purposes.

9. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the acquisition, construction, operation and maintenance of the Project and 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 Series 2011 A Bonds.

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

11. CONTRACTORS' INSURANCE, ETC.: All contractors will be required to maintain Workers' Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Letter of Conditions and Commitment of the Purchaser, as amended, and the Resolution.

12. CONNECTIONS, ETC.: The Issuer will serve at least 958 bona fide users with the System upon the completion of the Project, in full compliance with the requirements and conditions of the Purchaser.

13. MANAGEMENT: The Issuer has heretofore delivered to the Purchaser a plan concerning operation and management of the System, which plan was found to be acceptable by the Purchaser.

14. CONFLICT OF INTEREST: No member, officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Series 2011 A Bonds, the Bond Resolution and/or the Project, including, without limitation, with respect to the Depository Bank, as defined in the Bond Resolution. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

15. PROCUREMENT OF ENGINEERING SERVICES: The Issuer has complied in all respects with the requirements of Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended, in the procurement of engineering services to be paid from proceeds of the Bonds.

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

[Remainder of Page Intentionally Blank]

WITNESS our signatures and the official corporate seal of ARMSTRONG PUBLIC SERVICE DISTRICT on the day and year first written above.

[CORPORATE SEAL]

SIGNATURE

OFFICIAL TITLE

Judith Wallace

Chairman

Helma Newman

Secretary

James V. Kesh

Attorney for Issuer

ARMSTRONG PUBLIC SERVICE DISTRICT

Water Revenue Bonds, Series 2011 A  
(United States Department of Agriculture)

ENGINEER'S CERTIFICATE

I, Brian Dean Morton, Registered Professional Engineer, West Virginia License No. 15631, of E.L. Robinson Engineering Company, Cross Lanes, West Virginia, hereby certify that my firm is the engineer for the acquisition and construction of certain additions, improvements and extensions (the "Project") to the existing waterworks system (the "System") of Armstrong Public Service District (the "Issuer"), to be acquired and constructed in Fayette County, West Virginia, which acquisition and construction are being financed in whole or in part by the above-captioned bonds of the Issuer.

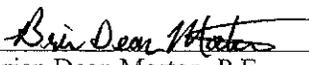
I further certify that the Project will, to the best of my knowledge, be constructed in accordance with plans and specifications prepared by my firm and that the System and the Project are situate wholly or chiefly within the boundaries of the Issuer.

I further certify that the Project is adequate for the purpose for which it was designed and that the necessary governmental approvals, consents, authorizations, certificates and permits for the acquisition and construction thereof have been obtained.

The Project will serve no new customers.

WITNESS my signature on this 28th day of March, 2011.

E.L. Robinson Engineering Company

  
\_\_\_\_\_  
Brian Dean Morton, P.E.  
West Virginia License No. 15631



Armstrong Public Service District  
 IJDC # 2011W-1237  
 SCHEDULE B

A. Cost of Project	TOTAL	RUS Loan	RUS Grant	IJDC Grant	County Grant
1 Construction:	1,638,687	557,387	769,300	292,000	20,000
2 Construction Contingency	72,600	0	54,600	18,000	0
3 Engineering					
a. Basic	120,000	120,000	0	0	0
b. Project Representative	50,000	0	50,000	0	0
c. Special	0	0	0	0	0
4 Legal	30,000	30,000	0	0	0
5 Accounting	15,000	15,000	0	0	0
6 Sites and Other Lands	0	0	0	0	0
7 Project Contingency	6,100	0	6,100	0	0
8 Sub Total (Lines 1 thru 7)	1,932,387	722,387	880,000	310,000	20,000
<b>B. Cost of Financing</b>					
9 Reserve	0	0	0	0	0
10 Capitalized Interest	26,613	26,613	0	0	0
11 Bond Counsel	16,000	16,000	0	0	0
12 Total Cost of Financing (Lines 9 thru 11)	42,613	42,613	0	0	0
<b>13 Total Cost of Project (Line 8 + Line 12)</b>	<b>1,975,000</b>	<b>765,000</b>	<b>880,000</b>	<b>310,000</b>	<b>20,000</b>
<b>B. Sources of Grants</b>					
14 Federal Grants	880,000	0	880,000	0	0
15 State Grants (IJDC)	310,000	0	0	310,000	0
16 Any other Grant	20,000	0	0	0	20,000
17 Total Grants (lines 14 thru Line 16)	1,210,000	0	880,000	310,000	20,000
<b>18 Size of Bond Issue (line 13 minus Line 17)</b>	<b>765,000</b>	<b>765,000</b>	<b>0</b>	<b>0</b>	<b>0</b>

  
 Judith Wallbel  
 Armstrong Public Service District

Mar. 24, 2011  
 Date

  
 E.L. Robinson

March 24, 2011  
 Date

Armstrong Public Service District

- 03/07/1955 Fayette County Commission set Public Hearing for creation of **Armstrong Creek Public Service District**.
- 04/06/1955 Fayette County Commission creating **Armstrong Creek Public Service District**.
- 06/18/1956 Fayette County Commission Order changing name to Armstrong Public Service District.
- 03/06/1963 Fayette County Commission creating **Deepwater Public Service District**.
- 11/30/2004 Fayette County Commission merging **Deepwater Public Service District** into Armstrong Public Service District.
- 05/23/2005 Public Service Commission Order approving merger of **Deepwater Public Service District** into Armstrong Public Service District.
- 07/10/2006 Public Service Commission Order to borrow funds to finalize merger.
- 12/21/2006 Resolution of **Deepwater Public Service District** approving merger into Armstrong Public Service District.
- 12/21/2006 Resolution of Armstrong Public Service District approving merger of **Deepwater Public Service District**.
- 01/05/2007 Fayette County Commission Order approving and ratifying merger of **Deepwater Public Service District** into Armstrong Public Service District.

Fayetteville, West Virginia  
March 7, 1955

The County Court of Fayette County, West Virginia, met this day in Special Session held this 7th day of March, 1955, at 10:00 A.M., pursuant to the call of E. W. Kelly, President, C. B. Vickers, Commissioner, and Orval Kessler, Commissioner, said call being:

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

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

C. B. Vickers  
Orval Kessler

And were absent: None

C. B. Vickers introduced and caused to be read a proposed resolution and order entitled:

"A resolution and order fixing a date of hearing on the creation of a public service district within Fayette County, West Virginia; and providing for the publication of a notice of such hearing", and moved that all rules otherwise requiring deferred consideration be suspended and said proposed resolution and order be adopted. Orval Kessler seconded the motion and after due consideration the President put the question on the motion, and the roll being called the following voted.

Aye:	E. W. Kelly	President
	C. B. Vickers	Commissioner
	Orval Kessler	Commissioner
Nay:	None	

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

Miss Lacy Neely  
Clerk

E. H. Kelly  
President

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

\*\*\* \*\*

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

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

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

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

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

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

(a) The name and corporate title of said public service district shall be the "Armstrong Creek Public Service District".

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

"Beginning at a point in the Great Kanawha River approximately 2,000 feet down stream from the mouth of Armstrong Creek, thence up the Great Kanawha River approximately 6,300 feet, thence leaving the river S 32° 45' W. 1,400 feet, N. 57° 15' W. 3,000 feet, S 32° 45' W. 12,000 feet, S 17° 00' W. 4,000 feet, S 39° 45' W. 7,000 feet, S 17° 00' W. 2,000 feet, N. 75° 00' W. 6,000 feet, S 17° 00' W. 4,300 feet, S 1° 15' W. 4,300 feet, S. 82° 45' W. 2,000 feet, N. 1° 15' E. 5,000 feet, N. 17° 00' E. 16,000 feet, N. 32° 45' E. 7,000 feet, N. 57° 15' W. 3,000 feet, N. 32° 45' E. 2,000 feet, S. 57° 15' E. 3,000 feet, N. 32° 45' E. 6,300 feet to place of beginning, comprising the communities of Mt. Carbon, Kimberly, Columbia, Jenkins Fork, Elk Ridge and Powellton."

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

(d) The territory described above does not include within its limits the territory of any other public service district organized under Article 13A of Chapter 16 of the West Virginia Code, nor does such territory include within its limits any city, incorporated town or other municipal corporation.

Section 3. That on April 10<sup>th</sup>, 1955, at the hour of 10:00 o'clock A.M., this County Court shall meet in the County Court House at Fayetteville, West Virginia, for the purpose of conducting a public hearing on the creation of the proposed public service district at which time and place all persons residing in or owning or having any interest in property

in the proposed public service district may appear before this County Court and shall have an opportunity to be heard for and against the creation of said district, and at such hearing, this County Court shall consider and determine the feasibility of the creation of the proposed public service district.

Section 4. That the County Court Clerk is hereby authorized and directed to cause notice of such hearing in substantially the form hereinafter set out to be published on March 17<sup>th</sup>, 1955, in the Fayette County Herald, a newspaper of general circulation published in Fayette County:

\* NOTICE OF PUBLIC HEARING  
ON CREATION OF ARMSTRONG  
CREEK PUBLIC SERVICE DISTRICT

NOTICE IS HEREBY GIVEN that a legally sufficient petition has been filed with the Clerk of the County Court of Fayette County, West Virginia, and has been presented to the County Court of Fayette County for the creation of a public service district within Fayette County, for the purpose of constructing or acquiring by purchase or otherwise and the maintenance, operation, improvement and extension of public service properties supplying water and sewerage services within said district and also outside said district to the extent permitted by law; to be named "Armstrong Creek Public Service District"; and having the following described boundaries:

"Beginning at a point in the Great Kanawha River approximately 2,000 feet down stream from the mouth of Armstrong Creek, thence up the Great Kanawha River approximately 6,300 feet, thence leaving the river S 32° 45' W. 1,400 feet, N. 57° 15' W. 3,000 feet, S 32° 45' W. 12,000 feet, S 17° 00' W. 4,000 feet, S 39° 45' W. 7,000 feet, S 17° 00' W. 2,000 feet, N. 75° 00' W. 6,000 feet, S 17° 00' W. 4,300 feet, S 1° 15' W. 4,300 feet, S. 82° 45' W. 2,000 feet, N. 1° 15' E. 5,000 feet, N. 17° 00' E. 16,000 feet, N. 32° 45' E. 7,000 feet, N. 57° 15' W. 3,000 feet, N. 32° 45' E. 2,000 feet, S. 57° 15' E. 3,000 feet, N. 32° 45' E. 6,300 feet to place of beginning, comprising the communities of Mt. Carbon, Kimberly, Columbia, Jenkins Fork, Elk Ridge and Powellton."

All persons residing in or owning or having any interest in property in said proposed public service district are hereby notified that the County Court of Fayette County will conduct a public hearing on April 6<sup>th</sup>, 1955 at 10 10 o'clock A.M., in the County Court House at Fayetteville, West Virginia, at which time and place all interested persons may appear before the County Court and shall have an opportunity to be heard for and against the creation of the proposed public service district.

By Order of the County Court this 7<sup>th</sup> day of March, 1955.

Mrs. Lacy Neely  
County Court Clerk

Adopted by the County Court March 7<sup>th</sup>, 1955.

E. Kelly  
President

Attest:

Mrs. Lacy Neely  
Clerk

\*\*\* \*\*

STATE OF WEST VIRGINIA )  
COUNTY OF FAYETTE ) ss

I, Mrs. Lacy Neely, hereby certify that I am the duly qualified and acting Clerk of the County Court of Fayette County, West Virginia, and that the foregoing constitutes a true, correct and complete transcript of the proceedings of said County Court as had under date of March 7<sup>th</sup>, 1955, and a resolution and order then adopted relating to the proposed creation of the Armstrong Creek Public Service District, all as shown by the official records in my office.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and the seal of said Court at Fayetteville, West Virginia, this March 7<sup>th</sup>, 1955.

Mrs. Lacy Neely  
County Court Clerk

(SEAL)

WCW:bjb  
2/23/55

order be adopted. ORVAL KESSLER seconded the motion and after due consideration the President put the question on the motion and the roll being called, the following voted:

Ays: C. B. VICKER, ORVAL KESSLER  
E. W. KELLY

Nays: None.

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

C. B. Vickers introduced and caused to be read a proposed resolution and order, entitled:

"A RESOLUTION AND ORDER appointing members to the public service board of the Armstrong Creek Public Service District."

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

Ays: C. B. Vickers, Orvil Kessler  
E. W. Kelly

Nays: None.

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

\*\*\* \*\*

On motion and vote the meeting adjourned.

Attest:

E. W. Kelly  
President

Mrs. Lacy Reilly  
Clerk



A RESOLUTION AND ORDER creating Armstrong  
Creek Public Service District in Fayette  
County, West Virginia.

\*\*\* \*\*

WHEREAS, the County Court of Fayette County, West Virginia, did heretofore by a resolution and order adopted March 7, 1955, fix a date for a public hearing on the creation of the proposed Armstrong Creek Public Service District and in and by said resolution and order provide that all persons residing in or owning or having any interest in property in the proposed public service district might appear before the County Court at this meeting and have the opportunity to be heard for and against the creation of said district; and

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

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

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

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

Beginning at a point in the Great Kanawha River approximately 2,000 feet down stream from the mouth of Armstrong Creek, thence up the Great Kanawha River approximately 6,300 feet, thence leaving the river S 32° 45' W. 1,400 feet, N. 57° 15' W. 3,000 feet, S 32° 45' W. 12,000 feet, S 17° 00' W. 4,000 feet, S 39° 45' W. 7,000 feet, S 17° 00' W. 2,000 feet, N. 75° 00' W. 6,000 feet, S 17° 00' W. 4,300 feet, S 15° 15' W. 4,300 feet, S. 82° 45' W. 2,000 feet, N. 1° 15' E. 5,000 feet, N. 17° 00' E. 16,000 feet, N. 32° 45' E. 7,000 feet, N. 57° 15' W. 3,000 feet, N. 32° 45' E. 2,000 feet, S. 57° 15' E. 3,000 feet, N. 32° 45' E. 6,300 feet to place of beginning, comprising the communities of Mt. Carbon, Kimberly, Columbia, Jenkins Fork, Elk Ridge and Powellton.

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

Section 3. That the County Court of Fayette County, West Virginia, has determined that the territory within Fayette County, West Virginia, having the hereinabove described boundaries, is so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of properties supplying both water and sewerage services within such territory by said public service district will be conducive to the preservation of public health, comfort and convenience of such area.

ADOPTED BY THE COUNTY COURT April 6, 1955

[Signature]  
President

Attest:

Mrs. Lacy Neely  
Clerk



WCW:bjb  
3/30/55

West Virginia, County of Fayette:  
I, H. E. JANNEY, Clerk of the County Commission of Fayette County, West Virginia, hereby certify that the foregoing is a true copy from the records of my office.

In Testimony Whereof, I hereunto place my hand and affix my seal of said Commission this the MAY 17 1955 day of

H. E. JANNEY, Clerk  
[Signature], Deputy

Kimberly, West Virginia

June 18, \_\_\_\_\_, 1956

The Public Service Board of the Armstrong Creek Public Service District, met in regular session pursuant to law and to the rules of said Board, at the office of said Board in Kimberly, West Virginia at 12:05 o'clock P.M. on June 18, \_\_\_\_\_, 1956. The meeting was called to order by the Chairman, and the roll being called there were present C. R. Stahl, Chairman, presiding, and the following named members:

M. M. Fitzwater, J. E. McMillion, \_\_\_\_\_; also

Glenn Hartman, Secretary.

Absent: None.

\* \* \* \*

Thereupon J. E. McMillion introduced and caused to be read a proposed resolution entitled:

"Resolution changing the official name and corporate title of Armstrong Creek Public Service District to 'Armstrong Public Service District', providing for a new corporate seal and ratifying and confirming prior acts, proceedings, resolutions and orders of the Public Service Board,"

and moved that all rules be suspended and said resolution adopted.

M. M. Fitzwater seconded the motion, and after due consideration the Chairman put the question on the motion for adoption of said resolution, and the roll being called the following voted:

Aye: J. E. McMillion, C. R. Stahl

M. M. Fitzwater

Nay: None.

Whereupon the Chairman declared the motion duly carried and said resolution duly adopted.

\* \* \* \*

On motion and vote the meeting adjourned.

C. R. Stahl  
Chairman

Attest:

Glenn J. Hartman  
Secretary

Resolution changing the official name and corporate title of Armstrong Creek Public Service District to "Armstrong Public Service District", providing for a new corporate seal and ratifying and confirming prior acts, proceedings, resolutions and orders of the Public Service Board.

WHEREAS, Armstrong Creek Public Service District in Fayette County, West Virginia, has heretofore been duly created and is now organized and operating under the provisions of Article 13A of Chapter 16 of the West Virginia Code, and the Public Service Board of said District has heretofore been organized and is now functioning as the governing body of said District, having the duties, powers and authority as provided by said law; and

WHEREAS, said District has not heretofore issued any bonds pursuant to the provisions of said law and therefore under the provisions of Section 1409(38d) of said Article 13A the Public Service Board may by resolution change the official or corporate name of the District; and

WHEREAS, it is deemed advisable and necessary by the Public Service Board at this time to adopt such a resolution changing the official name and corporate title of the District;

NOW, THEREFORE, Be It and It Is Hereby Resolved by the Public Service Board of Armstrong Creek Public Service District, Fayette County, West Virginia, as follows:

Section 1. That the official name and corporate title of the Armstrong Creek Public Service District is hereby changed to "Armstrong Public Service District" and this change shall be effective from and after the filing of an authenticated copy of this resolution with the Clerk of the County Court of Fayette County, West Virginia.

Section 2. That the Secretary of said Board is hereby authorized and directed to procure a new corporate seal, said seal to contain the words "Armstrong Public Service District, Fayette County, West Virginia".

Section 3. That all acts, proceedings of any nature, resolutions and orders taken or adopted by this Public Service Board in the name of the Armstrong Creek Public Service District prior to the adoption of this resolution are hereby ratified and confirmed as the acts, proceedings, resolutions and orders of the Public Service Board of Armstrong Public Service District.

Section 4. That all resolutions, orders, or parts thereof in so far as the same may be in conflict herewith are to the extent of such conflict hereby repealed and this resolution shall be effective immediately upon its adoption.

Section 5. After the adoption of this resolution the Secretary is hereby authorized and directed to immediately file an authenticated copy thereof with the Clerk of the County Court of Fayette County, West Virginia.

Adopted June 18, 1956

C. Stahl  
Chairman

Attest:

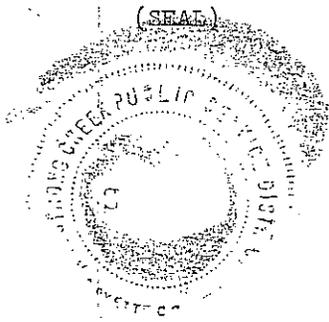
Glenn D. Hartman  
Secretary

STATE OF WEST VIRGINIA }  
COUNTY OF FAYETTE } SS

I, Glenn G. Hartman, the duly qualified and acting Secretary of the Public Service Board of Armstrong Creek Public Service District, Fayette County, West Virginia, do hereby certify that the foregoing is a true and correct copy of the minutes of a meeting of said Public Service Board held on the 18 day of June, 1956, and of a resolution adopted at such meeting changing the official name and corporate title of the District as said minutes and resolution are officially of record in my possession.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and the seal of said District this 18th day of June, 1956.

*Glenn G. Hartman*  
Secretary



WOW:mp

West Virginia, County of Fayette:  
I, H. E. JANNEY, Clerk of the County Commission of Fayette County, West Virginia, hereby certify that the foregoing is a true copy from the records of my office.

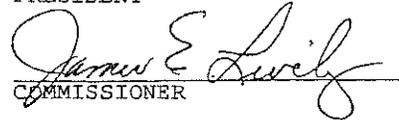
In Testimony Whereof, I hereunto place my hand and affix my seal of said Commission this the MAY 17 1983 day of 1983.

H. E. JANNEY, Clerk  
By *Arnold J. ...*, Deputy

FAYETTE COUNTY COMMISSION

On this 13th day of May, 1983, at a regular meeting of said Commission consideration was given to the appointment of a Commissioner of the Armstrong Public Service District as the term of Donald L. Taylor has expired. After giving due consideration to the same it is hereby ordered that Donald L. Taylor be reappointed as a Commissioner, whose name has been recommended, said term to expire April 1, 1986.

  
PRESIDENT

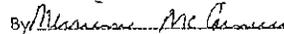
  
COMMISSIONER

\_\_\_\_\_  
COMMISSIONER

West Virginia, County of Fayette:  
I, H. E. JANNEY, Clerk of the County Commission of Fayette County, West Virginia, hereby certify that the foregoing is a true copy from the records of my office.

In Testimony Whereof, I hereunto place my hand and affix my seal of said Commission this the 13th day of May, 1983

H. E. JANNEY, Clerk

By  Deputy

Feb 27, 1963  
Mar 6, 1963

A RESOLUTION AND ORDER CREATING  
DEEPWATER PUBLIC SERVICE DISTRICT  
IN FAYETTE COUNTY, WEST VIRGINIA

\*\*\*\*\*

WHEREAS, the County Court of Fayette County, West Virginia did heretofore by resolution and order, dated February 27, 1963 fix a date for public hearing on the creation of a proposed Deepwater Public Service District and in and by said resolution and order provide that all persons residing in or owning or having any interest in property in the proposed public service district might appear before the County Court at this meeting and have the opportunity to be heard for and against the creation of said district; and

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

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

BE IT AND IT IS HEREBY RESOLVED AND ORDERED by the County Court of Fayette County, West Virginia as follows:

Section I. That a public service district within

Fayette County, West Virginia, is hereby created, and  
said District shall have the following described boundaries:

BEGINNING at a point in the center of Kanawha River, having a latitude of N 38° 07' 21" and a longitude of W 81° 14' 18", thence S 0.5 miles to a point having a latitude of N 38° 06' 54" and longitude W 81° 14' 18", thence W 0.9 miles to a point having a latitude N 38° 06' 54" and longitude W 81° 15', thence N 60° 36' W 1.6 miles to a point having a latitude N 38° 07' 26", a longitude W 81° 16' 28", thence N 0.5 miles more or less to center of Kanawha River and thence upstream 2.7 miles to beginning, containing 1.5 square miles more or less, and being a part of the Kanawha Magisterial District of Fayette County, West Virginia.

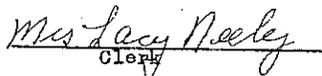
Section 2. That said public service district so created shall have the name and corporate title of "DEEFWATER PUBLIC SERVICE DISTRICT" and shall constitute a public corporation and political subdivision of the State of West Virginia having all the rights and powers conferred on public service districts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

Section 3. That the County Court of Fayette County, West Virginia has determined that the territory within Fayette County, West Virginia, having the above described boundaries, is so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of properties supplying both water and sewerage services within such territory by said public service district will be conducive to the preservation of public health, comfort and convenience of such area.

ADOPTED BY THE COUNTY COURT on March 6, 1963.

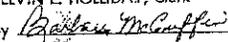
  
President

Attest:

  
Clerk

West Virginia, County of Fayette:  
I, KELVIN E. HOLLIDAY, Clerk of the County Commission of Fayette County, West Virginia, hereby certify that the foregoing is a true copy from the records of my office.

In Testimony Whereof, I hereunto place my hand and affix the seal of said Commission this the 24 day of Mar, 1963

KELVIN E. HOLLIDAY, Clerk  
By , Deputy

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

\*\*\*\*\*

WHEREAS, the County Court of Fayette County, West Virginia, did heretofore by resolution and order adopted March 6, 1963, create the Deepwater Public Service District, and

WHEREAS, under the provisions of Article 13A of Chapter 16 of the West Virginia Code the powers of said public service district shall be vested in and exercised by a public service board; and

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

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

Section 1. That the County Court of Fayette County, West Virginia, hereby finds and determines that HERBERT L. STONE, HAROLD G. WORKMAN, and JOHN M. RADFORD, are persons residing with the Deepwater Public Service District and the aforesaid persons are hereby appointed as members of the public service board of said district and there respective terms of office be as follows:

HERBERT L. STONE for a term of six years from the first day of the month in which this resolution and order is adopted;

HAROLD G. WORKMAN for a term of four years  
from the first day of the month in which this resolution  
and order is adopted and

JOHN M. RADFORD for a term of two years from the  
first day of the month in which this resolution and order  
is adopted.

Section 2. The aforesaid persons shall meet as  
soon as practicable at the office of the Clerk of said  
County Court and shall qualify by taking an oath of office  
and thereafter said appointees constituting the initial  
public service board of the Deepwater Public Service District  
shall meet and organize in compliance with the provisions  
of Article 13A of Chapter 16 of the West Virginia Code.

ADOPTED BY THE COUNTY COURT March 6, 1963.

Paul B. Dickson  
President

ATTEST:

Miss Lany Neely  
Clerk

West Virginia, County of Fayette:  
I, KELVIN E. HOLLIDAY, Clerk of the County Commission of  
Fayette County, West Virginia, hereby certify that the fore-  
going is a true copy from the records of my office.

In Testimony Whereof, I hereunto place my hand and affix  
the seal of said Commission this 2nd day of Nov., 1964.

KELVIN E. HOLLIDAY, Clerk  
By Barbara McCaffrey, Deputy

Nov 30, 2004

Oct. 10. 2006 1:09PM FAYETTE CO PROSECUTOR

No. 5214 P. 3

2004-06-0 000481

## IN THE COUNTY COMMISSION OF FAYETTE COUNTY, WEST VIRGINIA

IN RE:

**MERGER OF DEEPWATER PUBLIC SERVICE DISTRICT WITH AND INTO ARMSTRONG PUBLIC SERVICE DISTRICT PURSUANT TO ARTICLE 13A OF CHAPTER 16 OF THE CODE OF WEST VIRGINIA, AS AMENDED**

**ORDER**

On this the 30th day of November, 2004, came the Deepwater Public Service District and the Armstrong Public Service District, public corporations, pursuant to a Petition previously filed and an Order setting the date for a public hearing pursuant to notice which was published in the Montgomery Herald, a newspaper of general circulation in Valley District, Fayette County, West Virginia, on November 10, 2004, a copy of said Notice and the Certificate of Publication having been tendered to the Commission on this date, and further pursuant to five notices conspicuously posted within the area of each Public Service District.

Whereupon, Lynn B. Pollard, counsel for the Public Service District moved that the Fayette County Commission approve the merger of Deepwater Public Service District with and into Armstrong Public Service District pursuant to the aforesaid Petition, which Petition contained a legal description of the territory proposed to be encompassed by the merger and enlargement of the boundaries together with a map showing the proposed boundary changes. Lynn B. Pollard informed the Court that the District wished to merge and to enlarge its boundaries to construct, maintain, operate, improve and extend water services within the territory and to serve additional customers more efficiently in the merged area. In addition, the merged districts, so long as funding is approved, intend to eliminate the Deepwater water plant (Armstrong's water plant will supply water to Deepwater, upgrade the water lines for Powellton, Deepwater and Kimberly customers (current lines

are 30 to 50 years old), upgrade the water tanks in Powellton and Deepwater and to provide Fire Protection for Deepwater's customers (currently the fire department must come to Adams Village or to the creek for water).

Whereupon, Kenneth L. Eskew, President, inquired as to whether or not there was anyone present who opposed the proposed merger and boundary change and there being no one present in opposition to said change. John H. Lopes, Commissioner, moved for the approval of the merger and boundary change pursuant to the previously filed Petition, and Kenneth L. Eskew, Commissioner, seconded said motion, and after many questions and much deliberation, the President put the question on the motion and the roll being called, the following voted:

Aye: Eskew—aye; Lopes—aye; Wender—absent

Nay: None

Whereupon, the President declared the motion duly carried and said Order duly adopted on motion and vote.

Therefore, it is **ORDERED** that the merger of Deepwater Public Service District with and into Armstrong Public Service District and the boundaries of the same, are hereby enlarged to encompass the following:

**BEGINNING** at a point in the center of Kanawha River, having a latitude of N 38° 07' 21" and a longitude of W 81° 14' 18", thence S 0.5 miles to a point having a latitude of N 38° 06' 54" and longitude W 81° 14' 18", thence W 0.9 miles to a point having a latitude N 38° 06' 54" and longitude W 81° 15', thence N 60° 36' W 1.6 miles to a point having a latitude N 38° 07' 26", a longitude W 81° 16' 28", thence N 0.5 miles more or less to center of Kanawha River and thence upstream 2.7 miles to beginning, containing 1.5 square miles more or less, and being a part of the Kanawha Magisterial District of Fayette County, West Virginia.

**Beginning** at a point in the Great Kanawha River approximately 2,000 feet down stream from the mouth of Armstrong Creek, thence up the Great Kanawha River

Oct. 10. 2006 1:09PM

FAYETTE CO PROSECUTOR

No. 5214 P. 5

BOOK PAGE 659

approximately 6,300 feet, thence leaving the river S 32° 45' W. 1,400 feet, N. 57° 15' W. 3,000 feet, S 32° 45' W. 12,000 feet, E 17° 00' W. 4,000 feet, S 39° 45' W. 7,000 feet, S 17° 00' W. 2,000 feet, N. 75° 00' W. 6,000 feet, S 17° 00' W. 4,300 feet, S 1° 15' W. 4,300 feet, N. 82° 45' W. 2,000 feet, N. 1° 15' E. 5,000 feet, N. 17° 00' E. 16,000 feet, N. 32° 45' E. 7,000 feet, N. 57° 15' W. 3,000 feet, N. 32° 45' E. 2,000 feet, N. 57° 15' E. 3,000 feet, N. 32° 45' E. 6,300 feet to place of beginning, comprising the communities of Mt. Carbon, Kimberly, Columbia, Jenkins Fork, Elk Ridge and Powellton."

All territory encompassed by the proposed merger of Deepwater Public Service District with and into Armstrong Public Service District and the proposed enlargement is in the county of Fayette, West Virginia. The purpose for the expansion of the boundaries and merger of the public service districts is to extend water service within such territory and outside of such territory to the extent permitted by law as well as the other purposes as stated herein. The merged District shall have 5 commissioners.

It is ORDERED that a certified copy of this Order be sent to the Public Service Commission pursuant to West Virginia Code 16-13A-2 and also a copy to the County Commission of Fayette County.

*[Signature]*  
PRESIDENT

*[Signature]*  
COMMISSIONER

*[Signature]*  
COMMISSIONER

ATTEST: *[Signature]*  
CLERK



IN THE COUNTY COMMISSION OF FAYETTE COUNTY, WEST VIRGINIA

IN RE:

MERGER OF DEEPWATER PUBLIC SERVICE DISTRICT WITH AND INTO ARMSTRONG PUBLIC SERVICE DISTRICT PURSUANT TO ARTICLE 13A OF CHARTER 16 OF THE CODE OF WEST VIRGINIA, AS AMENDED

WHEREAS, the Deepwater Public Service District was created to provide both water and sewerage services by order dated March 6, 1963 and entered to record by the County Commission of Fayette County; and

WHEREAS, the intent of the merger of Deepwater Public Service District with and into Armstrong Public Service District pursuant to Article 13A of Chapter 16 of the Code of West Virginia, as amended, was to include both water and sewerage services; and

WHEREAS, by Order Dated July 26, 2005 and entered by the Public Service Commission of West Virginia and received in this office on September 1, 2005, the County Commission of Fayette County was requested to clarify that the merger of Deepwater Public Service District into Armstrong Public Service District necessarily includes the sewer system of Deepwater;

NOW THEREFORE BE IT HEREBY RESOLVED AND ORDERED that the merger of Deepwater Public Service District with and into Armstrong Public Service District as ordered by the County Commission of Fayette County on November 30, 2004, necessarily includes the sewer system of Deepwater.

Entered to record this 16<sup>th</sup> day of September, 2005.

County Commission of Fayette County

*Michael D. Wampler*  
Michael D. Wampler, President

*John H. Lopez*  
John H. Lopez, Commissioner

*Kenneth L. Makew*  
Kenneth L. Makew, Commissioner

041946aj052305.wpd

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

ENTERED

Order Book 05-11Entered: May 23, 2005

ORIGINAL

CASE NO. 04-1946-PSWD-PC

## FAYETTE COUNTY COMMISSION

Petition for consent and approval to  
merge Deepwater Public Service District  
into Armstrong Public Service District

FINAL

6-12-05RECOMMENDED DECISION

On December 3, 2004, the Fayette County Commission (County Commission) filed a petition for the approval of its Order of November 30, 2004, for consent and approval to merge the Deepwater Public Service District (Deepwater) with and into the Armstrong Public Service District (Armstrong), in accordance with West Virginia Code §16-13A-2.

On December 30, 2004, Staff filed its First Set of Interrogatories, Data Requests or Requests for Information upon the Fayette County Commission.

Also on December 30, 2004, Staff Attorney Cassius E. Toon filed an Initial Joint Staff Memorandum, to which was attached the Initial Internal Memorandum prepared by Ms. Karen L. Buckley, Utilities Analyst II, Water and Wastewater Division. Staff explained that the petition in this case seeks approval to merge Deepwater with and into Armstrong, in accordance with West Virginia Code §16-13A-2. Armstrong wishes to enlarge its boundaries to construct, maintain, operate, improve and extend water services within the territory and to serve additional customers more efficiently in the merged area. The County Commission's petition addresses only water service.

In accordance with the Code, the County Commission held a public hearing on November 30, 2004. Notice of the hearing was published in The Montgomery Herald on November 10, 2004. The County Commission determined that the merger of Deepwater and the taking over of Deepwater's public service properties by Armstrong will be conducive to the public health, comfort and convenience of the customers. As long as funding is approved, the merged districts intend to eliminate the Deepwater water plant (Armstrong's water plant will supply water to Deepwater); upgrade the water lines for Powellton, Deepwater and Kimberly customers, which are currently thirty to fifty years old; upgrade the water tanks to Powellton and Deepwater; and provide fire protection for Deepwater. Currently, the Fire Department must come to Adena Village or to the creek for water. Staff indicated that it would file its final recommendation following the receipt of three items of information from the Districts, which were the subject of Staff's Interrogatories. Staff further

recommended that the matter be referred to the Division of Administrative Law Judges.

On January 5, 2005, the District submitted the information requested by Staff in its Interrogatories.

By Order dated January 12, 2005, this matter was referred to the Division of Administrative Law Judges for a decision to be rendered on or before July 1, 2005.

On February 7, 2005, Staff Attorney Toon filed a Further Joint Staff Memorandum, to which was attached the Internal Memorandum prepared by Ms. Buckley. Deepwater has outstanding bonds that have not been retired. According to West Virginia Code §16-13A-18a,

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

Staff indicated that it could not file its final recommendation until it received a copy of the petition filed by the County Commission and proof that the bondholder of the Deepwater Public Service District has been made aware of the sale of Deepwater to the Armstrong Public Service District and whether that bondholder approves of the sale.

On February 9, 2005, the District submitted information requested by Commission Staff.

On April 1, 2005, Staff Attorney Toon filed a Final Joint Staff Memorandum, to which was attached the Final Internal Memorandum prepared by Ms. Buckley. Staff explained that copies of the Minutes from both Districts agreeing to the merger were filed with the Commission; however, according to Armstrong's Minutes, the County Commission agreed to the merger with a stipulation that the rates of both Districts should not have to increase as a result of the merger, so as not to create an undue hardship on either Districts' customers. Staff noted that, in Case No. 00-0567-PSD-19A, Staff had expressed serious concerns regarding the viability of Deepwater's utility operations as a whole, since Deepwater is in a low-income area and customers have a hard time paying for both water and sewer service. In that case, according to Staff, water consumption had decreased since the inception of the sewer system, due to low-income customers of the District having to pay a sewer bill in addition to a water bill. Staff recommended that the District approach the Fayette County Commission to consolidate both its water and sewer systems into another District in Fayette County. The Administrative Law Judge then ordered Deepwater to discuss the possibility of its consolidation with another Fayette County district with the Fayette County Commission. This petition is a result of that recommendation. Staff has

been made aware that the Fayette County Commission is working on the merger of Deepwater into Armstrong for the purpose of providing sewer service.

Staff recommended approval, contingent on bondholder approval, of the petition to merge Deepwater Public Service District with and into Armstrong Public Service District in order to provide water service to Deepwater's customers. Staff further recommended approval of Armstrong's boundary adjustments to construct, maintain, operate, improve and extend water service within the territory and to serve additional customers more efficiently in the merged area.

By Procedural Order dated April 19, 2005, this matter was set for hearing to be held in the Fayette County Courthouse, County Commission Chambers, Fayetteville, West Virginia, on May 12, 2005. Said Order also required the Fayette County Commission to give notice of the hearing to be held on May 12, 2005, by publishing a Notice of Hearing, once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Fayette County. The Fayette County Commission was also directed to be prepared to submit at the hearing evidence that the Water Development Authority (WDA), the bondholder for Deepwater Public Service District, was in agreement with the merger.

The hearing was held as scheduled. The Fayette County Commission was represented by its Administrator, Ms. Charlotte Holley, and its counsel, Ms. Lynn B. Pollard, Esquire. Commission Staff was represented by Staff Attorney Leslie Anderson, Esquire. Also present was Mr. Leon Newman, Chairman of the Deepwater Public Service District.

No one appeared in protest to the application. (See, Tr., p. 6). The County Commission submitted a proper affidavit of publication reflecting that publication of the Notice of Hearing had been made in accordance with the Commission's requirements. (See, affidavit in case file).

At the hearing, Commission Staff introduced Staff Exhibit Nos. 1 through 7, which document the Fayette County Commission's action in this case and the Staff recommendation, (See, Tr., pp. 6-8; Staff Exh. Nos. 1 through 7). The Fayette County Commission did not have evidence that the WDA is in agreement with the merger. (See, Tr., pp. 8-9). Staff recommended approval of the merger, conditioned upon the Fayette County Commission following up and getting Bondholder approval, since no time frame was evidenced. (Tr., pp. 8-9; Staff Exh. No. 1).

Mr. Leon Newman, Chairman of the Deepwater Public Service District, represented that Deepwater is a small community of 150 customers and Deepwater pays \$2,825 per month for a loan which resulted from a loan consolidation and, in order to alleviate the loan, Deepwater is paying an extra \$500 per month. Mr. Newman did not believe there was going to be any difficulty meeting the loan as the total owed is approximately \$13,000, and it would be met in an expedient manner. Because of the uncertainty in the time needed to get bondholder approval, Staff recommended that the approval be granted contingent upon the District submitting the approval of the WDA to the merger and sale of the District. (Tr., pp. 10 and 11; Staff Exh. No. 1).

No further evidence was presented and, since the case was unopposed, the matter was submitted for a decision.

#### FINDINGS OF FACT

1. The Fayette County Commission filed a petition seeking approval of its Order of November 30, 2004, for consent and approval to merge the Deepwater Public Service District with and into the Armstrong Public Service District, in accordance with West Virginia Code §16-13A-2. (See, Petition filed December 3, 2004).

2. This matter was set for hearing to be held in Fayette County on May 12, 2005. Said Order required the Fayette County Commission to give notice of the hearing to be held by publishing a Notice of Hearing in Fayette County. (See, Procedural Order dated April 19, 2005).

3. The Deepwater Public Service District has outstanding bonds from the Water Development Authority (WDA) that have not been paid. (See Further Final Joint Staff Memorandum filed February 7, 2005; Tr. pp. 10-11).

4. Staff recommended approval of the merger of Deepwater into Armstrong and of Armstrong's boundary adjustments to construct, maintain, operate and improve and extend water service within the territory to serve additional customers, contingent upon the WDA's approval of the merger of the Deepwater Public Service District with and into the Armstrong Public Service District. (See, Final Joint Staff Memorandum filed April 1, 2005; Staff Exhibit No. 1).

5. A proper affidavit of publication was submitted reflecting that publication of the Notice of Hearing was made in accordance with the Commission's requirements. (See, affidavit in case file).

6. At the hearing held on May 12, 2005, no one appeared in protest to the petition. (See, Tr., p. 6).

7. The Fayette County Commission did not submit a letter from the WDA indicating approval of the merger, but advised that action was being taken by the District to solve this indebtedness. (See, Tr., pp. 8, 9, 10).

#### CONCLUSIONS OF LAW

1. Since Commission Staff has reviewed the petition of the Fayette County Commission for approval of the merger of Deepwater Public Service District into the Armstrong Public Service District and recommended approval and since the petition was unopposed at the hearing held on May 12, 2005, but the Fayette County Commission did not provide a letter of agreement from the WDA to the merger, the merger should be approved contingent upon submission of the proper documentation from the WDA approving the merger.

2. No actions can be taken by the Fayette County Commission to effectuate this merger until the letter of approval from the WDA is received by the Public Service Commission.

ORDER

IT IS, THEREFORE, ORDERED that the Fayette County Commission's Order of November 30, 2004, merging Deepwater Public Service District with and into the Armstrong Public Service District and expanding the boundaries of Armstrong Public Service District with regard to the provision of water service, be, and the same hereby is, approved, contingent upon the prior submission by the Fayette County Commission of approval by the Water Development Authority of the merger, since it holds the outstanding bonds of Deepwater Public Service District.

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

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

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

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

  
Robert W. Glass  
Administrative Law Judge

RWG:dfs/mal  
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10/10 Oct. 10. 2006 1:09PM '43' FAYETTE CO PROSECUTOR

No. 5214 P. 2<sup>nd</sup>

 A circular seal for Fayette County, West Virginia, featuring a central figure and the text 'FAYETTE COUNTY WEST VIRGINIA' around the perimeter.

IN THE COUNTY COMMISSION OF FAYETTE COUNTY, WEST VIRGINIA

IN RE:

**MERGER OF DEEPWATER PUBLIC SERVICE DISTRICT WITH AND  
INTO ARMSTRONG PUBLIC SERVICE DISTRICT PURSUANT TO  
ARTICLE 13A OF CHARTER 16 OF THE CODE OF WEST VIRGINIA,  
AS AMENDED**

WHEREAS, the Deepwater Public Service District was created to provide both water and sewerage services by order dated March 6, 1963 and entered to record by the County Commission of Fayette County; and

WHEREAS, the intent of the merger of Deepwater Public Service District with and into Armstrong Public Service District pursuant to Article 13A of Chapter 16 of the Code of West Virginia, as amended, was to include both water and sewerage services; and

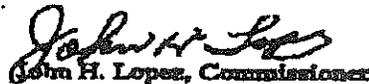
WHEREAS, by Order Dated July 26, 2005 and entered by the Public Service Commission of West Virginia and received in this office on September 1, 2005, the County Commission of Fayette County was requested to clarify that the merger of Deepwater Public Service District into Armstrong Public Service District necessarily includes the sewer system of Deepwater;

NOW THEREFORE BE IT HEREBY RESOLVED AND ORDERED that the merger of Deepwater Public Service District with and into Armstrong Public Service District as ordered by the County Commission of Fayette County on November 30, 2004, necessarily includes the sewer system of Deepwater.

Entered to record this 16<sup>th</sup> day of September, 2005.

County Commission of Fayette County

  
Matthew D. Weiler, President

  
John H. Lopez, Commissioner

  
Kenneth L. Makow, Commissioner

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**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 10th day of July, 2006.

CASE NO. 06-0755-PSWD-PC

**ARMSTRONG PUBLIC SERVICE DISTRICT**

Petition for Commission consent and approval to borrow funds to finalize merger with Deepwater Public Service District.

**COMMISSION ORDER**

On June 7, 2006, the Armstrong Public Service District (District) filed a petition for Commission consent and approval to borrow funds from the West Virginia Water Development Authority (WDA) in the form of either a loan or a bond anticipation note (BAN) in an amount not to exceed \$50,000.00 to fund the Deepwater Public Service District's (Deepwater's) revenue bond payment deficiency and finalize a pending merger of the District and Deepwater. The District attached to its petition a *pro forma* analysis of the consolidation between the District and Deepwater; a letter from the WDA dated March 31, 2006; and a map/description.

On June 15, 2006, Commission Staff (Staff) filed an Initial and Final Joint Staff Memorandum noting some background information regarding this case.<sup>1</sup> By Order issued January 31, 2006, in Fayette County Commission, Case No.04-1946-PSWD-PC, the Commission approved a merger of Deepwater into the District conditioned upon future WDA approval of the merger.

Staff noted that this case was docketed as "Fayette County Commission" but should have been docketed as "Armstrong Public Service District."

---

<sup>1</sup>Staff summarizes the Fayette County Commission's and this Commission's proceedings approving a merger between Deepwater and the District in the Initial and Final Internal Memorandum incorporated within the Joint Staff Memorandum filed on June 15, 2006.

Staff explained that a \$50,000 WDA loan, which may take the form of a BAN, will close simultaneously with the merger and require the District to pay \$1,500 in interest only payments for each of the first 3 years. The loan or BAN would carry a 3% per annum interest rate payable quarterly. The District may convert the BAN to permanent financing with the WDA or another source at the end of the three year term. The permanent financing loan may be amortized over a period not to exceed ten (10) years with interest not to exceed 5% per annum. Staff attached a cash flow statement reflecting that the merger will benefit both utilities and result in debt service coverage of 151.20% for water and 227.18% for sewer. Staff estimates \$10,000 in utility savings for each of the consolidated water and sewer operations due to reduced administrative expenses. Staff did not indicate that the borrowing will have any impact on rates for customers of the former Deepwater, or of the District.

Staff acknowledged that the Commission's January 31, 2006, Order approved the subject merger but, to avoid any possible confusion, Staff urged the Commission to again approve that merger at the same time it approves the WDA loan.

#### DISCUSSION

Upon review of this petition and the supporting documentation, the Commission believes that it is reasonable and appropriate to grant consent and approval, pursuant to *W. Va. Code* § 16-13A-25, for the District to borrow up to \$50,000.00 from WDA at 3% interest per annum, for a term of three (3) years. The Commission will also reaffirm its prior approval of the merger of the District and Deepwater. As there will be no rate impact resulting from the borrowing, and as the merger proceeding was publicly noticed, the Commission's approval may issue without need for further notice or hearing.

#### FINDINGS OF FACT

1. The District seeks Commission consent and approval to borrow funds from the WDA in the form of either a loan or a bond anticipation note (BAN) in an amount not to exceed \$50,000.00 to fund Deepwater's revenue bond payment deficiency and finalize a pending merger of the District and Deepwater.
2. On June 15, 2006, Staff filed an Initial and Final Joint Staff Memorandum noting the relationship between this petition, and the Commission's prior approval of a merger between the District and Deepwater.
3. Staff noted that this case was docketed as "Fayette County Commission" but ~~should have been docketed as "Armstrong Public Service District"~~

4. Staff explained that a \$50,000 WDA loan, which may take the form of a BAN, will close simultaneously with the merger and require the District to pay \$1,500 in interest only payments for each of the first 3 years. The loan or BAN would carry a 3% per annum interest rate payable quarterly. The District may convert the BAN to permanent financing with the WDA or another source at the end of the three year term. The permanent financing loan may be amortized over a period not to exceed ten (10) years with interest not to exceed 5% per annum.

5. Staff attached a cash flow statement reflecting that the merger will benefit both utilities and result in debt service coverage of 151.20% for water and 227.18% for sewer. Staff estimates \$10,000 in utility savings for each of the consolidated water and sewer operations due to reduced administrative expenses.

6. Staff did not indicate that the borrowing will have any impact on rates for customers of the former Deepwater, or of the District.

#### CONCLUSIONS OF LAW

1. It is reasonable and appropriate to grant consent and approval, pursuant to *W. Va. Code* § 16-13A-25, for the District to borrow up to \$50,000.00 from WDA at 3% interest per annum, for a term of three (3) years.

2. The Commission will also reaffirm its prior approval of the merger of the District and Deepwater.

3. As there will be no rate impact resulting from the borrowing, and as the merger proceeding was publicly noticed, the Commission's approval may issue without need for further notice or hearing.

#### ORDER

IT IS THEREFORE ORDERED that the style of this proceeding is hereby amended from "Fayette County Commission" to "Armstrong Public Service District."

IT IS FURTHER ORDERED that the petition of Armstrong Public Service District for Commission consent and approval for the District to borrow \$50,000.00 from the West Virginia Water Development Authority, through either a loan or a BAN, at 3% interest per annum, for a term of three (3) years, is hereby granted.

IT IS FURTHER ORDERED that if there are any changes in the terms of the subject loan, the District must seek Commission approval of those changes, pursuant to *W. Va. Code* § 16-13A-25.

IT IS FURTHER ORDERED that the Commission reaffirms its prior Order issued January 31, 2006, in Case No. 04-1946-PSWD-PC, approving a merger of the Armstrong Public Service District and the Deepwater Public Service District.

IT IS FURTHER ORDERED that upon entry hereof, this case shall be removed from the Commission's docket of open cases.

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

A True Copy, Teste:

  
Sandra Equino  
Executive Secretary

JML/ljm  
060755c.wpd

12/21/2006

DEEPWATER PUBLIC SERVICE DISTRICT

A RESOLUTION AUTHORIZING AND RATIFYING THE TRANSFER OF THE ASSETS OF DEEPWATER PUBLIC SERVICE DISTRICT, THE ASSIGNMENT OF THE BONDS OF DEEPWATER PUBLIC SERVICE DISTRICT TO ARMSTRONG PUBLIC SERVICE DISTRICT AND THE DISSOLUTION OF DEEPWATER PUBLIC SERVICE DISTRICT

WHEREAS, Deepwater Public Service District (hereinafter "Deepwater") is a public service district and public corporation created by Resolution of The County Commission of Fayette County (hereinafter, the "County Commission") and formed pursuant to the provisions of Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act");

WHEREAS, Armstrong Public Service District (hereinafter "Armstrong") is a public service district and public corporation created by Resolution of the County Commission and formed pursuant to the provisions of the Act;

WHEREAS, the Public Service Board of Deepwater adopted a resolution on December 21, 2006, following a duly noticed public hearing, authorizing the transfer of the assets of Deepwater to Armstrong and the assumption of the Deepwater Public Service District Sewer Revenue Bonds, Series 1994 A, dated November 15, 1994, issued in the original aggregate principal amount of \$479,000 (the "Series 1994 A Bonds") and the Deepwater Public Service District Sewer Revenue Bonds, Series 1994 B, dated November 15, 1994, issued in the original aggregate principal amount of \$37,540 (the "Series 1994 B Bonds," and together with the Series 1994 A Bonds, the "Deepwater Bonds") by Armstrong;

WHEREAS, the County Commission adopted a resolution on November 30, 2004, approving the dissolution of Deepwater, expanding the boundaries of Armstrong, the transfer of the assets of Deepwater to Armstrong, subject to the approval of the Public Service Commission of West Virginia;

WHEREAS, the Public Service Commission of West Virginia, in Case No. 04-1946-PSWD-PC, by Final Order entered on May 23, 2005 (final June 12, 2005), approved the dissolution of Deepwater, the expansion of the boundaries of Armstrong, the transfer of the assets of Deepwater to Armstrong and the assumption of the Deepwater Bonds by Armstrong (collectively, the "Transfer and Assignment"), subject to the approval of the bondholders of the Districts;

WHEREAS, the West Virginia Water Development Authority, as the holder of the Deepwater Bonds heretofore issued by Deepwater will consent to the acquisition of the assets of Deepwater by Armstrong, the assumption of the Deepwater Bonds by Armstrong and the dissolution of Deepwater if the debt service reserve funds are fully funded and the coverage and parity tests are met;

WHEREAS, The County Commission of Fayette County plans to adopt a resolution on January 5, 2007, approving and ratifying the proposed Transfer and Assumption, the dissolution of Deepwater and the expansion of the boundaries of Armstrong;

WHEREAS, the Board of Armstrong plans to adopt a resolution on December 21, 2006, approving and ratifying the proposed Transfer and Assumption;

WHEREAS, contemporaneously with the transfer of the assets of Deepwater to Armstrong, Deepwater desires to assign, and Armstrong desires to assume all liabilities for and obligations under the Deepwater Bonds; and

WHEREAS, it is in the best interest of the customers of Armstrong and Deepwater to complete the proposed Transfer and Assumption, to convey all assets, rights, privileges, immunities and powers of Deepwater to Armstrong, for Armstrong to assume and re-designate the Deepwater Bonds, for Deepwater to be dissolved and for the boundaries of Armstrong to be expanded to include the boundaries of Deepwater.

NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF DEEPWATER PUBLIC SERVICE DISTRICT, FAYETTE COUNTY, WEST VIRGINIA AS FOLLOWS:

1. Deepwater does hereby authorize and ratify the transfer of the assets of Deepwater to Armstrong, the assumption of the Deepwater Bonds by Armstrong and the dissolution of Deepwater.
2. That, immediately following the consummation of the Transfer and Assumption on or about December 21, 2006, Deepwater shall be dissolved.
3. The Chairman and Secretary of Deepwater are hereby authorized and directed to execute all documents concerning the Transfer and Assumption, specifically including, but not limited to, the assumption of the Deepwater Bonds and the execution of a deed and bill of sale to Armstrong.
4. The Chairman and Secretary of Deepwater are hereby authorized and directed to execute all documents concerning the dissolution of Deepwater.

5. The Chairman and Secretary of Deepwater are vested with the appropriate authority to take any and all actions necessary to complete Transfer and Assumption and the dissolution of Deepwater.

6. This Resolution shall become effective immediately upon adoption hereof.

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Adopted by the Public Service Board of Deepwater Public Service District at a meeting held on the 21<sup>st</sup> day of December, 2006.

DEEPWATER PUBLIC SERVICE DISTRICT

[SEAL]

Donald White  
Chairman

Velma Newman  
Secretary

ARMSTRONG PUBLIC SERVICE DISTRICT

A RESOLUTION AUTHORIZING AND RATIFYING THE ACQUISITION OF THE ASSETS OF DEEPWATER PUBLIC SERVICE DISTRICT, THE ASSUMPTION AND RE-DESIGNATION OF THE BONDS OF DEEPWATER PUBLIC SERVICE DISTRICT AND THE EXPANSION OF THE BOUNDARIES OF ARMSTRONG PUBLIC SERVICE DISTRICT

WHEREAS, Armstrong Public Service District (hereinafter "Armstrong") is a public service district and public corporation created by Resolution of The County Commission of Fayette County (hereinafter, the "County Commission") and formed pursuant to the provisions of Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act");

WHEREAS, Deepwater Public Service District (hereinafter "Deepwater") is a public service district and public corporation and political subdivision created by Resolution of the County Commission and formed pursuant to the provisions of the Act;

WHEREAS, the Public Service Board of Deepwater adopted a resolution on December 21, 2006, following a duly noticed public hearing, authorizing the transfer of the assets of Deepwater to Armstrong and the assumption of the Deepwater Public Service District's Sewer Revenue Bonds, Series 1994 A, dated November 15, 1994, issued in the original aggregate principal amount of \$429,000 and the Deepwater Sewer Revenue Bonds, Series 1994 B, issued in the aggregate principal amount of \$37,540 (the "Deepwater Bonds") by Armstrong;

WHEREAS, the County Commission adopted a resolution on November 30, 2004, approving the transfer of the assets of Deepwater to Armstrong, the dissolution of Deepwater and the expansion of the boundaries of Armstrong, subject to the approval of the Public Service Commission of West Virginia;

WHEREAS, the Public Service Commission of West Virginia, in Case No. 04-1946-PSWD-PC, by Final Order entered on May 23, 2005 (final June 12, 2005), approved the dissolution of Deepwater, the expansion of the boundaries of Armstrong, the transfer of the assets of Deepwater to Armstrong, and the assumption of the Deepwater Bonds by Armstrong (collectively, the "Transfer and Assignment"), subject to the approval of the bondholders of the Districts;

WHEREAS, the Public Service Commission of West Virginia, in Case No. 06-0755-PSWD-PC, by Final Order and Commission Order entered on July 10, 2006, approved the borrowing of funds by Armstrong to finalize the merger with Deepwater;

WHEREAS, the West Virginia Water Development Authority, as the holder of Deepwater Bonds has consented to the acquisition of the assets of Deepwater by Armstrong, the assumption of the Deepwater Bonds by Armstrong and the dissolution of Deepwater if the debt service reserve funds for the Deepwater Bonds have been fully funded and the parity and coverage tests have been met;

WHEREAS, the Board of Deepwater adopted a resolution on December 21, 2006, approving and ratifying the proposed Transfer and Assumption and the dissolution of Deepwater;

WHEREAS, contemporaneously with the acquisition of the assets of Deepwater by Armstrong, Deepwater desires to assign, and Armstrong desires to assume all liabilities for and obligations under the Deepwater Bonds;

WHEREAS, contemporaneously with the assumption of the Deepwater Bonds, Armstrong desires to re-designate the Deepwater Bonds as sewer revenue bonds of Armstrong;

WHEREAS, contemporaneously with the Transfer and Assumption, Armstrong will issue a Bond Anticipation Notes (the "BAN") to the West Virginia Water Development Authority, in an amount not to exceed \$50,000 to replenish the debt service reserve funds for the Deepwater Bonds; and

WHEREAS, it is in the best interest of the customers of Armstrong and Deepwater to complete the proposed Transfer and Assumption, to convey all assets, rights, privileges, immunities and powers of Deepwater to Armstrong, for Armstrong to assume and re-designate the Deepwater Bonds, for Deepwater to be dissolved, for the boundaries of Armstrong to be expanded to include the boundaries of Deepwater and for Armstrong to issue the BAN.

NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF ARMSTRONG PUBLIC SERVICE DISTRICT, FAYETTE COUNTY, WEST VIRGINIA AS FOLLOWS:

1. Armstrong does hereby authorize the acquisition of the assets of Deepwater by Armstrong, the assumption of the Deepwater Bonds, the issuance of the BAN and the re-designation of the Deepwater Bonds as bonds of Armstrong.

2. Armstrong does hereby authorize and ratify the assumption of all liabilities, rights, responsibilities and obligations in connection with the Deepwater Bonds, specifically including, but not limited to, those liabilities, rights, responsibilities and obligations set forth in the Bond Resolutions adopted by the Board of Deepwater on November 10, 1994, authorizing the Deepwater Bonds, said resolutions are attached hereto as Exhibit A and incorporated herein by reference and the Loan Agreement between Deepwater and the West Virginia Water Development Authority (the "Authority") dated November 15, 2004 and the Loan Agreement between Deepwater, the Authority and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment ("DEP") dated August 30, 2004, attached hereto as Exhibit B and incorporated herein by reference.

3. Upon the assumption of the Deepwater Bonds by Armstrong, such bonds shall be re-designated as follows:

Armstrong Public Service District Sewer Revenue Bonds, Series 1994 A (Formerly Deepwater Public Service District Sewer Revenue Bonds, Series 1994 A)

Armstrong Public Service District Sewer Revenue Bonds, Series 1994 B (Formerly Deepwater Public Service District Sewer Revenue Bonds, Series 1994 B)

4. That, immediately following the consummation of the Transfer and Assumption as of the close of business on December 21, 2006, the boundaries of Armstrong shall be expanded to include the boundaries of Deepwater.

5. The Chairman and Secretary of Armstrong are hereby authorized and directed to execute all documents concerning the Transfer and Assumption, specifically including, but not limited to, the assumption of the Deepwater Bonds, the re-designation of the Deepwater Bonds as sewer revenue bonds of Armstrong and the closing of the BAN.

6. The Chairman and Secretary of Armstrong are hereby authorized and directed to execute all documents concerning the expansion of the boundaries of Armstrong to include the boundaries of Deepwater.

7. The Chairman and Secretary of Armstrong are vested with the appropriate authority to take any and all actions necessary to complete Transfer and Assumption.

8. The statutory mortgage liens of the Deepwater Bonds are hereby assumed by Armstrong and are a valid lien against the System as of the date of assumption, on a parity with one another and with Armstrong's other first lien bonds.

9. This Resolution shall become effective immediately upon adoption hereof.

[Remainder of Page Intentionally Left Blank]

Adopted by the Public Service Board of Armstrong Public Service District at a meeting held on the 21<sup>st</sup> day of December, 2006.

ARMSTRONG PUBLIC SERVICE DISTRICT

[SEAL]

Thomas Bowen  
Chairman

Jordan Wallace  
Secretary

FAYETTE COUNTY, WV  
FILED  
December 22, 2006 00:00:00

KELVIN E. HOLLIDAY  
COUNTY CLERK  
TRANSACTION NO: 2006511152

DEED BOOK  
Book: 00626 Page: 00619  
Line: 00001



Jan 5, 2007

BEFORE THE COUNTY COMMISSION OF FAYETTE COUNTY

ORDER APPROVING AND RATIFYING THE ACQUISITION OF THE ASSETS OF DEEPWATER PUBLIC SERVICE DISTRICT BY ARMSTRONG PUBLIC SERVICE DISTRICT, THE DISSOLUTION OF DEEPWATER PUBLIC SERVICE DISTRICT AND THE EXPANSION OF THE BOUNDARIES OF ARMSTRONG PUBLIC SERVICE DISTRICT

WHEREAS, Armstrong Public Service District (hereinafter "Armstrong") is a public service district and public corporation and political subdivision created by Resolution of The County Commission of Fayette County (hereinafter, the "County Commission") and formed pursuant to the provisions of Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act");

WHEREAS, Deepwater Public Service District (hereinafter "Deepwater") is a public service district and public corporation and political subdivision created by Resolution of the County Commission and formed pursuant to the provisions of the Act;

WHEREAS, the County Commission adopted a resolution on November 30, 2004, approving the dissolution of Deepwater, expanding the boundaries of Armstrong and the transfer of the assets of Deepwater to Armstrong, subject to the approval of the Public Service Commission of West Virginia;

WHEREAS, the Public Service Commission of West Virginia, in Case No. 04-1946-PSWD-PC, by Final Order entered on January 31, 2006, as reaffirmed in Case No. 06-0755-PSWD-PC, by Final Order entered on July 10, 2006, approved the dissolution of Deepwater, the expansion of the boundaries of Armstrong, the transfer of the assets of Deepwater to Armstrong, subject to the approval of the bondholders of the Districts, if required;

WHEREAS, the West Virginia Water Development Authority, as the holder of the Deepwater Public Service District Sewer Revenue Bonds, Series 1994 A (West Virginia Water Development Authority) (the "Series 1994 A Bonds") and Deepwater Public Service District Sewer Revenue Bonds, Series 1994 B (West Virginia SRF Program) (the "Series 1994 B Bonds," and together with the Series 1994 A Bonds, the "Deepwater Bonds") heretofore issued by Deepwater will provide consent to the acquisition of the assets of Deepwater by Armstrong, the assumption of the Deepwater Bonds by Armstrong and the dissolution of Deepwater by the close of business on December 21, 2006, if the debt service reserve funds for the Deepwater Bonds are fully funded and the parity and coverage tests have been met;

WHEREAS, it is now deemed desirable by the County Commission to adopt a Resolution approving and ratifying the transfer of the Assets of Deepwater to Armstrong and the assumption by Armstrong of the Deepwater Bonds, ratifying and confirming all lawful actions taken by all parties and their counsel to effectuate and complete such transfer and assumption, ordering the Public Service Boards of Deepwater and Armstrong to expeditiously take all actions necessary to consummate and complete the transaction, ordering Deepwater be dissolved immediately following the consummation of the transfer and assumption, and further ordering that the expansion of the boundaries of Armstrong to include Deepwater be effective immediately upon the consummation of the transfer and assumption.

NOW, THEREFORE, BE IT, AND IT IS, HEREBY, RESOLVED AND ORDERED BY THE COUNTY COMMISSION OF FAYETTE COUNTY AS FOLLOWS:

1. That the transfer of the assets of Deepwater to Armstrong and assumption by Armstrong of the Deepwater Bonds (collectively, the "Transfer and Assumption") is hereby ratified, confirmed and, upon execution and filing of necessary documents by the Public Service Boards of the respective Districts, in all respects deemed completed and to be effective as of the close of business on December 21, 2006.

2. That all lawful actions taken, or to be taken, by the parties to this transaction and their counsel to effectuate and complete the Transfer and Assumption are hereby ratified and confirmed.

3. That the Public Service Boards of Deepwater and Armstrong are hereby ordered to expeditiously take all actions necessary to consummate and complete the Transfer and Assumption.

4. That, immediately following the consummation of the Transfer and Assumption, Deepwater shall be dissolved.

5. That, immediately following the consummation of the Transfer and Assumption, the boundaries of Armstrong shall be expanded to include the boundaries of Deepwater.

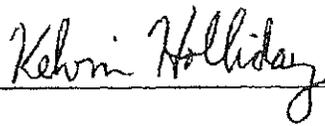
6. The Transfer and Assumption of Deepwater, the expansion of Armstrong's boundaries to include the boundaries of Deepwater and the dissolution of Deepwater shall all become effective as of the close of business on December 21, 2006.

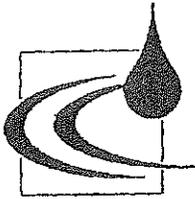
7. This Resolution and Order shall be effective immediately following adoption hereof.

ENTERED into the permanent record of Fayette County, West Virginia, this  
5th day of January, 2007.

  
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
Clerk



WEST VIRGINIA  
**Water Development Authority**  
Celebrating 32 Years of Service 1974 - 2006

December 21, 2006

Consent to Transfer of Assets and Assumption of Debt by and between Deepwater  
Public Service District and Armstrong Public Service District, Change of Name of Deepwater  
Public Service District to Armstrong Public Service District and  
Dissolution of Deepwater Public Service District

TO WHOM IT MAY CONCERN:

The undersigned duly authorized representative for the West Virginia Water Development Authority (the "Authority"), in reliance upon the certificate of Teed & Associates, PLLC, independent certified public accountants that the coverage and acquisition requirements have been met (copies attached), the registered owners of the Deepwater Public Service District's Sewer Revenue Bonds, Series 1994 A, dated November 15, 1994, issued in the original aggregate principal amount of \$429,000 (the "Series 1994 A Bonds") and the Deepwater Public Service District Sewer Revenue Bonds, Series 1994 B, dated November 15, 1994, issued in the aggregate principal amount of \$37,540 (the "Series 1994 B Bonds," and together with the Series 1994 A Bonds, the "Deepwater Bonds"), hereby consents to: (i) the conveyance of all of the sewerage system assets of Deepwater Public Service District, including, but not limited to, all real property, personal property, tangible property, intangible property, rights of way, easements, judgments, licenses and permits, to Armstrong Public Service District; (ii) the assumption of the Deepwater Bonds by Armstrong Public Service District, on a parity with the bonds of Armstrong Public Service District; (iii) the re-designation of all of the above-listed bonds as "Armstrong Public Service District Sewer Revenue Bonds"; and (iv) the dissolution of Deepwater Public Service District.

The Authority hereby agrees that, upon their assumption and re-designation, the Deepwater Bonds shall have a first lien on the Net Revenues of the System and a statutory mortgage lien on the System, on a parity in all respects with the outstanding bonds of Armstrong Public Service District.

  
Authorized Representative

CONFIRMATORY BILL OF SALE

2808  
31.00

03

THIS CONFIRMATORY BILL OF SALE dated the 21st day of December, 2006, by and between Deepwater Public Service District, a public corporation and political subdivision of the State of West Virginia (hereinafter "Deepwater") and Armstrong Public Service District, a public corporation and political subdivision of the State of West Virginia (hereinafter "Armstrong").

WHEREAS, Armstrong is a public service district and public corporation created by Resolution of The County Commission of Fayette County (hereinafter, the "County Commission") and formed pursuant to the provisions of Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act");

WHEREAS, Deepwater is a public service district and public corporation and political subdivision created by Resolution of the County Commission and formed pursuant to the provisions of the Act;

WHEREAS, the County Commission adopted a resolution on November 30, 2004, a copy of which is attached hereto, approving the merger of Deepwater and Armstrong, the transfer of the assets of Deepwater to Armstrong, the dissolution of Deepwater and the expansion of the boundaries of Armstrong, subject to the approval of the Public Service Commission of West Virginia;

WHEREAS, the Public Service Commission of West Virginia, in Case No. 04-1946-PSWD-PC, by Final Order entered on May 23, 2005 (final June 12, 2005) , a copy of which is attached hereto, approved the merger of Deepwater and Armstrong, dissolution of Deepwater, the expansion of the boundaries of Armstrong, the transfer of the assets of Deepwater to

{T0333448.1}

RETURN TO:  
Steven M. Cummings, Esq.  
Jackson Kelly PLLC  
P.O. Box 611  
Charleston, WV 25322

Armstrong, and the assumption of the Deepwater Public Service District's Sewer Revenue Bonds, Series 1994 A, dated November 15, 1994, issued in the original aggregate principal amount of \$429,000 and the Deepwater Sewer Revenue Bonds, Series 1994 B, issued in the aggregate principal amount of \$37,540 (the "Deepwater Bonds") by Armstrong (collectively, the "Merger"), subject to the approval of the bondholders of the Districts;

WHEREAS, the Public Service Board of Deepwater adopted a resolution on December 21, 2006, a copy of which is attached hereto, following a duly noticed public hearing, approving and ratifying the proposed Merger;

WHEREAS, the Public Service Board of Armstrong adopted a resolution on December 21, 2006, a copy of which is attached hereto, approving and ratifying the proposed Merger;

WHEREAS, the parties hereto are desirous to execute and record this Bill of Sale to evidence the transfer of the real property and interests in real property of Deepwater related to its water and sewer utility operations to Armstrong.

WHEREAS, the parties hereto are desirous to execute and record this Confirmatory Bill of Sale to evidence the transfer of all of the personal property, tangible and intangible, and interest in personal property owned by Deepwater related to its water and sewer utility operations to Armstrong.

NOW, THEREFORE, in consideration of the merger and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged Deepwater does

hereby bargain, grant, sell, assign, transfer, convey, set over and deliver to Armstrong all of its personal property associated with operation of the Deepwater water and sewer utility system, including without limitation:

- (a) All pipelines, pumps, water mains of every kind, fire hydrants, pumping stations, meters and services, valves, water tanks, water storage facilities, fittings, casing pipe wells, water and waste treatment buildings, and any other physical assets, facilities and equipment included within or constituting a part of the Deepwater water and sewer operations, together with all franchises, licenses, permits, certificates of convenience and necessity and other grants of authority to operate and maintain the Deepwater water and sewer operations;
- (b) All inventory, supplies, equipment, vehicles, furniture, fixtures, furnishings, improvements;
- (c) All books and records (including, without limitation, correspondence, customer lists, and financial records), maps, plans, contracts, causes of action, indemnification agreements, ledgers and permits and similar documents and records, or copies thereof, relating specifically to the operation of the Deepwater water and sewer utility system;

- (d) All deposits, accounts receivable, certificate of deposits from customers of Deepwater for water and sewer services and any other evidence of indebtedness of a third party to Deepwater.
- (e) All other tangible and intangible personal property, and any interest in personal property owned by Deepwater, wherever located and of whatever nature.

Deepwater shall deliver possession of the aforesaid personal property to Armstrong on the date of this Bill of Sale.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Deepwater Public Service District has caused this instrument to be executed by its duly authorized officer as of the 21st day of December, 2006.

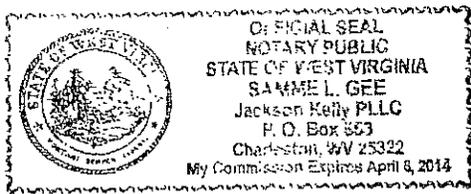
DEEPWATER PUBLIC SERVICE DISTRICT

By: Donald White  
Its: Chairman

STATE OF WEST VIRGINIA,  
COUNTY OF FAYETTE, to-wit:

The foregoing instrument was acknowledged before me this 21st day of December, 2006, by Donald White, Chairman of Deepwater Public Service District, on behalf of said public service district.

My commission expires April 4, 2014.



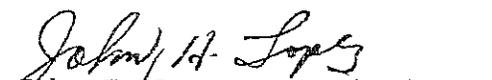
[Signature]  
Notary Public

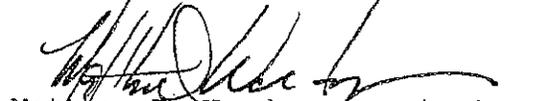
This instrument prepared by Steven M. Condaras, Esquire, Jackson Kelly PLLC, 1600 Laidley Tower, P. O. Box 553, Charleston, West Virginia 25322.

## FAYETTE COUNTY COMMISSION

On this the 6th day of April, 2007, it appearing to the Commission that the term of office of Ms. Velma Newman as a Commissioner of the Board of Commissioners of the Deepwater Public Service District (now Armstrong Public Service District) did expire on March 1, 2007, and it further appearing that her reappointment is recommended by the Board of Armstrong Public Service District, it is hereby ordered that Ms. Velma Newman be and she is hereby reappointed as a Commissioner of the Board of Commissioners of the Armstrong Public Service District as and of March 1, 2007, to serve for and during a period of six years, said term expiring March 1, 2013.

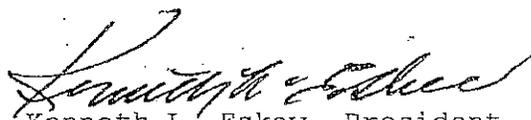
  
Kenneth L. Eskew, President

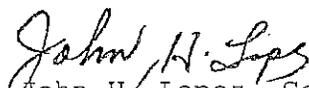
  
John H. Lopez, Commissioner

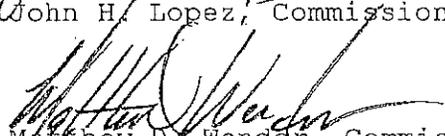
  
Matthew D. Wender, Commissioner

## FAYETTE COUNTY COMMISSION

On this the 19th day of March, 2010, it appearing to the Commission that the term of office of Mr. Judson Wallace as a Commissioner of the Board of Commissioners of the Armstrong Public Service District expire on April 1, 2010, and that it is necessary and advisable that said position be filled immediately and it further appearing that his reappointment is recommended by the Board of said Armstrong Public Service District it is hereby ordered that Mr. Judson Wallace be and he is hereby reappointed as a Commissioner of the Board of Commissioners of the Armstrong Public Service District as and of April 1, 2010, to serve for and during a period of six years, said term expiring April 1, 2016.

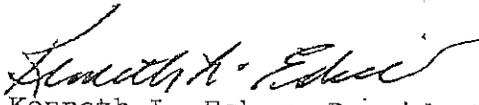
  
Kenneth L. Eskew, President

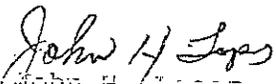
  
John H. Lopez, Commissioner

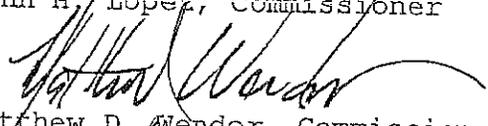
  
Matthew D. Wender, Commissioner

FAYETTE COUNTY COMMISSION

On this the 20th day of March, 2009, it appearing to the Commission that the term of Donald Navarro expire on April 1, 2009, and upon recommendation of the Board of the Armstrong Public Service District it is hereby ordered that Donald Navarro be and he is hereby reappointed as a Commissioner of said Armstrong Public Service District Board as of April 1, 2009, to serve for and during a period of six years, said term to expire April 1, 2015.

  
Kenneth L. Eskew, President

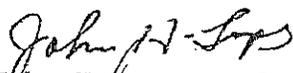
  
John H. Lopez, Commissioner

  
Matthew D. Wender, Commissioner

## FAYETTE COUNTY COMMISSION

On this the 5th day of January, 2007, it appearing to the Commission that due to the resignation of Thomas Bowen a vacancy exists on the Armstrong Public Service District, and upon the recommendation of the Board, it is hereby ordered that Stanley Garten will be and he is hereby appointed to fill the unexpired term of Thomas Bowen as a member of the Armstrong Public Service District, said term to expire April 1, 2011.

  
Kenneth L. Eskew, President

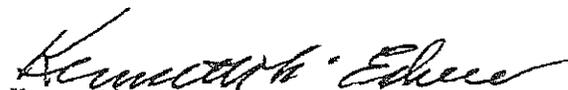
  
John H. Lopez, Commissioner

  
Matthew D. Wender, Commissioner

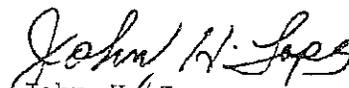
## FAYETTE COUNTY COMMISSION

On this the 6<sup>th</sup> day of March, 2009, it appearing to the Commission that the term of office of Mr. Donald White, as a member of the Armstrong Public Service District expired on March 1, 2009, and upon the recommendation of the Commission it is hereby ordered that Mr. Randy Bowen be and he is hereby appointed as a Commissioner of said Armstrong Public Service District as and of March 6, 2009, to serve for and during a period of six years, said term to expire March 6, 2015.

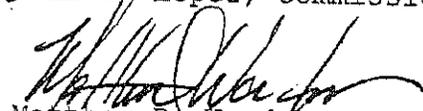
FAYETTE COUNTY COMMISSION



Kenneth L. Eskew, President



John H. Lopez, Commissioner



Matthew D. Wender, Commissioner

**OFFICIAL OATH OF OFFICE**

**STATE OF WEST VIRGINIA,  
COUNTY OF FAYETTE, SS:**

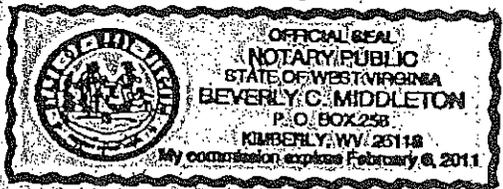
I, Velma Newman, do solemnly swear that I will support the Constitution of the United States of America and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Armstrong PSD, Commissioner, in and for the County of Fayette, West Virginia, to the best of my skill and judgment: **SO HELP ME GOD.**

4/30/07  
Date

Velma Newman  
Signature

Taken, sworn to and subscribed to before me this 30<sup>th</sup> day of April, 2007 by B Velma Newman

My Commission expires Feb 6, 2011



B.C. Middleton  
Notary Public

**OFFICIAL OATH OF OFFICE**

*COPY*

**STATE OF WEST VIRGINIA,  
COUNTY OF FAYETTE, SS:**

I, Judson Wallace, do solemnly swear that I will

support the Constitution of the United States of America and the Constitution of

the State of West Virginia, and that I will faithfully discharge the duties of the

office of Commissioner of Armstrong P.S.D., in and for the

County of Fayette, West Virginia, to the best of my skill and judgment: **SO**

**HELP ME GOD.**

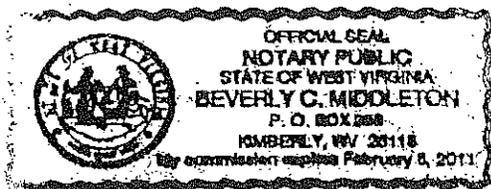
3-23-2010  
Date

Judson Wallace  
Signature

Taken, sworn to and subscribed to before me this 23<sup>rd</sup> day of

March, 2010 by Judson Wallace

My Commission expires Feb. 6, 2011



Beverly C. Middleton  
Notary Public

**OFFICIAL OATH OF OFFICE**

**STATE OF WEST VIRGINIA,  
COUNTY OF FAYETTE, SS:**

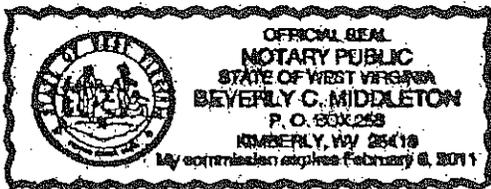
I, Donald Navarro, do solemnly swear that I will support the Constitution of the United States of America and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Armstrong Public Service District, in and for the County of Fayette, West Virginia, to the best of my skill and judgment: **SO HELP ME GOD.**

3/27/09  
Date

Donald Navarro  
Signature

Taken, sworn to and subscribed to before me this 27<sup>th</sup> day of March, 2009 by Donald Navarro.

My Commission expires February 6, 2011.



Beverly C. Middleton  
Notary Public

**OFFICIAL OATH OF OFFICE**

**STATE OF WEST VIRGINIA,  
COUNTY OF FAYETTE, SS:**

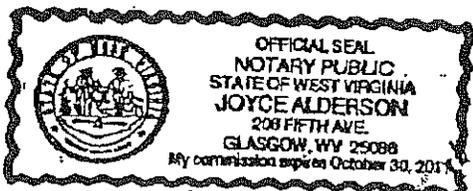
I, Stanley B. Garten, do solemnly swear that I will support the Constitution of the United States of America and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Armstrong Public Service Dist. Comm. in and for the County of Fayette, West Virginia, to the best of my skill and judgment: **SO HELP ME GOD.**

01/10/2007  
Date

Stanley B. Garten  
Signature

Taken, sworn to and subscribed to before me this 10<sup>th</sup> day of January, 2007 by Stanley B. Garten

My Commission expires October 30, 2011



Joyce Alderson  
Notary Public

# OFFICIAL OATH OF OFFICE

**STATE OF WEST VIRGINIA,  
COUNTY OF FAYETTE, SS:**

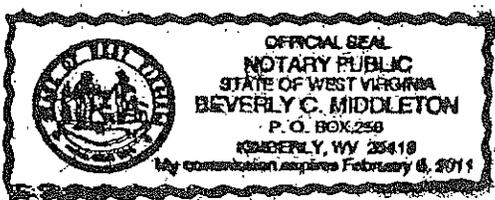
I, Randell Bowen, do solemnly swear that I will support the Constitution of the United States of America and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Armstrong Public Service District in and for the County of Fayette, West Virginia, to the best of my skill and judgment: **SO HELP ME GOD.**

3/9/09  
Date

Randell Bowen  
Signature

Taken, sworn to and subscribed to before me this 9<sup>th</sup> day of March, 2009 by Randell Bowen.

My Commission expires Feb 6, 2011.



Beverly C. Middleton  
Notary Public

RULES OF PROCEDURE  
ARMSTRONG PUBLIC SERVICE DISTRICT

ARTICLE I

NAME AND PLACE OF BUSINESS

Section 1. Name: ARMSTRONG PUBLIC SERVICE DISTRICT.

Section 2. The principal office of this Public Service District will be located at Armstrong Creek Road, Kimberly, Fayette County, West Virginia.

Section 3. The Common Seal of the District shall consist of 2 concentric circles between which circles shall be inscribed Armstrong Public Service District, and in the center "seal" as follows:

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

ARTICLE II

PURPOSE

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

## ARTICLE III

### MEMBERSHIP

Section 1. The members of the Public Service Board of this District shall be those persons appointed by The County Commission of Fayette County, West Virginia, or otherwise appointed pursuant to the Act, who shall serve for such terms as may be specified in the order of the County Commission or otherwise.

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

## ARTICLE IV

### MEETINGS OF THE PUBLIC SERVICE BOARD

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

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

Section 3. Unless otherwise agreed, notice to members of regular meetings shall not be required. Unless otherwise waived, notice of each special meeting of the membership shall be given to all members by the Secretary by fax, telephone, mail or other satisfactory means at least 3 days before the date fixed for such special meeting. The notice of any special meeting shall state briefly the purposes of such meeting and the nature of the business to be transacted thereat, and no business other than that stated in the notice or incidental thereto shall be transacted at any such special meeting.

## PUBLIC NOTICE OF MEETINGS

Section 4. Pursuant to Section 3, Article 9A, Chapter 6 of the West Virginia Code of 1931, as amended (1999 Revision), notice of the date, time, place and agenda of all regularly scheduled meetings of such Public Service Board, and the date, time, place and purpose of all special meetings of such Public Service Board, shall be made available, in advance, to the public and news media (except in the event of an emergency requiring immediate action) as follows:

A. Regular Meetings. A notice shall be posted and maintained by the Secretary of the Public Service Board of the Public Service District at the front door or bulletin board of the Fayette County Courthouse and at the front door or bulletin board of the place fixed for regular meetings of the Public Service Board of the date, time and place fixed and entered of record by the Public Service Board for the holding of regularly scheduled meetings. In addition, a copy of the agenda for each regularly scheduled meeting shall be posted at the same locations by the Secretary of the Public Service Board not less than 72 hours before such regular meeting is to be held. If a particular regularly scheduled meeting is cancelled or postponed, a notice of such cancellation or postponement shall be posted at the same locations as soon as feasible after such cancellation or postponement has been determined.

B. Special Meetings. A notice shall be posted by the Secretary of the Public Service Board at the front door or bulletin board of the Fayette County Courthouse and at the front door or bulletin board of the place fixed for the regular meetings of the Public Service Board not less than 72 hours before a specially scheduled meeting is to be held, stating the date, time, place and purpose for which such special meeting shall be held. If the special meeting is cancelled, a notice of such cancellation shall be posted at the same locations as soon as feasible after such cancellation has been determined.

## ARTICLE V

### OFFICERS

Section 1. The officers of the Public Service Board shall be a Chairman, a Secretary and a Treasurer. The Chairman shall be elected from the members of the Public Service Board. The Secretary and Treasurer need not be members of the Public Service Board, and may be the same person.

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

## ARTICLE VI

### DUTIES OF OFFICERS

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

Section 2. The Secretary shall keep a record of all proceedings of the Board which shall be available for inspection as other public records. The Secretary shall, together with the Chairman, sign the minutes of the meetings at which he or she is present. The Secretary shall have charge of the minute book, be the custodian of the Common Seal of the District and all deeds and other writings and papers of the Board. The Secretary shall also perform such other duties as he or she may have under law by virtue of the office or as may be conferred from time to time by the members of the Board, these Rules of Procedure or as prescribed by law.

Section 3. The Treasurer shall be the lawful custodian of all funds of the District and shall disburse funds of the District on orders authorized or approved by the Board. The Treasurer shall keep or cause to be kept proper and accurate books of accounts and proper receipts and vouchers for all disbursements made by or through him and shall prepare and submit such reports and statements of the financial condition of the Board as the members may from time to time prescribe. He shall perform such other duties as may be required of him by law or as may be conferred upon him by the members of the Board, these Rules of Procedure or as prescribed by law.

Section 4. If the Chairman, Secretary or Treasurer is absent from any meeting, the remaining members of the Board shall select a temporary chairman, secretary

or treasurer, as necessary, who shall have all of the powers of the absent officer during such period of absence.

## ARTICLE VII

### AMENDMENTS TO RULES OF PROCEDURE

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

These Rules of Procedure shall replace any and all previous rules of procedure, bylaws or similar rules heretofore adopted by the District.

Adopted this 11th day of December, 2001.

12/11/01  
028360/99001

The regular business meeting of the Armstrong Deepwater Public Service District was held on Wednesday, January 19, 2011, 10:00 a.m.

District personnel present were: Judson Wallace, Velma Newman, Stanley Garten, Randy Bowen, Donald Navarro, Beverly Middleton, and Robin Mitchell.

Donald Navarro made a motion for all positions to stay the same:

Judson Wallace, Chairman  
Donald Navarro, Treasurer  
Velma Newman, Secretary

Seconded by Randy Bowen. All in agreement.

Secretary's report was read and approved as read with a motion by Donald Navarro and seconded by Randy Bowen. All in agreement.

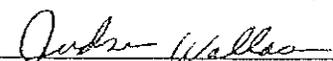
Stanley Garten made a motion to accept the financial report. Seconded by Velma Newman. All in agreement.

Robin talked to Charles from the Coal Company concerning the exposed sewer line. He said that he would see what he could do to help the district.

Lon Slater placed a main breaker box that was damaged due to a power outage. Lon will file a claim against the Power Company.

Discussion was made on the bids that were received for the project. The district received two bids. Welding Inc. for \$1,638,687.00 and Orders Construction Company for \$2,022,475.00. The district will have to come up with more money due to the grant and loan totaling \$1,375,000.00.

Donald Navarro made a motion to adjourn meeting at 11:10 a.m. Seconded by Randy Bowen. All in agreement.

  
\_\_\_\_\_  
Judson Wallace, Chairman

  
\_\_\_\_\_  
Velma Newman, Secretary

ARMSTRONG PUBLIC SERVICE DISTRICT

Water Revenue Bonds, Series 2011 A  
(United States Department of Agriculture)

EXCERPT OF MINUTES ON ADOPTION OF  
BOND RESOLUTION AND DRAW RESOLUTION

The undersigned SECRETARY of the Public Service Board of Armstrong Public Service District hereby certifies that the following is a true and correct excerpt of the minutes of a special meeting of the said Public Service Board:

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The Public Service Board of Armstrong Public Service District met in special session, pursuant to notice duly posted, on the 24th day of March, 2011, in Fayette County, West Virginia, at the hour of 10:00 a.m.

PRESENT:	Judson Wallace, Chairman	Katy Mallory, Steptoe & Johnson
	Velma Newman, Secretary	Richard Lewis, Steptoe & Johnson
	Donald Navarro, Treasurer	Tracey Rowan, USDA
	Stanley Garten	Brian Morton, E.L. Robinson
	Randy Bowen	Randall Lewis, E.L. Robinson

Judson Wallace, Chairman, presided, and Velma Newman, acted as Secretary. The Chairman announced that a quorum of members was present and that the meeting was open for any business properly before it.

Thereupon, the Chairman presented a proposed Bond Resolution in writing entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF ARMSTRONG PUBLIC SERVICE DISTRICT, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$765,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2011 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT

and caused the same to be read and there was discussion. Thereupon, on motion duly made by Stanley Garten and seconded by Randy Bowen, it was unanimously ordered that the said Bond Resolution be adopted and be in full force and effect on and from the date hereof.

Next, the Chairman presented a proposed Draw Resolution for the approval of invoices. Thereupon, on motion duly made by Stanley Garten and seconded by Velma Newman, it was unanimously ordered that the said Draw Resolution be adopted.

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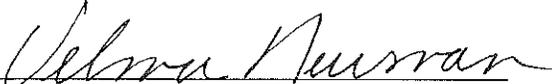
There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

[Remainder of Page Intentionally Blank]

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of Armstrong Public Service District and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 28th day of March, 2011.

  
Secretary

**WV MUNICIPAL BOND COMMISSION**  
 1207 Quarrier Street  
 Suite 401  
 Charleston, WV 25301  
 (304) 558-3971

**NEW ISSUE REPORT FORM**

Date of Report: 28-Mar-11

ISSUE: <u>Armstrong Public Service District</u> <u>Water Revenue Bonds, Series 2011 A (United States Department of Agriculture)</u>	
ADDRESS: <u>P.O. Box 156, Kimberly, West Virginia 25535</u>	COUNTY: <u>Fayette</u>
PURPOSE OF ISSUE: New Money: <u>x</u> Refunding: _____	
REFUNDS ISSUE(S) DATED: <u>NA</u>	CLOSING DATE: <u>28-Mar-11</u>
ISSUE DATE: <u>28-Mar-11</u>	RATE: <u>3.375%</u>
ISSUE AMOUNT: <u>\$765,000.00</u>	1ST DEBT SERVICE DUE: <u>NA</u>
1ST DEBT SERVICE AMOUNT <u>NA</u>	1ST PRINCIPAL DUE <u>NA</u>
PAYING AGENT: <u>Issuer</u>	
<b>BOND COUNSEL:</b> Firm: <u>Step toe &amp; Johnson PLLC</u> Contact: <u>John Stump, Esquire</u> Phone: <u>(304) 353.8196</u>	<b>UNDERWRITERS COUNSEL</b> Firm: _____ Contact: _____ Phone: _____
<b>CLOSING BANK:</b> Bank: _____ Contact: _____ Phone: _____	<b>ESCROW TRUSTEE:</b> Firm: _____ Contact: _____ Phone: _____
<b>KNOWLEDGEABLE ISSUER CONTACT</b> Contact: <u>Judson Wallace</u> Position: <u>Chairman</u> Phone: <u>304.442.4957</u>	<b>OTHER:</b> Agency: <u>United States Department of Agriculture</u> Contact: <u>Teresa A. Miller</u> Position: <u>Rural Developoment Specialist</u> Phone: <u>(304) 253-9597</u>
<b>DEPOSITS TO MBC AT CLOSE</b> By: _____ Wire _____ _____ Check _____	
Accrued Interest: \$ _____ Capitalized Interest: \$ _____ Reserve Account: \$ _____ Other: \$ _____	
<b>REFUNDS &amp; TRANSFERS BY MBC AT CLOSE</b> By: _____ Wire _____ _____ Check _____ _____ IGT _____	
To Escrow Trustee \$ _____ To Issuer \$ _____ To Cons. Invest. Fun \$ _____ To Other: _____ \$ _____	
NOTES: <u>Monthly debt service payments will be made by the District directly to the National Finance Office.</u> <u>The Municipal Bond Commission will only hold the Series 2011 A Reserve Account. The first payment into the Reserve Account is due 24 months from the date of closing.</u>	
<b>FOR MUNICIPAL BOND COMMISSION USE ONLY:</b> DOCUMENTS REQUIRED: _____ TRANSFERS REQUIRED: _____ _____	

## LOAN RESOLUTION (Public Bodies)

A RESOLUTION OF THE Board of Directors  
OF THE Armstrong Public Service District  
AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING  
PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS  
Water

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO

WHEREAS, it is necessary for the Armstrong Public Service District  
(Public Body)

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

**SEVEN HUNDRED SIXTY-FIVE THOUSAND AND XX / 100 DOLLARS (\$765,000.00)**

pursuant to the provisions of Chapter 16 Article 13A, West Virginia Code ; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

- 11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
- 12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
- 13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
- 14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities, and replacement of short lived assets.
- 15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
- 16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
- 17. To accept a grant in an amount not to exceed \$ 0.00

under the terms offered by the Government; that Chairman

and Secretary of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

Yeas 5 Nays 0 Absent 0

IN WITNESS WHEREOF, the Board of Directors of the

Armstrong Public Service District has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this 16th day of July, 2008

Armstrong Public Service District

(SEAL)

By Judson Wallace  
Title Chairman

Attest:  
Velma Newman  
Velma Newman  
Title Secretary

**CERTIFICATION TO BE EXECUTED AT LOAN CLOSING**

I, the undersigned, as Velma Newman of the Armstrong Public Service District

hereby certify that the Board of Directors of such Association is composed of

5 members, of whom 3 constituting a quorum, were present at a meeting thereof duly called and

held on the 16 day of July, 2008 ; and that the foregoing resolution was adopted at such meeting

by the vote shown above, I further certify that as of March 28, 2011, the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this 24 day of March, 2011

  
Velma Newman

Title Secretary

WATER OR WASTE SYSTEM GRANT AGREEMENT  
UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL UTILITIES SERVICE

THIS AGREEMENT dated March 24, 2011 between  
Armstrong Public Service District

a public corporation organized and operating under \_\_\_\_\_  
Chapter 16 Article 13A, West Virginia Code  
(Authorizing Statute)

herein called "Grantee," and the United States of America acting through the Rural Utilities Service, Department of Agriculture, herein called "Grantor," WITNESSETH:

WHEREAS

Grantee has determined to undertake a project of acquisition, construction, enlargement, or capital improvement of a (water) (waste) system to serve the area under jurisdiction at an estimated cost of \$1,975,000 and has duly authorized the undertaking of such project.

Grantee is able to finance not more than \$1,095,000 of the development cost through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable user charge.

Said sum of \$1,095,000 has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed \$880,000 or 44.56% percent of said development costs, whichever is the lesser, subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant.

As a condition of this grant agreement, the Grantee assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws, regulations, Executive orders and other generally applicable requirements, including those set out in 7 CFR 3015.205(b), which hereby are incorporated into this agreement by reference, and such other statutory provisions as are specifically set forth herein.

NOW, THEREFORE, In consideration of said grant by Grantor to Grantee, to be made pursuant to

Section 306 (a) of the Consolidated Farm and Rural Development Act the purpose only of defraying a part not to exceed 44.56% percent of the development costs, as defined by applicable Rural Utilities Service Instructions. GRANTEE AGREES THAT GRANTEE WILL:

A. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any modifications thereof prepared by Grantee and approved by Grantor.

B. Permit periodic inspection of the construction by a representative of Grantor during construction.

C. Manage, operate and maintain the system, including this project if less than the whole of said system, continuously in an efficient and economical manner.

D. Make the services of said system available within its capacity to all persons in Grantee's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (possess capacity to enter into legal contract for services) at reasonable charges, including assessments, taxes, or fees in accordance with a schedule of such charges, whether for one or more classes of service, adopted by resolution dated \_\_\_\_\_, as may be modified from time to time by Grantee. The initial rate schedule must be approved by Grantor. Thereafter, Grantee may make such modifications to the rate system as long as the rate schedule remains reasonable and nondiscriminatory.

E. Adjust its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

F. Expand its system from time to time to meet reasonably anticipated growth or service requirements in the area within its jurisdiction.

G. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a representative of the Grantor.

H. To execute any agreements required by Grantor which Grantee is legally authorized to execute. If any such agreement has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another agreement of the same type need not be executed in connection with this grant.

I. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated herein above with the interest at the rate of 5 percentum per annum from the date of the default. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

J. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

K. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall vest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs or programs that have purposes consistent with those authorized for support by the Grantor.

3. When the real property is no longer needed as provided in 1 and 2 above, the Grantee shall request disposition instructions from the Grantor agency or its successor Federal agency. The Grantor agency shall observe the following rules in the disposition instructions:

(a) The Grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The Grantee may be directed to sell the property under guidelines provided by the Grantor agency. When the Grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.  
*[Revision 1, 04/17/1998]*

(c) The Grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

**This Grant Agreement covers the following described real property (use continuation sheets as necessary).**

**All that real property associated with the Armstrong Public Service District's water system.**

L. Abide by the following conditions pertaining to equipment which is furnished by the Grantor or acquired wholly or in part with grant funds. Equipment means tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

*[Revision 1, 04/17/1998]*

1. Use of equipment.

(a) The Grantee shall use the equipment in the project for which it was acquired as long as needed. When no longer needed for the original project, the Grantee shall use the equipment in connection with its other Federally sponsored activities, if any, in the following order of priority:

(1) Activities sponsored by the Grantor.

(2) Activities sponsored by other Federal agencies.

(b) During the time that equipment is held for use on the property for which it was acquired, the Grantee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the equipment was originally acquired. First preference for such other use shall be given to Grantor sponsored projects. Second preference will be given to other Federally sponsored projects.

2. Disposition of equipment. When the Grantee no longer needs the equipment as provided in paragraph (a) above, the equipment may be used for other activities in accordance with the following standards:

(a) Equipment with a current per unit fair market value of less than \$5,000. The Grantee may use the equipment for other activities without reimbursement to the Federal Government or sell the equipment and retain the proceeds.

(b) Equipment with a current per unit fair market value of \$5,000 or more. The Grantee may retain the equipment for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value or proceeds from sale of the equipment. If the Grantee has no need for the equipment and the equipment has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

The Grantor agency shall determine whether the equipment can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the equipment shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the equipment exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee requests and the following procedures shall govern:

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the equipment and reimburse the Grantor agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share ten percent of the proceeds for Grantee's selling and handling expenses.

(2) If the Grantee is instructed to ship the equipment elsewhere the Grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the equipment, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for equipment shall also include:

(a) Records which accurately provide for: a description of the equipment; manufacturer's serial number or other identification number; acquisition date and cost; source of the equipment; percentage (at the end of budget year) of Federal participation in the cost of the project for which the equipment was acquired; location, use and condition of the equipment and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.

(b) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years to verify the existence, current utilization, and continued need for the equipment.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(e) Proper sales procedures shall be established for unneeded equipment which would provide for competition to the extent practicable and result in the highest possible return.

**This Grant Agreement covers the following described equipment(use continuation sheets as necessary).**

N/A

M. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.
2. Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.
3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.
4. Accounting records supported by source documentation.

N. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm or photo copies or similar methods may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's government which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts and transcripts.

O. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

P. Provide an audit report prepared in accordance with Grantor regulations to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

Q. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentality's of states shall not be held accountable for interest earned on grant funds pending their disbursement.

R. Not encumber, transfer or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item K above.

S. To include in all contracts for construction or repair a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

T. To include in all contracts in excess of \$100,000 a provision that the contractor agrees to comply with all the requirements of the Clean Air Act (42 U.S.C. §7414) and Section 308 of the Water Pollution Control Act (33 U.S.C. §1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. In so doing the Contractor further agrees:

**[Revision 1, 11/20/1997]**

1. As a condition for the award of contract, to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.
2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities pursuant to 40 CFR Part 32 as of the date of contract award.

**[Revision 1, 11/20/97]**

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

As used in these paragraphs the term "facility" means any building, plan, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operation contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

Grantor Agrees That It:

A. Will make available to Grantee for the purpose of this Agreement not to exceed 880,000.00 which it will advance to Grantee to meet not to exceed 44.56% percent of the project development costs of the project in accordance with the actual needs of Grantee as determined by Grantor.

B. Will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans for sewer and water and with any State or area plans for the area in which the project is located.

C. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (1) advisable to further the purpose of the grant or to protect Grantor's financial interest therein and (2) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Termination of This Agreement

This Agreement may be terminated for cause in the event of default on the part of the Grantee as provided in paragraph I above or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds.

In witness whereof Grantee on the date first above written has caused these presence to be executed by its duly authorized

**Chairman**

---

and attested and its corporate seal affixed by its duly authorized

**Secretary**

---

Attest:

By: *Velma Newman*  
Velma Newman  
(Title) Secretary

By: *Judson Wallace*  
Judson Wallace  
(Title) Chairman

UNITED STATES OF AMERICA

RURAL UTILITIES SERVICE

By: *Tracy Brown*  
(Title)



WEST VIRGINIA

Infrastructure & Jobs Development Council

03:33 PM MAR 08 11 PSC EXEC SEC DIV

Gov. Earl Ray Tomblin  
Chairman

Kenneth Lowe, Jr.  
Public Member

David "Bones" McComas  
Public Member

Ron Justice  
Public Member

Louis Spatafore  
Public Member

Joseph Freeland  
Public Member

James W. Ellars, P.E.  
Executive Director

Barbara J. Pauley  
Administrative Secretary

March 4, 2011

Judson Wallace, Chairman  
Armstrong Public Service District  
P.O. Box 156  
Kimberly, WV 25118

Re: Armstrong Public Service District  
Water Project 2011W-1237  
(Bid Overrun)

Dear Mr. Wallace:

The West Virginia Infrastructure and Jobs Development Council (Infrastructure Council) has reviewed the Armstrong Public Service District's (District) preliminary application to install or replace 3,200' of 6" waterline, two settling tanks, one storage tank, telemetry and treatment plant upgrades and take Deep Water plant offline (Project).

Based on the findings of the Water Technical Review Committee, the Infrastructure Council has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The District should carefully review the enclosed comments of the Water Technical Review Committee as the District may need to address certain issues raised in said comments as it proceeds with the Project.

Upon consideration of the preliminary application, the Infrastructure Council recommends that the District utilize a \$610,000 Rural Utilities Service grant, a \$765,000 Rural Utilities Service loan (3.75%, 40 yrs), a \$20,000 Fayette County Commission contribution, and receive a binding commitment for a \$310,000 Infrastructure Fund grant contingent upon securing an additional \$270,000 Rural Utilities Service grant. Total project cost is \$1,975,000. Please contact the Rural Utilities Service office at 304-253-9597 (X163) for specific information on the steps the District needs to follow to apply for these funds.

If you have any questions regarding this matter, please contact Jim Ellars at 304-558-4607 (X201).

Sincerely,

Kenneth Lowe, Jr.

Enclosure

cc: Bob Decrease, P.E., BPH (w/o enclosure) (via e-mail)  
Teresa A. Miller, RUS (w/o enclosure) (via e-mail)  
Brian Morton, P.E., E. L. Robinson (via e-mail)  
Jim Kelsh, Esq. (via e-mail)

**GRANT AGREEMENT**  
(2011W-1237)

This Grant Agreement entered into by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority"), on behalf of the WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL (the "Council") and the ARMSTRONG PUBLIC SERVICE DISTRICT (the "Governmental Agency").

**RECITALS**

WHEREAS, the Council has authorized the Authority to make a grant to the Governmental Agency in the amount not to exceed \$310,000 (the "Grant") for the purposes of the design, acquisition or construction of a project for which a preliminary application has been submitted and approved by the Council;

WHEREAS, the Governmental Agency wishes to accept the Grant upon such terms and conditions as are hereinafter set forth for the purposes of designing, acquiring or constructing the project described in Exhibit B attached hereto and incorporated herein by reference (the "Project");

WHEREAS, this Grant Agreement sets forth the Council, the Authority and the Governmental Agency's understandings and agreements with regard to the Grant.

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

**TERMS**

1. Prior to the distribution of the Grant, the Governmental Agency shall provide the Authority with a Project budget and an anticipated monthly draw schedule reflecting the receipt dates and amounts from other funding sources. The Project budget shall not be amended unless the Governmental Agency has received the prior written consent of the Council.

2. The Authority shall advance the Council's share of the Project costs from the Grant from time to time upon receipt of a requisition evidencing the costs incurred, which requisition must be satisfactory to the Authority. Unless agreed to by the Council prior to the commencement of construction, the Grant shall be the last dollars expended on the Project.

3. The monthly requisition will also set forth (i) the amounts requested for that requisition period from all other funding agencies, and (ii) the amounts advanced for the Project to date from all other funding agencies.

4. The Authority shall wire the approved requisition amount using the wiring instructions provided in Exhibit A, unless the Council and Authority are provided replacement instructions in writing.

5. The Governmental Agency will use the proceeds of the Grant only for the purposes specifically set forth in Exhibit B.

6. The Governmental Agency shall comply with and is bound by the Council's rules set forth as Title 167, Series 1 and more particularly Section 5.9 with respect to the sale of the Project.

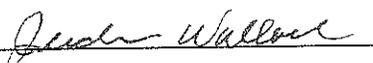
7. The Governmental Agency acknowledges that the Grant may be reduced, from time to time, to reflect actual Project costs and availability of other funding.

8. The Governmental Agency shall list the Grant provided by the Authority and the Council in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any groundbreaking or dedication of the Project.

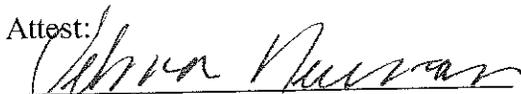
9. This Grant Agreement shall be governed by the laws of the State of West Virginia.

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

ARMSTRONG PUBLIC SERVICE DISTRICT

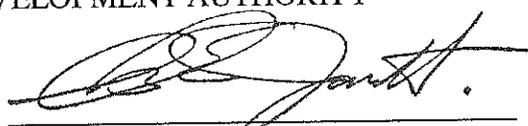
By:   
Its: Chairman  
Date: March 28, 2011

(SEAL)

Attest: 

Its: Secretary

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By:   
Its: Executive Director  
Date: March 28, 2011

(SEAL)

Attest: 

Its: Authorized Officer

[To Be Placed on Letterhead]

**Exhibit A**

**Wiring Instructions**

\_\_\_\_\_, 20\_\_

**Armstrong Public Service District  
P.O. Box 156  
Kimberly, WV 25118**

Payor: West Virginia Water Development Authority  
Source: Grant Proceeds  
Amount: \$ \_\_\_\_\_  
Date: \_\_\_\_\_, 20\_\_  
Form: Electronic Funds Transfer  
Payee: Armstrong Public Service District  
Bank: City National Bank, 321 4th Avenue, Montgomery, 25136  
Bank Contact: Judy Shawkey  
Telephone: (304) 442-6000  
Routing No.: 051904524  
Account No.: 8006078631  
Account Name: Series 2011 A Bonds Construction Trust Fund

## **Exhibit B**

### **Project Description**

The Project consists of installation or replacement of 3,200' of 6" waterline, two settling tanks, one storage tank, telemetry and treatment plant upgrades, and all related appurtenances.

New Customers:	None
Area:	N/A

## CLOSING MEMORANDUM

**To:** Financing Team

**From:** John C. Stump, Esquire

**Date:** March 28, 2011

**Re:** Armstrong Public Service District  
Water Revenue Bonds, Series 2011 A  
(United States Department of Agriculture)

---

### DISBURSEMENTS TO DISTRICT:

Payor: United States Department of Agriculture  
Source: Series 2011 A Bonds Proceeds  
Amount: \$135,524.98  
Form: ACH  
Payee: Armstrong Public Service District, 69 Armstrong Creek Road, Kimberly,  
WV 25118  
Bank: City National Bank, 321 4<sup>th</sup> Avenue, Montgomery, 25136  
Routing #: 051904524  
Account #: 8006078631  
Contact: Judy Shawkey 304.442.6000  
Account: Series 2011 A Bonds Construction Trust Fund

Payor: West Virginia Infrastructure and Jobs Development Council  
Source: Grant Proceeds  
Amount: \$-0-  
Form: Wire  
Payee: Armstrong Public Service District, 69 Armstrong Creek Road, Kimberly,  
WV 25118  
Bank: City National Bank, 321 4<sup>th</sup> Avenue, Montgomery, 25136  
Routing #: 051904524  
Account #: 8006078631  
Contact: Judy Shawkey 304.442.6000  
Account: Series 2011 A Bonds Construction Trust Fund

028331.00001

ARMSTRONG PUBLIC SERVICE DISTRICT

Water Revenue Bonds, Series 2011 A  
(United States Department of Agriculture)

RECEIPT OF DEPOSITORY BANK

The undersigned duly authorized representative of City National Bank, Montgomery, West Virginia (the "Bank"), hereby certifies that on March 28, 2011, the Bank received an automated transfer in the amount of \$135,524.98 to the credit of the Series 2011 A Bonds Construction Trust Fund, Account Number 8006078631.

WITNESS my signature on this 28th day of March, 2011.

CITY NATIONAL BANK

By: Michelle Foy, Branch  
Its: Authorized Officer *Manager*

03.18.11  
028331.00001

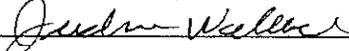
5360584

ESTIMATE OF FUNDS NEEDED  
FOR  
30-Day period Commencing  
\_\_\_\_\_, 20\_\_\_\_

Name of Borrower: Armstrong Public Service District

Items	Amount of Funds
Development .....	\$
Contract or Job No. _____	
Contract or Job No. _____	
Contract or Job No. _____	
Land and Rights-of-Way .....	2,805.00
Legal Services .....	17,284.72
Engineering Fees .....	110,000.00
Interest .....	
Equipment .....	
Contingencies .....	305.26
Refinancing .....	
Initial O&M .....	
Other .....	5,130.00
Total .....	\$ 135,524.98

Prepared by Armstrong Public Service District

By 

Date March 24, 2011

Approved by \_\_\_\_\_

Date March 24, 2011

*According to the paperwork reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0015. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, getting and maintaining the data needed, and completing and reviewing the collection of information.*

IJDC# 2011W-1237  
**RESOLUTION OF THE ARMSTRONG PUBLIC SERVICE DISTRICT  
 APPROVING INVOICES RELATING TO SERVICES FOR THE  
 WATER SYSTEM IMPROVEMENT PROJECT  
 AND AUTHORIZING PAYMENT THEREOF,**

**WHEREAS**, the Armstrong Public Service District, has reviewed the invoices attached hereto and incorporated herein by reference relation to the Project funded by the United States Department of Agriculture (USDA), the WV Infrastructure and Jobs Development Council (IJDC) and the Fayette County Commission (County) and find as follows:

- a) That none of the items for which 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 paid 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.
- d) That the payment for each of the items proposed is due and owing.

**NOW, THEREFOR, BE IT RESOLVED** the Armstrong Public Service District by as follows: There is hereby authorized and directed the payment of the attached invoices as follows:

Vendor	Total	USDA loan / grant	IJDC grant	County grant
James Kelsh	1,284.72	1,284.72	0	0
Steptoe & Johnson	16,000.00	16,000.00	0	0
E.L. Robinson	110,305.26	110,305.26	0	0
Teed & Associates	4,800.00	4,800.00	0	0
Hamilton, Burgess, Young & Pollard	2,805.00	2,805.00	0	0
Rick Barnette, CPA	330.00	330.00	0	0
Total	135,524.98	135,524.98	0	0

**ADOPTED BY** the Armstrong Public Service District, at the meeting held on the 24th day of March, 2011.

Armstrong Public Service District

By: 

Its: Chairman

  
**United States Department of Agriculture**  
**Rural Development**  
**West Virginia State Office**

March 28, 2011

Armstrong Public Service District  
Water Revenue Bonds, Series 2011 A  
(United States Department of Agriculture)

TO WHOM IT MAY CONCERN:

The undersigned duly authorized representative of the United States of America, acting through the Rural Utilities Service, United States Department of Agriculture, the present holder of the Prior Bonds, hereinafter defined and described, hereby (a) consents to the issuance of the Water Revenue Bonds, Series 2011 A (United States Department of Agriculture), in the original aggregate principal amount of \$765,000 (the "Bonds"), by Armstrong Public Service District (the "Issuer"), under the terms of the bond resolution authorizing the issuance of the Bonds (the "Resolution"), on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's outstanding Water Revenue Bonds, Series 1974 (United States Department of Agriculture), dated January 30, 1974, issued in the original aggregate principal amount of \$338,000 (the "Series 1974 Bonds") and Water Revenue Bonds, Series 2001 A (United States Department of Agriculture), dated December 13, 2001, issued in the original aggregate principal amount of \$550,000 (the "Series 2001 A Bonds") (collectively, the "Prior Bonds") and (b) waives any requirements imposed by the Prior Bonds or the resolution authorizing the Prior Bonds (collectively, the "Prior Resolutions"), regarding the issuance of parity bonds which are not met by the Bonds or the Resolution, and (c) consents to any amendments made to the Prior Resolutions by the Resolution.

WITNESSETH my signature on this 28th day of March, 2011.

  
\_\_\_\_\_  
State Director

1550 Earl Core Road, Suite 101, Morgantown, WV 26505  
304.284.4860 • 1.800.295.8228 • 304.284-4893 • TTY/TDD 304.284.4836 • Web: <http://www.rurdev.usda.gov>

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ARMSTRONG PUBLIC SERVICE DISTRICT

\$338,000 Water Revenue Bonds,  
-Series 1972

BOND RESOLUTION

Table of Contents

<u>Subject</u>	<u>Page</u>
ARTICLE I - STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS	
Section 1.01. Authority for this Resolution	1
Section 1.02. Findings and determinations	1
Section 1.03. Resolution to Constitute Contract	3
Section 1.04. Definitions	3
ARTICLE II - AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BONDS	
Section 2.01. Authorization of Bonds	7
Section 2.02. Description of Bonds	7
Section 2.03. Execution of Bonds and Coupons	9
Section 2.04. Negotiability and Registration	10
Section 2.05. Bonds Mutilated, Destroyed, Stolen or Lost	10
Section 2.06. Bonds Secured by Pledge of Revenues	11
Section 2.07. Form of Bonds and Coupons	11
(Form of Coupon Bonds)	12
(Form of Coupon)	16
(CERTIFICATE OF CONVERSION)	17
(Form of Single, Fully Registered Bond)	18
RECORD OF ADVANCES	21A
ARTICLE III - BOND PROCEEDS; REVENUES AND APPLICATION THEREOF	
Section 3.01. Bond Proceeds; Project Construction Account	22
Section 3.02. Covenants of the District as to Revenues and Funds	23
ARTICLE IV - GENERAL COVENANTS	
Section 4.01. General Statement	29
Section 4.02. Rates	29
Section 4.03. Sale of the System	29
Section 4.04. Covenant Against Encumbrances	31

Section 4.05.	Issuance of Additional Parity Bonds	31
Section 4.06.	Insurance and Bonds	34
Section 4.07.	Statutory Mortgage	36
Section 4.08.	Events of Default	36
Section 4.09.	Enforcement	37
Section 4.10.	No Priority Between Bonds	37
Section 4.11.	Fiscal Year; Budget	38
Section 4.12.	Compensation of Board Members	38
Section 4.13.	Covenant to Proceed and Complete	39
Section 4.14.	Books and Records	39
Section 4.15.	Maintenance of System	39
Section 4.16.	No Competition	40

#### ARTICLE V - RATES, ETC.

Section 5.01.	Initial Schedule of Rates and Charges; Rules	41
---------------	--	----

#### ARTICLE VI - MISCELLANEOUS

Section 6.01.	Filing Under Uniform Commercial Code	44
Section 6.02.	Modification or Amendment	44
Section 6.03.	Sale of Bonds	44
Section 6.04.	Refunding of Bonds Permitted	45
Section 6.05.	Severability of Invalid Provisions	46
Section 6.06.	Conflicting Provisions Repealed	46
Section 6.07.	Table of Contents and Headings	46
Section 6.08.	Effective Time	46

ARMSTRONG PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ISSUANCE OF \$338,000 WATER REVENUE BONDS, SERIES 1972, OF ARMSTRONG PUBLIC SERVICE DISTRICT TO FINANCE THE COSTS OF REPAIRING AND IMPROVING ITS WATERWORKS; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING FOR THE FIXING, ESTABLISHING AND COLLECTING OF RATES AND CHARGES FOR THE SERVICES AND FACILITIES OF THE WATERWORKS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITIES OF THE HOLDERS OF THE BONDS; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT.

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF ARMSTRONG PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of Article 13A, Chapter 16 of the West Virginia Code and other applicable provisions of law. Armstrong Public Service District is a public service district created pursuant to said Article 13A.

Section 1.02. Findings and Determinations. It is hereby found, determined and declared as follows:

(A) Armstrong Public Service District (herein called the "District"), in Fayette County, State of West Virginia, presently has a public waterworks system, but the inhabitants thereof urgently require repairs and improvements to the existing system.

(B) It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the District, and, accordingly, it is hereby ordered, that there be effected certain repairs and improvements

consisting of additional water transmission lines to join the two existing treatment plants for less expensive and better operations; lift stations; and appurtenant facilities (herein called the "Project"), and being more particularly described in and according to the plans and specifications prepared by Joseph E. Settle, Consulting Engineer, Charleston, West Virginia (herein called the "Consulting Engineer"), and heretofore filed in the office of the Secretary of the Public Service Board (herein called the "Board") of the District.

(C) It is necessary for the District to issue its revenue bonds in the principal amount of \$338,000 to finance the cost of such system repairs and improvements in the manner hereinafter provided.

(D) The estimated maximum cost of the system repairs and improvements as hereinafter defined is \$338,000, all which will be obtained from the proceeds of sale of the 1972 Bonds herein authorized.

(E) The cost of such repairs and improvements shall be deemed to include, without being limited to, the acquisition of any necessary property, real or personal, or interest therein; interest on the 1972 Bonds during and for six months after completion of such construction to the extent that revenues of the System are not sufficient therefor; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and such other expenses as may be necessary or incidental to the system repairs and improvements and the financing authorized by this Resolution.

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

(G) The 1972 Bonds will be junior and subordinate with respect to liens, source of and security for payment, and in all other respects to the Water Revenue Bonds of the District dated June 1, 1956, initially issued in the aggregate principal sum of One Hundred Fifty Thousand Dollars (\$150,000) (herein called the "1956 Bonds").

(H) The District has complied with all requirements of West Virginia law relating to authorization of the Project and issuance of the 1972 Bonds, or will have so complied prior to issuance of any of the 1972 Bonds including, among other things, the consent and approval, pursuant to the Act, of the issuance of the 1972 Bonds by the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired.

Section 1.03. Resolution to Constitute Contract. In consideration of the acceptance of the 1972 Bonds authorized to be issued hereunder by those who shall hold the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the District and such Bondholders, and the covenants and agreements herein set forth to be performed by the District shall be for the equal benefit, protection and security of the legal holders of any and all such 1972 Bonds, and the coupons appertaining thereto, all which shall be of equal rank without preference, priority or distinction of any of the 1972 Bonds or coupons over any other thereof, except as expressly provided therein and herein.

Section 1.04. Definitions. The following terms shall have the following meanings in this Resolution unless the text otherwise expressly requires:

"Act" means Article 13A, Chapter 16 of the West Virginia Code.

"Board" means the Public Service Board of the District, the governing body of the District under the Act.

"Bonds" means the \$338,000 Water Revenue Bonds, Series 1972, originally authorized to be issued pursuant to this resolution and shall also be deemed to include, where appropriate, the interest coupons appertaining to the Bonds; and also includes any additional parity Bonds hereafter issued within the terms, restrictions and conditions contained in this resolution, and the interest coupons appertaining to such additional parity Bonds.

"1972 Bonds" means the Bonds hereby authorized to be issued initially.

"1956 Bonds" shall mean the bonds, dated June 1, 1956, and described in Section 1.02(G).

"Chairman" means the Chairman of the Board.

"Consulting Engineer" means Joseph E. Settle, Consulting Engineer, 4104 Noyes Avenue, S.E., Charleston, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the District as Consulting Engineer for the System.

"District" means Armstrong Public Service District, of Fayette County, West Virginia, and, where appropriate, also means the Public Service Board thereof.

"Facilities" or "waterworks facilities" means all the facilities of the System and also any facilities which may hereafter be added to the System by any additions, betterments, extensions and improvements thereto, and properties, furniture, fixtures or equipment therefor, hereafter at any time constructed or acquired.

"Fiscal Year" means each year beginning on July 1 and ending on the succeeding June 30.

"Government" means United States Department of Agriculture, Farmers Home Administration and any governmental successor thereof.

"Herein" Means in this resolution.

"Holder of the Bonds" or "Bondholder" or any similar term means any person who shall be the bearer or owner of any outstanding Bond or Bonds registered to bearer or not registered, or the registered owner of any outstanding Bond or Bonds which shall at the time be registered other than to the bearer, or of any coupons representing interest accrued or to accrue on said Bonds.

"Net Revenues" means the balance of the gross revenues, as defined herein, remaining after deduction only of operating expenses, as defined herein.

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the District relating and chargeable solely to the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting practices, and retention of a sum not to exceed one-sixth of the budgeted operating expenses stated above for the current year as working capital, and language herein requiring payment of operating expenses means also retention of not to exceed such sum as working capital.

"Original Purchaser" means the purchaser, directly from the District, of any series of Bonds issued pursuant

hereto, or any part of any such series.

"Project" shall have the meaning stated in Section 1.02(B) to be constructed and acquired as herein provided and financed with the proceeds of sale of the 1972 Bonds.

"Revenues" or "gross revenues" means all rates, rents, fees, charges or other income received by the District, or accrued to the District, or any department, board, agency or instrumentality thereof in control of the management and operation of the System, from the operation of the System, and all parts thereof, all as calculated in accordance with sound accounting practices.

"1956 Resolution" means the resolution of the District authorizing issuance of the 1956 Bonds, adopted June 19, 1956.

"Secretary" means the Secretary of the Board.

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

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

ARTICLE II

AUTHORIZATION, TERMS, EXECUTION,  
REGISTRATION AND ISSUE OF BONDS

Section 2.01. Authorization of Bonds. Subject and pursuant to the provisions of this resolution, Bonds of the District, to be known as "Water Revenue Bonds, Series 1972" are hereby authorized to be issued in the aggregate principal amount of not exceeding Three Hundred Thirty-Eight Thousand Dollars (\$338,000) for the purpose of financing the cost of the construction and acquisition of the Project.

Section 2.02. Description of Bonds. The 1972 Bonds may be issued in coupon or single, fully registered form, and shall be dated on the date of delivery. The 1972 coupon Bonds shall be in the denomination of \$1,000 each, shall be numbered in order of maturity, lowest numbers first, from 1 to 338, inclusive, and shall bear interest from date, payable annually on January 1 of each year, at the rate or rates of not to exceed the rate of five per centum (5%) per annum. The minimum price for the 1972 Bonds shall be the par value thereof. Coupon and single, fully registered 1972 Bonds shall be exchangeable and interchangeable at the expense of the holder on 90 days' notice in writing to the District, provided that the single, fully registered 1972 Bond issued upon initial delivery of the 1972 Bonds by the District shall be exchanged for coupon Bonds at the expense of the District.

The 1972 Bonds shall mature serially in numerical order, lowest numbers first, on January 1 in years and amounts as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
1975	\$ 3,000	1988	\$ 5,000	2001	\$11,000
1976	3,000	1989	6,000	2002	11,000
1977	3,000	1990	7,000	2003	12,000
1978	3,000	1991	7,000	2004	13,000
1979	3,000	1992	7,000	2005	13,000
1980	5,000	1993	7,000	2006	15,000
1981	5,000	1994	7,000	2007	15,000
1982	5,000	1995	8,000	2008	16,000
1983	5,000	1996	8,000	2009	16,000
1984	5,000	1997	9,000	2010	18,000
1985	5,000	1998	10,000	2011	20,000
1986	5,000	1999	10,000	2012	22,000
1987	5,000	2000	10,000		

The 1972 Bonds shall be redeemable prior to their respective stated dates of maturity at the option of the District, in whole or in part, in inverse numerical order on January 1, 1984, and on any January 1 thereafter at the price of the par value thereof and accrued interest to the date of redemption, subject to earlier redemption as provided in Section 3.01 hereof upon completion of the Project. If all the 1972 Bonds are held by the Government, all or any number of the 1972 Bonds may be redeemed at any time in inverse numerical order.

Notice of the redemption of any of the 1972 Bonds shall be published at least once not less than thirty nor more than sixty days prior to the date of redemption in a financial newspaper published in the City of New York, New York, and notice of any such redemption shall be sent by registered or certified mail to the holders of registered 1972 Bonds. If all 1972 Bonds to be redeemed are registered other than to bearer, no publication of notice of such redemption need be made. Interest shall cease upon any of the 1972 Bonds so called for prior redemption on the date fixed for redemption, provided payment thereof has been duly made or provided for.

The 1972 Bonds shall be payable with respect to both principal and interest in lawful money of the United States of America at the office of the State Sinking Fund Commission, Charleston, West Virginia, or at First National City Bank, New York, New York, at the option of the holder unless otherwise provided in and for the single, fully registered Bonds, and shall bear interest from their date, payable in accordance with and, as to coupon Bonds not registered as to interest, upon the surrender of the appurtenant interest coupons as they severally mature.

Section 2.03. Execution of Bonds and Coupons. The Bonds shall be executed in the name of the District by the Chairman and its corporate seal shall be affixed thereto and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer before the Bonds so signed and sealed shall 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 Bond may be signed and sealed on behalf of the District by such person as at the actual time of the execution of such Bonds shall hold the proper office on the Board, although at the date of such Bond such person may not have held such office or may not have been so authorized.

The 1972 Bonds may be sold at one time in their entirety or from time to time in installments as the Board may determine without preference or priority as to any of the 1972 Bonds on account of any such sale in installments.

The coupons to be attached to the 1972 Bonds shall be authenticated with the facsimile signatures of the present

or any future Chairman and Secretary, and the District may adopt and use for that purpose the facsimile signature of any person who shall have been such Chairman or Secretary at the time when said 1972 Bonds shall be actually sold and delivered.

Section 2.04. Negotiability and Registration. The coupon Bonds shall be and have all the qualities and incidents of negotiable instruments under the laws of the State of West Virginia and shall pass by delivery except when registered. The 1972 coupon Bonds may be registered as to principal only or converted into Bonds registered as to both principal and interest in accordance with the provisions of the forms hereinafter provided.

Section 2.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the District may in its discretion issue and deliver a new Bond with all unmatured coupons attached of like tenor as the Bond and attached coupons, if any, so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond and attached coupons, if any, or in lieu of and substitution for the Bond and attached coupons, if any, destroyed, stolen or lost, and upon the holder's furnishing the District proof of his ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the District may require. All Bonds and coupons so surrendered shall be canceled and held for the account of the District. If any such Bond or coupon shall have matured or be about to mature, instead of issuing a substitute Bond or coupon, the District may pay the same, upon being indemnified as aforesaid, and, if such Bond

or coupon be destroyed, stolen or lost, without surrender thereof.

Any such duplicate Bond and coupon issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the District, whether or not the destroyed, stolen or lost Bonds or coupons be at any time found by anyone, and such duplicate Bonds and coupons shall be entitled to equal and proportionate benefits with all other Bonds and coupons issued hereunder.

Section 2.06. Bonds Secured by Pledge of Revenues.

The payment of the debt service of all the Bonds shall be secured forthwith equally and ratably by a lien on the net revenues derived from the system, in addition to the statutory mortgage lien on the system hereinafter provided for, such liens to be junior and subordinate to the liens in favor of the 1956 Bonds. The payment of the debt service of all the 1956 Bonds shall continue to be secured in accordance with the 1956 Bond Resolution by a first lien on the net revenues derived from the system, in addition to the statutory mortgage lien on the system therein provided for.

Section 2.07. Form of Bonds and Coupons. Subject

to the provisions of this Resolution, the text of the 1972 Bonds, the provisions for registration to be endorsed thereon, the coupons, the single Bonds and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted by this Resolution or any subsequent resolution adopted prior to the issuance thereof:

(Form of Coupon Bonds)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
COUNTY OF FAYETTE  
ARMSTRONG PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND  
SERIES 1972

No.

\$1,000

ARMSTRONG PUBLIC SERVICE DISTRICT, in the County of Fayette State of West Virginia, a public corporation and political subdivision of the State of West Virginia (herein called the "District"), for value received, hereby promises to pay to the bearer, or, if this Bond be registered, to the registered holder as herein provided, on the first day of January, , from the revenues hereinafter mentioned, the principal sum of

ONE THOUSAND DOLLARS

with interest thereon at the rate of \_\_\_\_\_ per centum ( %) per annum, payable on the first day of January of each year, upon the presentation and surrender of the annexed coupons as they severally fall due, unless this Bond be converted into a Bond registered as to both principal and interest. Both principal of and interest on this Bond are payable in lawful money of the United States of America at the office of the State Sinking Fund Commission, Charleston, West Virginia, or, at the option of the holder, at First National City Bank, New York, New York.

The Bonds of the issue of which this Bond is one may be redeemed prior to their stated maturities, without premium, at the option of the District as a whole, or in part in inverse numerical order, on any January 1 beginning January 1, 1984, as provided in the Resolution hereinafter

mentioned, subject to earlier redemption if held by the Federal Government or from moneys in the Project Construction Account, all as provided in said Resolution. Notice of any such redemption shall be published at least once not less than thirty nor more than sixty days prior to the redemption date in a financial newspaper published in the City of New York, New York. Interest shall cease upon this Bond after the date fixed for redemption if it shall be duly called for prior redemption and payment thereof duly provided for.

This Bond is one of an authorized issue of Bonds (herein called the "1972 Bonds") in the aggregate principal amount of Three Hundred Thirty-Eight Thousand Dollars (\$338,000) of like date, tenor and effect, except as to number\* and date of maturity issued to finance the cost of repairs and improvements to the water system of the District under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Article 13A, Chapter 16 of the West Virginia Code (herein called the "Act") and other applicable statutes, and a Resolution duly adopted by the Public Service Board of the District.

The Bonds of the issue of which this Bond is one are junior and subordinate to the Water Revenue Bonds of the District dated June 1, 1956; initially issued in the aggregate principal amount of One Hundred Fifty Thousand Dollars (\$150,000) (the "1956 Bonds"), and the 1956 Bonds, authorized by resolution of the District adopted June 19, 1956 (the "1956 Resolution"), are senior with respect to liens, source of and security for payment and in all other respects

\*add ", interest rate" if more than one rate  
add ", date of issuance" if more than one date

to the Bonds of the issue of which this Bond is one.

This Bond and the coupons appertaining hereto are payable solely from, and secured by a lien on and pledge of, the net revenues derived from the operation of said water system, with monthly payments from such revenues to be made into the Sinking Fund with the State Sinking Fund Commission for payment of the principal hereof and interest herein, in the manner provided in the Resolution providing for the Bonds of the issue of which this Bond is one, and do not and shall not in any event constitute an indebtedness of the District within the meaning of any constitutional or statutory provisions or limitations, and the District shall never be obligated to pay this Bond or the interest hereon except from the revenues of said water system, as provided in said Resolution. The District covenants with the holders of the Bonds of the issue of which this Bond is one to establish and at all times maintain such rates and collect such charges for the services and facilities of said water system, and to revise the same from time to time, whenever necessary, as will always provide revenues in each fiscal year sufficient to make the required payments into the Sinking Fund and the reserves and accounts as provided in said Resolution and to pay all necessary expenses of operating and maintaining the said water system during such fiscal year, and the District has entered into certain other covenants with the holders of the Bonds of the issue of which this Bond is one, for the terms of which reference is made to said Resolution.

Additional Bonds on a parity with this Bond and the Bonds of the issue of which this Bond is one, as to lien and source of and security for payment, may be issued under the provisions and restrictions contained in said Resolution.

It is hereby certified and recited that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this Bond, do exist, have happened and have been performed in regular and due form, time and manner as required by the laws and Constitution of the State of West Virginia applicable thereto, and that the issuance of this Bond and of the issue of Bonds of which this Bond is one is not in violation of any constitutional or statutory limitation of indebtedness.

This Bond, under the provisions of the Act, is, and has all the qualities and incidents of, a negotiable instrument.

This Bond and the interest hereon are exempt from taxation by the State of West Virginia and the other taxing bodies of said State.

IN WITNESS WHEREOF, Armstrong Public Service District has caused this Bond to be signed by the Chairman of its Public Service Board and its corporate seal to be affixed hereto and attested by the Secretary of said Board, and the annexed coupons to be executed with the facsimile signatures of said Chairman and said Secretary, all as of the \_\_\_\_ day of \_\_\_\_\_, 1972.

ARMSTRONG PUBLIC SERVICE DISTRICT

By \_\_\_\_\_  
Chairman of its  
Public Service Board

ATTEST:

[SEAL]

\_\_\_\_\_  
Secretary of its Public Service Board

(Form of Coupon)

\$

On the first day of January, 19 , unless the Bond to which this coupon was originally attached shall have been callable and duly called for prior redemption and payment of the redemption price duly made or provided for, Armstrong Public Service District, in Fayette County, West Virginia, will pay to the bearer at the office of the State Sinking Fund Commission, Charleston, West Virginia, or, at the option of the holder, at First National City Bank, New York, New York, solely from the revenues described in the Bond to which this coupon is attached, the sum shown hereon in lawful money of the United States of America, upon presentation and surrender of this coupon, being the interest then due on its Water Revenue Bond, Series 1972, dated \_\_\_\_\_, 1972, No.

ARMSTRONG PUBLIC SERVICE DISTRICT

By (facsimile signature)  
Chairman, Public Service Board

ATTEST:

(facsimile signature)  
Secretary, Public Service Board

(CERTIFICATE OF CONVERSION)

It is hereby certified over my signature and the official seal of the issuing Public Service District that upon the presentation of the within Bond with a written request by the holder thereof for its conversion into a bond registered as to both principal and interest, there have been this day cut off and destroyed \_\_\_\_\_ interest coupons attached thereto, of the amount and value of \_\_\_\_\_ each, being all the coupons for interest on the within Bond payable after the date of this certificate, and that the interest at the rate and on the dates stated in the within bond and as was provided by the coupons, as well as the principal, is to be paid to the registered holder hereof, his legal representatives, successors or transferees, at the place stated in the within bond and as was stated in the coupons. The principal of and interest on this Bond shall be payable only to the registered holder hereof named in the registration blank below, or his legal representative, and this Bond shall be transferable only on the books of the registrar kept in the office of the undersigned, and by an appropriate notation in such registration blank. When registered the registrar shall treat the registered owner as the person exclusively entitled to payment of interest and the exercise of all other rights and powers of the owner prior to due presentment for registration of transfer.

Dated: \_\_\_\_\_, 19\_\_\_\_.

(SEAL OF PUBLIC DISTRICT)

\_\_\_\_\_, Registrar

<u>Date of Registration</u>	<u>In Whose Name Registered</u>	<u>Signature of Treasurer of Public Service District as Registrar</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Form of Single, Fully Registered Bond)

REVENUE BOND

ARMSTRONG PUBLIC SERVICE DISTRICT

No. R-1

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

FOR VALUE RECEIVED, ARMSTRONG PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, (herein called the "Government") at its office in Fayetteville, West Virginia, or at such other place as the Government may hereafter designate in writing, the principal sum of Three Hundred Thirty-Eight Thousand Dollars (\$338,000), plus interest on the unpaid principal balance at the rate of five percent (5%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Interest only on January 1, 1973, and January 1, 1974, and \$20,040 annually thereafter on January 1, except that the final installment shall be paid at the end of forty (40) years from the date of this Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the reverse hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Farmers Home Administration according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date

basis shall be the date of the prepayment by Borrower, and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Borrower hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of repairs and improvements to the existing waterworks of the Borrower, is payable solely from the revenues to be derived from the operation of such waterworks after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the waterworks. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Article 13A of Chapter 16 of the West Virginia Code (herein called the "Act").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farmers Home Administration Act of 1961. This Bond shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not inconsistent with the express provisions hereof.

This Bond and the Bonds of the issue of which this Bond is one are junior and subordinate to the Water Revenue Bonds of the District dated June 1, 1956, initially issued in the aggregate principal amount of One Hundred Fifty Thousand Dollars (\$150,000) (the "1956 Bonds"), and the 1956 Bonds are senior with respect to liens, source of and security for payment, and in all other respects, to the Bonds of the issue of which this Bond is one.

ARMSTRONG PUBLIC SERVICE DISTRICT  
(Name of Borrower)

[CORPORATE SEAL]

ATTEST:

(Signature of Executive Official)

Chairman  
(Title of Executive Official)

(Signature of Attesting  
Official)

Box 156  
(Post Office Box No. or Street  
Address)

Secretary  
(Title of Attesting  
Official)

Kimberly, West Virginia 25118  
(City, State and Zip Code)

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$		(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	

TOTAL

Pay to the Order of \_\_\_\_\_

UNITED STATES OF AMERICA  
FARMERS HOME ADMINISTRATION

By \_\_\_\_\_

\_\_\_\_\_  
(Title)

ARTICLE III

BOND PROCEEDS; - REVENUES AND  
APPLICATION THEREOF

Section 3.01. Bond Proceeds; Project Construction Account. All moneys received from the sale of any or all the 1972 Bonds shall be deposited on receipt by the District in Merchants National Bank, Montgomery, West Virginia, a member of Federal Deposit Insurance Corporation (FDIC) in a special account heretofore created and designated as "Armstrong Public Service District Construction Account" (herein called the "Project Construction Account"). The moneys in the Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by such bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Moneys in the Project Construction Account shall be expended by the District solely for the purposes provided in this resolution.

Moneys received upon delivery of the 1972 Bonds representing accrued interest will be immediately transferred to and deposited in the Sinking Fund.

Until completion of the Project, the District will transfer from the Project Construction Account and deposit in the Sinking Fund, not later than fifteen days prior to the next interest payment date, such sums as shall be from time to time required to pay the interest becoming due on the 1972 Bonds on such interest payment date.

If the District shall determine at any time that all funds on deposit in the Project Construction Account exceed the estimated disbursements on account of the Project for the

ensuing 90 days, the District may invest such excess funds in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America, which shall mature not later than eighteen months after the date of such investment. All such investments and the income therefrom shall be carried to the credit of the Project Construction Account.

When construction of the Project has been completed and all costs thereof have been paid or provision for such payment has been made, any balance remaining in the Project Construction Account shall first be used to refund promptly any overpayment made with respect to any Federal grant, and any moneys then remaining in the Project Construction Account shall be promptly used to redeem or prepay the latest maturing 1972 Bonds and any residue shall be deposited in the Sinking Fund. The 1972 Bonds shall be subject to such redemption or prepayment without premium under the conditions stated in this paragraph.

Section 3.02. Covenants of the District as to Revenues and Funds. So long as any of the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Sinking Fund and Reserve Account therein, hereinafter established, a sum sufficient to pay, when due or at the earliest practical redemption date, the entire principal of the Bonds remaining unpaid together with interest accrued and to accrue thereon, the District further covenants with the holders of any and all Bonds issued pursuant to this resolution as follows:

(A) Revenue Fund. The entire gross revenues derived from the operation of the System, and all parts thereof, and all tap fees received, shall be deposited as collected by the District in a special fund in a bank or trust company in the State of West Virginia which is a member of FDIC, which Fund

(herein called the "Revenue Fund") is hereby continued initially with said Merchants National Bank, such Revenue Fund having been established by the 1956 Resolution. The Revenue Fund shall constitute a trust fund for the purposes provided in this Resolution and shall be kept separate and distinct from all other funds of the District and used only for the purposes and in the manner provided in this Resolution.

(B) Disposition of Revenues. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

(1) The District shall first each month pay from the moneys in the Revenue Fund into the Operation and Maintenance Fund established by the 1956 Resolution a sum sufficient to pay all current Operating Expenses, as required by the 1956 Resolution.

(2) The District shall next, before the end of each month, transfer from the Revenue Fund and remit to the State Sinking Fund Commission, for deposit into the "Water Revenue Bonds Interest and Sinking Fund", established with the State Sinking Fund Commission by the 1956 Resolution the sum of \$875 as required by the 1956 Resolution until all the 1956 Bonds and the interest thereon have been paid in full or sufficient money has been accumulated in such Water Revenue Bonds Interest and Sinking Fund to pay the 1956 Bonds in full and the interest thereon pursuant to the 1956 Resolution.

(3) The District shall next each month transfer from the Revenue Fund into the "Depreciation Fund" created and established by the 1956 Resolution all moneys remaining in the Revenue Fund, except a sum not to exceed one-sixth of the amount of the current annual budget for working capital. Such transfer is permitted by the 1956 Resolution, all

water service by the District being completely metered and moneys remaining in the Revenue Fund after payment of \$875 as aforesaid into the Water Revenue Bonds Interest and Sinking Fund being available under the 1956 Resolution for financing replacements, repairs, new construction and expansion of the System.

The District shall first each month transfer from the Depreciation Fund and remit to the State Sinking Fund Commission for deposit into the 1972 Sinking Fund, which is hereby established with the State Sinking Fund Commission, one-twelfth of the amount required to pay the interest becoming due on the Bonds on the next interest payment date and commencing with the month of January, 1974, one-twelfth of the amount of the principal maturing on the next Bond principal maturity date.

The District shall also remit to the State Sinking Fund Commission, from time to time, such amounts as shall be required to pay the fiscal charges due to paying agents for paying the Bonds and the interest thereon.

(4) The District shall next, each month, transfer from the Depreciation Fund and remit to the State Sinking Fund Commission, for deposit into the 1972 Reserve Account, hereby established in the 1972 Sinking Fund, one-twelfth of one-tenth of the maximum annual aggregate amount of interest and principal which will fall due on the Bonds outstanding until the amount in the 1972 Reserve Account equals such maximum annual aggregate amount of interest and principal. After such amount has been accumulated in the 1972 Reserve Account the District shall monthly remit to the State Sinking Fund Commission such part of the moneys remaining in the Depreciation Fund, after such provision for payment of maturing principal of and inter-

est on the Bonds, as shall be required to maintain such amount in the 1972 Reserve Account. Moneys in the 1972 Reserve Account shall be used solely to make up any deficiency in the 1972 Sinking Fund for payment of the principal of and interest on the Bonds as the same shall mature or for mandatory redemption of Bonds as hereinafter provided and for no other purpose.

(5) The District shall next, each month, transfer from the Depreciation Fund and remit to the State Sinking Fund Commission the moneys remaining in the Depreciation Fund and not permitted to be retained therein, for deposit in the Replacement Reserve, hereby established with the State Sinking Fund Commission, until there has been accumulated therein the sum of \$10,000 and thereafter, such sums as shall be required to maintain such amount therein. Moneys in the Replacement Reserve shall be used first to make up any deficiencies in the 1972 Sinking Fund for payment of principal of and interest on the Bonds as the same mature, and next to restore to the 1972 Reserve Account any sum or sums transferred therefrom to the 1972 Sinking Fund. Thereafter, and provided that payments into the 1972 Sinking Fund and the 1972 Reserve Account therein are current and in accordance with the foregoing provisions, moneys in the Replacement Reserve may be withdrawn by the District and used for extensions, replacements and improvements of the System, or any part thereof.

(6) After all the foregoing provisions for use of moneys in the Depreciation Fund have been fully complied with, any moneys remaining therein and not permitted to be retained therein may be used to redeem Bonds outstanding or for any lawful purpose, the State Sinking Fund Commission to handle redemption of Bonds upon instructions of the District.

Whenever the moneys in the 1972 Sinking Fund and in the 1972 Reserve Account therein shall be sufficient to purchase or redeem all Bonds outstanding, it shall be the mandatory duty of the District, anything to the contrary in this Resolution notwithstanding, to direct the State Sinking Fund Commission to purchase or redeem all outstanding Bonds at the earliest practical date and in accordance with applicable provisions hereof, any such purchase to be at a price or prices not exceeding the then market price of Bonds so purchased, but in no event exceeding the then redemption price of the Bonds, as to Bonds subject to redemption, and not exceeding the par value of Bonds not subject to redemption but available for purchase.

The State Sinking Fund Commission is hereby designated as the Fiscal Agent for the administration of the 1972 Sinking Fund, the 1972 Reserve Account and the Replacement Reserve as herein provided, and all amounts required therefor will be remitted to the State Sinking Fund Commission from the Depreciation Fund by the District at the times provided herein, together with written advice stating the amount remitted for deposit into said Fund, Account and Reserve.

All the funds provided for in this Section shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Bondholders shall have a lien thereon for further securing payment of the Bonds and the interest thereon. The moneys in excess of the sum insured by FDIC in the Depreciation Fund shall at all times be secured, to the full extent thereof in excess of such insured sum, in a manner lawful for securing deposits of State and municipal funds under the laws of the State of West Virginia.

If on any payment date the revenues are insufficient to place the required amount in any of the funds or accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to those which would otherwise be required to be made into the funds or accounts on the subsequent payment dates.

The State Sinking Fund Commission shall keep the moneys in the 1972 Sinking Fund, the 1972 Reserve Account and the Replacement Reserve invested and reinvested to the fullest extent practicable in direct obligations of, or obligations the payment of the principal of and interest on which are guaranteed by, the United States of America and having maturities not exceeding two years.

Prior to issuance of the Bonds, the District shall collect the tap fee of \$10 each from at least 92 new customers who shall have signed water user contracts in form approved by the Government, and shall have deposited not less than the sum of \$920 in the Revenue Fund.

ARTICLE IV

GENERAL COVENANTS

Section 4.01. General Statement. So long as any of the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Sinking Fund and the Reserve Account therein a sum sufficient to pay when due, or redeem or purchase prior to maturity, the entire principal of the 1972 Bonds remaining unpaid, together with interest accrued and to accrue thereon and any applicable redemption premiums, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the District and the Bondholders.

Section 4.02. Rates. The District will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide revenues in each fiscal year sufficient to produce net revenues which will provide the moneys required by the 1956 Resolution and will, in addition, equal not less than 110% of the average annual debt service on all Bonds outstanding and to make the payments required herein into the 1972 Sinking Fund, the 1972 Reserve Account and the Replacement Reserve, and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate revenues for such purposes.

Section 4.03. Sale of the System. The System may be sold, mortgaged, leased, or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient fully to pay all

the Bonds and the 1956 Bonds and the interest thereon as herein provided. The proceeds from such sale, mortgage, lease or other disposition of the System shall immediately be remitted to the State Sinking Fund Commission and the District shall direct said Commission to apply such proceeds to the payment of principal and interest of the 1956 Bonds and the Bonds at the redemption price, as herein and in the 1956 Resolution provided, or upon purchase at the then current market price not exceeding the par value thereof plus accrued interest to the date of purchase. Any balance remaining after the redemption or payment of all the Bonds and interest thereon shall be remitted to the District by the State Sinking Fund Commission unless necessary for the payment of other obligations issued by the District and payable out of the revenues of the System.

The foregoing provision notwithstanding, the District shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof, provided that the net book value thereof does not exceed \$5,000. Prior to any such sale, lease or other disposition of said property, the general manager or other duly authorized officer in charge of the System shall make a finding in writing, concurred in by resolution of the Board, determining that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and such proceeds shall be deposited in the Replacement Reserve.

Payments of such proceeds into the Replacement Reserve shall not reduce the amounts required to be paid into

the Replacement Reserve by other provisions of this Resolution.

Section 4.04. Covenant Against Encumbrances. The District will not issue any obligations whatsoever, except additional parity Bonds hereinafter provided for, 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; and all obligations hereafter issued by the District 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 Bonds.

The District will 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 as security therefor in this Resolution, or upon the System, or any part thereof.

The District will not issue additional bonds or other obligations on a parity with the 1956 Bonds.

Section 4.05. Issuance of Additional Parity Bonds. No additional parity Bonds, as in this Section defined, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Resolution, except under the conditions and in the manner herein provided.

(A) No such additional parity Bonds shall be issued except for the purposes of financing the costs of the construction or acquisition of extensions, additions and improvements to the System or refunding Bonds issued hereunder, except as provided in subsection (G) of this Section.

(B) No such additional parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Secretary a written certification by a certified public accountant not in the regular employ of the District, based upon the necessary investigation, reciting the conclusion that the net revenues, as defined herein and adjusted as provided below, actually derived from the System during the fiscal year immediately preceding the date of the issuance of such additional parity Bonds, shall have been not less than one hundred twenty per centum (120%) of the average aggregate amount which will mature or become due in any succeeding fiscal year for principal of and interest on the Bonds originally issued pursuant to this Resolution then outstanding on the 1956 Bonds, and on any additional parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then outstanding, and on the additional parity Bonds then proposed to be issued. This limitation may be waived or modified by the written consent of Bondholders representing 75% of each Series of the then outstanding Bonds issued pursuant hereto.

(C) Prior to the issuance of any such additional parity Bonds, the District shall have entered into written contracts for the immediate acquisition or construction of such additions, extensions or improvements to the System which are to be financed by such additional parity Bonds.

(D) The term "additional parity Bonds", as used in this Section, shall be deemed to mean additional Bonds issued under the provisions and within the limitations of this Section, payable from the revenues of the System on a parity with Bonds originally authorized and issued pursuant to this Resolution or with Bonds which were issued pursuant to this Section as additional parity Bonds, and all the cove-

nants and other provisions of this Resolution (except as to details of such additional parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the holders of any Bonds originally authorized and issued pursuant to this Resolution and the holders of any additional parity Bonds subsequently issued within the limitations of and in compliance with this Section. All such 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 or coupon over any other. The District shall comply fully with all the increased payments into the various funds created in this Resolution required for such additional parity Bonds, in addition to the payments required for Bonds theretofore issued hereunder. Redemption of Bonds prior to maturity, in the event that Bonds of more than one series are outstanding, shall as nearly as practical be on an equal pro rata basis reflecting the original amounts of each series.

(E) All additional parity Bonds issued pursuant to this Section shall mature or be subject to mandatory redemption on January 1 of the year or years of maturity, and the interest thereon shall be payable January 1 of each year.

(F) No additional parity Bonds shall be issued at any time unless all the payments into the respective Funds provided for in the 1956 Resolution, and in this Resolution on Bonds then outstanding and all other payments provided for in this Resolution shall have been made or paid up as required to the date of issuance of the additional parity Bonds and the District shall have fully complied with all the covenants, agreements and terms of this Resolution and the 1956 Resolution

or shall have remedied any deficiency in such compliance.

(G) With the written consent in advance of the original purchaser of the 1972 Bonds and anything to the contrary in subsections (A), (B) and (C) of this Section notwithstanding, additional parity Bonds may be authorized and issued by the District pursuant to supplemental resolution in the event that the 1972 Bonds should be insufficient, together with other funds lawfully available therefor, to pay all costs of construction of the Project. Any such additional parity Bonds authorized and issued under the provisions of this subsection shall be limited to the aggregate principal amount required to make up any deficiency in funds for payment of such construction costs, and the maturities of any such additional parity Bonds shall be in years and amounts suggested by such original purchaser.

Section 4.06. Insurance and Bonds. The District hereby covenants and agrees that so long as any of the Bonds remain outstanding, it will, as an expense of operation and maintenance of the System, procure, carry and maintain insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, on all above-ground structures of the System in an amount equal to the actual cost thereof. In the event of any damage to or destruction of any portion of the System, the District will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The District will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the District during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than \$100,000 for one person and \$300,000 for more than one person injured or killed in one accident to protect the District from claims for bodily injury and/or death, and not less than \$100,000 from claims for damage to property of others which may arise from the District's operation of the System, such insurance to be procured at the commencement of construction of the Project.

(c) Vehicular Public Liability Insurance, in the event the District owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the District is operated for the benefit of the District, with limits of not less than \$100,000 for one person and \$300,000 for more than one person injured or killed in one accident to protect the District from claims for bodily injury and/or death, and not less than \$100,000 from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle.

(d) Workmen's Compensation Coverage for all Employees of the District Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds will be filed with the Clerk of the County Court of said County prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

(e) Fidelity Bonds will be provided as to every member of the Board and as to every officer and employee thereof having custody of the Revenue Fund or of any revenues or other funds of the District in an amount at least equal to the total funds in the custody of any such person at any one time.

(f) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Government holds any of the Bonds, the District will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the District and during such construction will require each contractor and subcontractor to carry insurance of such types and in such amounts as the Government may specify, with insurance carriers or bonding companies acceptable to the Government.

Section 4.07. Statutory Mortgage. For the further protection of the holders of the Bonds and the coupons appertaining thereto, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of any of the Bonds; provided, however, such statutory mortgage lien shall be junior and subordinate to the statutory mortgage lien securing the holders of the 1956 Bonds.

Section 4.08. Events of Default. Each of the following events is hereby declared as "Event of Default":

(A) Failure to make payment of the principal, and, if any premium be due, of such premium, of any of the Bonds either at the date therein specified for their payment or on the date fixed for redemption by proceedings for redemption, or otherwise.

(B) Failure to make payment of any installment of interest due on any of the Bonds on the date specified for the payment of such interest.

(C) Failure duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the District contained in the Bonds or in this Resolution, or violation of or failure to observe any provision

of any pertinent law, provided any such failure or violation, excluding those covered in (A) and (B) above in this Section, shall continue for a period of thirty days after written notice shall have been given to the District by any Bondholder specifying such failure or violation and requiring the same to be remedied.

Section 4.09. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, any Bondholder may proceed to protect and enforce the rights of the Bondholders by an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights.

Upon application by such Bondholder, such court may, upon proof of such default, appoint a receiver for the affairs of the District and the System. The receiver so appointed shall administer the System on behalf of the District, shall exercise all the rights and powers of the District with respect to its System and shall have the power to collect and receive all revenues and apply the same in such manner as the court may direct.

Section 4.10. No Priority Between Bonds. The Bonds shall not be entitled to priority one over the other in the application of the revenues of the System or with respect to the security for their payment, regardless of the time or times of their issuance, it being the intention of the District that there shall be no priority among the Bonds, regardless of the fact that they may be actually issued and delivered at different times.

Section 4.11. Fiscal Year; Budget. While any Bonds are outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a fiscal year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than thirty days prior to the beginning of each fiscal year, the District agrees to adopt the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such fiscal year unless unanimously authorized and directed by the Board. Copies of each Annual Budget shall be delivered to the Government by the beginning of each fiscal year and shall be mailed to the original purchaser of the Bonds and to those Bondholders who shall have filed their names and addresses with the Secretary of the Board for such purpose.

If for any reason the District shall not have adopted the Annual Budget before the first day of any fiscal year, it shall adopt a Budget of Current Expenses from month to month until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the year next preceding by more than ten per centum; and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the District. Each such Budget of Current Expenses shall be mailed immediately as in the case of the Annual Budget.

Section 4.12. Compensation of Board Members. The District hereby covenants and agrees that no compensation for policy direction shall be paid to the members of its Board in excess of the amount permitted by the Act. Payment of any

compensation to any member of the Board for policy direction shall not be made if such payment would cause the Net Operating Income to fall below the amount required to meet all payments provided for herein, nor when there is default in the performance of or compliance with any covenant or provision of this resolution.

Section 4.13. Covenant to Proceed and Complete. The District hereby covenants to proceed as promptly as possible with the construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer and on file with the Secretary of the Board on the date of adoption of this resolution, subject to permitted changes.

Section 4.14. Books and Records. The District will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the District, in which complete and correct entries shall be made of all transactions relating to the System, and any holder of a Bond or Bonds, his agents and representatives, shall have the right at all reasonable times to inspect the System and all records, accounts and data of the District relating thereto.

The District shall, at least once a year, cause said books, records and accounts of the System to be properly audited by an independent competent firm of certified public accountants, shall mail a copy of such audit report to the Government and the original purchaser of the Bonds, and shall make available the report of said accountants at all reasonable times to any holder or holders of the Bonds, or any customer receiving services from the System, or anyone acting for and in behalf of such Bondholder, Bondholders or customer.

Section 4.15. Maintenance of System. The District covenants that it will continuously operate, in an economical

and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as any of the Bonds are outstanding.

Section 4.16. No Competition. The District will not permit competition with the waterworks within its boundaries or within the territory served by it and will not grant or cause, consent to, or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the waterworks within the boundaries of the District or within the territory served by the waterworks.

ARTICLE V

RATES, ETC.

Section 5.01. Initial Schedule of Rates and Charges;

Rules. A. The initial schedule of rates and charges for the services and facilities of the System shall be as follows:

AVAILABILITY OF SERVICE

Available for all domestic, commercial, institutional and industrial consumers within the District's service area.

RATES

First	2,000 gallons used per month	\$3.00 per thousand gallons
Next	3,000 gallons used per month	\$2.00 per thousand gallons
All over	5,000 gallons used per month	\$1.00 per thousand gallons

MINIMUM CHARGES: TAP FEES

<u>Meter Size</u>	<u>Minimum Bill</u>	<u>Tap Fee Prior To Construction</u>	<u>Tap Fee after Construction</u>
5/8" x 3/4"	\$ 6.00	\$10.00	\$150.00 or the
3/4"	8.64	"	actual cost of
1"	15.36	"	material and its
1-1/4"	24.96	"	installation,
1-1/2"	34.56	"	whichever is
2"	61.38	"	greater
3"	138.24	"	
4"	245.76	"	
6"	552.96	"	

DELAYED PAYMENT PENALTY

The above rates are net. On all accounts not paid in full within ten (10) days after date of billing, a penalty of fifty cents (50¢) will be added to the net amount of the bill.

If any bill is not paid within thirty (30) days of the date thereof, the bill will be considered delinquent and subject to disconnection. However, service shall not be disconnected to any customer for nonpayment of bill without first having diligently tried to induce the customer to pay the same and until after at least twenty-four (24) hours' written notice to the customer. Service shall not be restored until all amounts in arrears, including accrued penalties, plus a reconnection fee of \$10.00 have been paid.

TRAILER COURTS:

House trailer courts shall be provided with a master meter (or master meters). No bill shall be rendered for less than the following.

Five dollars and forty cents (\$5.40) multiplied by the number of units situated on the court site at the time the meter is read or the minimum charge for the size meter installed, whichever is greater. House trailers, as used hereinabove, shall include both mobile and immobile units.

House trailers, either mobile or immobile, located on sites other than a part or court, shall be billed in the same manner as any other family or business unit.

MULTIPLE OCCUPANCY

On apartment buildings, or other multiple occupancy buildings, or house trailer courts or parks, each family or business unit shall be required to pay not less than the minimum monthly charge herein established for a 5/8" to 3/4" meter. Motels and hotels shall pay according to the size of the meter installed.

B. There shall not be any discrimination or differential in rates between customers in similar circumstances.

C. All delinquent fees, rates and charges for services or facilities of the System shall be liens on the premises served of equal degree, rank and priority with the lien on such premises of state, county, school and municipal taxes, as provided in the Act. When such fees, rates and charges have been delinquent for thirty days, the District shall have power forthwith to foreclose the lien on the premises served in the same manner provided by the laws of the State of West Virginia for the foreclosure of mortgages on real property.

D. The District will not render or cause to be rendered any free services of any nature by the System nor any of the facilities; and in the event that the District or any department, agency, officer or employee thereof should avail itself or themselves of the services or facilities of the System, the same fees, rates and charges applicable to other customers receiving like services under similar circumstances shall be charged, such charges shall be paid as they accrue, and revenues so received shall be deposited and accounted for in the same manner as other revenues of the System.

E. The District may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

F. No allowance or adjustment in any bill for use of the service and facilities of the System shall be made for any leakage occurring on the customer's side of any water meter.

G. The District shall not be liable to any customer for any damage resulting from bursting or breakage of any line, main, pipe, valve, equipment or part or from discontinuance of the operation of any part of the System or from failure of any part thereof for any cause whatsoever.

H. In case of emergency, the District shall have the right to restrict the use of any part of the System in any reasonable manner for the protection of the System and the inhabitants of the District.

I. The fees, rates and charges above provided will be increased whenever such increase is necessary in order to comply fully with all provisions of this resolution and the District shall always be obligated to and shall fix, establish and collect fees, rates and charges for the services and facilities of the System which shall at all times be sufficient to provide net revenues to meet its obligations hereunder, but never less than 110% of the average annual debt service on all Bonds outstanding.

ARTICLE VI

MISCELLANEOUS

Section 6.01. Filing Under Uniform Commercial Code.

Contemporaneously with the delivery of the Bonds, or sooner, the District shall execute Financing Statements meeting the requirements of the Uniform Commercial Code of West Virginia and promptly thereafter, shall file such Financing Statements in the offices of the Secretary of State of the State of West Virginia and of the Clerk of the County Court of said County.

Section 6.02. Modification or Amendment. No material

modification or amendment of this resolution, or of any resolution amendatory hereof or supplemental hereto, may be made without the consent in writing of the holders of two-thirds or more in principal amount of the Bonds then outstanding; provided, however, that no modification or amendment shall permit a change in the maturity of any of the Bonds or a reduction in the rate of interest thereon, or in the amount of the principal obligation, or affecting the unconditional promise of the District to pay the principal of and interest on the Bonds as the same shall become due from the revenues of the System, without the consent of the holders of such Bonds. Notwithstanding the above, no amendment or modification shall be made without unanimous consent of the bondholders which would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications and for consent of 75% of the holders of each Series of Bonds outstanding to waiver or modification of the limitation upon issuance of additional parity Bonds contained in Section 4.05B.

Section 6.03. Sale of Bonds. The Secretary of the

Board is hereby authorized and directed to cause notice for bids for the purchase of all the 1972 Bonds, but not less than all,

to be published at least once not less than five days prior to the date fixed for the receipt of bids, in a newspaper published and of general circulation in Fayette County.

Section 6.04. Refunding of Bonds Permitted. The District reserves the right, subject to applicable provisions of law, to refund the Bonds when in its judgment it would be to the best interests of the District and of its inhabitants so to do. Upon payment of all the Bonds outstanding, prior to or simultaneously with the issuance of any refunding bonds or of an issue of bonds for the purposes of refunding the Bonds then outstanding and providing funds for additions, extensions and improvements to the System, or upon provision for such payment by deposit irrevocably in trust, with the State Sinking Fund Commission of West Virginia, of a sum equal to the principal amount of the Bonds outstanding, plus an amount equal to all interest accrued and to accrue to the date of payment or redemption of such Bonds, and plus an amount sufficient to pay all applicable redemption premiums on the earliest practical redemption date, the security, pledge and any lien applicable to the Bonds then outstanding shall immediately cease and determine. The sum so deposited in trust shall be used solely to pay at the earliest practical redemption date the principal amount of the Bonds and all interest thereon to the date of redemption and any applicable redemption premiums, or to purchase Bonds at not to exceed the par value of the Bonds plus interest accrued to date of purchase. The moneys so deposited may be invested by the State Sinking Fund Commission in direct obligations of the United States of America or obligations the payment of the principal of and interest on which is guaranteed by the United States of America, having maturities not later than the dates on which the moneys shall be required to be used for such redemption.

Section 6.05. Severability of Invalid Provision. If any one or more of the covenants, agreements or provisions of this resolution should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions, and shall in no way affect the validity of all the other provisions of this Resolution or the Bonds or coupons appertaining thereto.

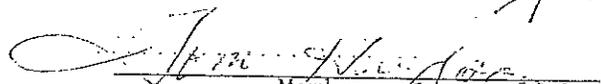
Section 6.06. Conflicting Provisions Repealed. All resolutions and orders, or parts thereof, in conflict with the provisions of this Resolution, are, to the extent of such conflicts, hereby repealed, provided, however, that the provisions of the 1956 Resolution shall not be affected by this Section.

Section 6.07. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 6.08. Effective Time. This Resolution shall take effect immediately upon its adoption.

Adopted January 15, 1972<sup>3</sup>.

  
Chairman of Public Service Board

  
Member

Member

**ARMSTRONG PUBLIC SERVICE DISTRICT**

**Water Revenue Bonds, Series 2001 A  
(United States Department of Agriculture)**

**BOND RESOLUTION**

**Table of Contents**

<b>Subject</b>		<b>Page</b>
<b>ARTICLE I</b>		
<b>STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS</b>		
Section 1.01	Authority for this Resolution	1
Section 1.02	Findings and Determinations	1
Section 1.03	Bond Legislation Constitutes Contract	3
Section 1.04	Definitions	4
<b>ARTICLE II</b>		
<b>AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT</b>		
Section 2.01	Authorization of Acquisition and Construction of the Project	9
<b>ARTICLE III</b>		
<b>AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BONDS</b>		
Section 3.01	Authorization of Bonds	10
Section 3.02	Description of Bonds	10
Section 3.03	Negotiability, Registration, Transfer and Exchange of Bonds	10
Section 3.04	Bond Registrar	11
Section 3.05	Execution of Bonds	11
Section 3.06	Bonds Mutilated, Destroyed, Stolen or Lost	11
Section 3.07	Bonds Secured by Pledge of Net Revenues	12
Section 3.08	Form of Bond	12
	FORM OF BOND	13
<b>ARTICLE IV</b>		
<b>SYSTEM REVENUES AND APPLICATION THEREOF; DISPOSITION OF BOND PROCEEDS; FUNDS AND ACCOUNTS</b>		
Section 4.01	Establishment of Funds and Accounts with Depository Bank	19
Section 4.02	Establishment of Funds and Accounts with Commission	19

Section 4.03	Bond Proceeds; Series 2001 A Bonds Construction Account	19
Section 4.04	Covenants of the Issuer as to System Revenues and Funds	20
Section 4.05	Interim Construction Financing	25

**ARTICLE V  
GENERAL COVENANTS, ETC.**

Section 5.01	General Statement	26
Section 5.02	Rates	26
Section 5.03	Sale of the System	26
Section 5.04	Issuance of Additional Parity Bonds or Obligations	26
Section 5.05	Insurance and Bonds	27
Section 5.06	Statutory Mortgage Lien	28
Section 5.07	Events of Default	29
Section 5.08	Enforcement	29
Section 5.09	Fiscal Year; Budget	29
Section 5.10	Compensation of Members of Governing Body	30
Section 5.11	Covenant to Proceed and Complete	30
Section 5.12	Books and Records; Audits	30
Section 5.13	Maintenance of System	30
Section 5.14	No Competition	30

**ARTICLE VI  
RATES, ETC.**

Section 6.01	Initial Schedule of Rates and Charges; Rules	31
--------------	--	----

**ARTICLE VII  
MISCELLANEOUS**

Section 7.01	Payment of Bonds	32
Section 7.02	Modification or Amendment	32
Section 7.03	Delivery of Bonds	32
Section 7.04	Severability of Invalid Provisions	32
Section 7.05	Conflicting Provisions Repealed	32
Section 7.06	Table of Contents and Headings	32
Section 7.07	Covenant of Due Procedure, Etc.	33
Section 7.08	Effective Time	33
	SIGNATURES	34
	CERTIFICATION	35

ARMSTRONG PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN PUBLIC SERVICE PROPERTIES CONSISTING OF ADDITIONS, IMPROVEMENTS AND EXTENSIONS TO THE EXISTING WATERWORKS SYSTEM OF ARMSTRONG PUBLIC SERVICE DISTRICT, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$550,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2001 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF ARMSTRONG PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS  
AND DEFINITIONS

Section 1.01. Authority for This Resolution. This Resolution is adopted pursuant to the provisions of Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law. Armstrong Public Service District (the "Issuer") is a public corporation and public service district and political subdivision of the State of West Virginia in Fayette County of said State, duly created pursuant to the Act by The County Commission of Fayette County.

Section 1.02. Findings and Determinations. It is hereby found, determined and declared as follows:

A. The Issuer currently owns and operates a public waterworks system and desires to finance and acquire, construct, operate and maintain certain additional public service properties consisting of additions, improvements and extensions to such existing

waterworks facilities, within the boundaries of the Issuer to be owned and operated by the Issuer.

B. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer, and, accordingly, it is hereby ordered, that there be acquired and constructed certain additions, improvements and extensions to the existing waterworks facilities of the Issuer, consisting of the replacement of approximately five miles of 6-inch PVC Class 200 waterline and the installation of new service lines, fire hydrants, valves and related appurtenances, the replacement of raw water pumps, modifications to two existing booster stations, the replacement of the existing Elkridge tank with a new 63,000 gallon water storage tank, and a 1,000 linear foot line extension to serve four (4) new customers in Elkridge, and all necessary appurtenant facilities (collectively, the "Project"), particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Secretary of the Public Service Board (the "Governing Body") of the Issuer. The existing waterworks facilities of the Issuer, together with the Project and any further additions, improvements or extensions thereto, are herein called the "System." The acquisition and construction of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

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

D. The estimated maximum cost of the acquisition and construction of the Project is \$1,154,000, of which \$550,000 will be obtained from the proceeds of sale of the Series 2001 A Bonds herein authorized and \$604,000 will be obtained from a grant from the Purchaser.

E. It is necessary for the Issuer to issue its Water Revenue Bonds, Series 2001 A (United States Department of Agriculture), in the aggregate principal amount of \$550,000 (the "Series 2001 A Bonds"), to finance a portion of the cost of such acquisition and construction in the manner hereinafter provided. The cost of such acquisition and construction shall be deemed to include, without being limited to, the acquisition and construction of the Project; the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest on the Series 2001 A Bonds prior to, during and for six months after completion of such acquisition and construction of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the Project, administrative expense, and such other expenses as may be

necessary or incident to the financing herein authorized, and the acquisition and construction of the properties and the placement of same in operation; provided that, reimbursement to the Issuer for any amounts expended by it for the repayment of indebtedness incurred for costs of the Project by the Issuer shall be deemed costs of the Project.

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

G. There is an outstanding obligation of the Issuer which will rank on a parity with the Series 2001 A Bonds as to liens, pledge and source of and security for payment, being the Water Revenue Bond, 1974, dated January 30, 1974, issued in the original aggregate principal amount of \$338,000 (the "Prior Bonds"), and held by the Purchaser. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which rank prior to or on a parity with the Series 2001 A Bonds as to liens, pledge and/or source of and security for payment.

The Issuer is not in default under the terms of the Prior Bonds, or the resolutions authorizing issuance of the Prior Bonds or any document in connection therewith, and has complied with all requirements of all the foregoing with respect to the issuance of parity bonds or has obtained a sufficient and valid consent or waiver thereof.

H. It is in the best interest of the Issuer that the Series 2001 A Bonds be sold to the Purchaser, pursuant to the terms and provisions of the Letter of Conditions, dated April 19, 1999, and all amendments thereto, if any (collectively, the "Letter of Conditions").

I. The Issuer has complied with all requirements of law relating to the authorization of the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Series 2001 A Bonds, or will have so complied prior to issuance of the Series 2001 A Bonds, including, among other things and without limitation, obtaining a certificate of public convenience and necessity and approval of the financing and necessary user rates and charges from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired or shall have been duly waived or otherwise provided for.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2001 A Bonds by those who shall be the Registered Owner of the same from time to time, this Resolution (the "Bond Legislation") shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owner, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owner of the Series 2001 A Bonds.

Section 1.04.      Definitions. In addition to capitalized terms defined elsewhere herein, the following terms shall have the following meanings herein unless the text otherwise expressly requires:

"Act" means Chapter 16, Article 13A of the West Virginia Code of 1931, as amended.

"Bond Legislation" means this Resolution and all resolutions supplemental hereto and amendatory hereof.

"Bond Registrar" means the Issuer, which shall usually so act by its Secretary.

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

"Chairman" means the Chairman of the Governing Body.

"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 Engineer" means Chapman Technical Group, Ltd., St. Albans, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

"Depository Bank" means City National Bank, Montgomery, West Virginia, a bank or trust company which is a member of FDIC (herein defined), and its successors and assigns.

"Facilities" or "waterworks facilities" means all the tangible properties of the System and also any tangible properties which may hereafter be added to the System by additions, betterments, extensions and improvements thereto and properties, furniture, fixtures or equipment therefor, hereafter at any time constructed or acquired.

"FDIC" means the Federal Deposit Insurance Corporation.

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

"Governing Body" means the Public Service Board of the Issuer.

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

"Grants" means, collectively, all grants committed for the Project.

"Herein" or "herein" means in this Bond Legislation.

"Issuer," "Borrower" or "District" means Armstrong Public Service District, a public service district and a public corporation and a political subdivision of the State of West Virginia, in Fayette County, West Virginia, and includes the Governing Body.

"Letter of Conditions" means, collectively, the Letter of Conditions of the Purchaser dated April 19, 1999, and all amendments thereto, if any.

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

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting principles and retention of a sum not to exceed one-sixth of the budgeted Operating Expenses stated above for the current year as working capital, and language herein requiring payment of Operating Expenses means also retention of not to exceed such sum as working capital; provided that, all monthly amortization payments upon the Bonds and the Prior Bonds and into the Reserve Fund and Replacement Reserve have been made to the last monthly payment date prior to the date of such retention.

"Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being delivered, except (i) any Bond canceled by the Bond Registrar at or prior to said date; (ii) any Bond for the payment of which monies, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article VII hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any Bonds registered to the Issuer.

"Parity Bonds" means additional bonds issued under the provisions and with the limitations prescribed by Section 5.04 hereof.

"Prior Bonds" means the Water Revenue Bond, 1974, of the Issuer described in Section 1.02G hereof.

"Prior Resolutions" means, collectively, the resolution of the Issuer, adopted January 16, 1973, authorizing the issuance of the Prior Bonds.

"Project" shall have the meaning stated in Section 1.02B above.

"Purchaser" or "Government" means United States Department of Agriculture, Rural Utilities Service, and any successor thereof, acting for and on behalf of the United States of America.

"Qualified Investments" means and includes any of the following, to the extent such investments are permitted by law:

(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 (hereinbefore defined) or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

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

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

(h) The West Virginia "consolidated fund" managed by the West Virginia Investment Management Board pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

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

"Registered Owner," "Bondholder," "Holder of the Bonds" or any similar term means any person who shall be the registered owner of the Bonds.

"Resolutions" means, collectively, the Prior Resolutions and the Bond Legislation.

"Revenues" or "Gross Revenues" means all rates, rents, fees, charges or other income received by the Issuer, or accrued to the Issuer, or any department, board, agency or instrumentality thereof in control of the management and operation of the System, from the operation of the System, and all parts thereof, all as calculated in accordance with sound accounting practices.

"Secretary" means the Secretary of the Governing Body.

"Series 2001 A Bonds" means the Water Revenue Bonds, Series 2001 A (United States Department of Agriculture), authorized hereby to be issued pursuant to this Bond Legislation.

"Series 2001 A Bonds Reserve Account" means, the Reserve Account created by Section 4.02 hereof.

"Series 2001 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 2001 A Bonds in the then current or any succeeding year.

"System" means the complete public waterworks system of the Issuer, presently existing in its entirety or any integral part thereof, and shall include the Project and any improvements and extensions thereto hereafter acquired or constructed for the System from any sources whatsoever.

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

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 neuter gender shall include any other gender; and any requirement for execution or attestation of the Bonds or any certificate or other document by the Chairman or the Secretary shall mean that such Bonds, certificate or other document may be executed or attested by an Acting Chairman or Acting Secretary.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND  
CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of \$1,154,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2001 A Bonds hereby authorized shall be applied as provided in Article IV hereof.

### ARTICLE III

#### AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BONDS

Section 3.01. Authorization of Bonds. Subject and pursuant to the provisions of the Bond Legislation, the Series 2001 A Bonds of the Issuer, to be known as "Water Revenue Bonds, Series 2001 A (United States Department of Agriculture)", are hereby authorized to be issued in the principal amount of \$550,000, for the purpose of financing a portion of the cost of the acquisition and construction of the Project.

Section 3.02. Description of Bonds. The Series 2001 A Bonds shall be issued in single form, numbered AR-1, only as a fully registered Bond, and shall be dated the date of delivery thereof. The Series 2001 A Bonds shall bear interest from the date of delivery, payable monthly at the rate of 4.5% per annum, and shall be sold for the par value thereof.

The Series 2001 A Bonds shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, and shall be payable as provided in the respective Bond forms hereinafter set forth.

Section 3.03. Negotiability, Registration, Transfer and Exchange of Bonds. The Series 2001 A Bonds shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but the Series 2001 A Bonds, and the right to principal of and stated interest on the Series 2001 A Bonds, may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Series 2001 A Bonds for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Bond Registrar.

Whenever the Series 2001 A Bonds shall be surrendered for registration of transfer, the Issuer shall execute and deliver a new Bond or Bonds in authorized denominations, for a like aggregate principal amount. The Bond Registrar shall require the payment by the new owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer, but the Issuer shall pay any other expenses incurred by the Bond Registrar with respect to such transfer.

No registration of transfer of the Series 2001 A Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on the Series 2001 A Bonds.

Section 3.04.      Bond Registrar. The Issuer shall be the Bond Registrar and will keep, or cause to be kept by its agent, at its office, sufficient books for the registration and transfer of the Series 2001 A Bonds, and, upon presentation for such purpose, the Bond Registrar shall, under such reasonable regulations as it may prescribe, register the Series 2001 A Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Series 2001 A Bonds as hereinbefore provided.

The Bond Registrar shall accept the Series 2001 A Bonds for registration or transfer only if ownership thereof is to be registered in the name of the Purchaser, an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or the social security numbers of the settlor and beneficiaries of each trust and the federal employer identification number and date of each trust and the name of the trustee of each trust and/or such other identifying number and information as may be required by law. The Series 2001 A Bonds shall initially be fully registered as to both principal and interest in the name of the United States of America. So long as the Series 2001 A Bonds shall be registered in the name of the United States of America, the address of the United States of America for registration purposes shall be National Finance Office, St. Louis, Missouri 63103, or such other address as shall be stated in writing to the Issuer by the United States of America.

Section 3.05.      Execution of Bonds. The Series 2001 A Bonds shall be executed in the name of the Issuer by the Chairman and its corporate seal shall be affixed thereto and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed the Series 2001 A Bonds shall cease to be such officer of the Issuer before the Series 2001 A Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. The Series 2001 A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.06.      Bonds Mutilated, Destroyed, Stolen or Lost. In case the Series 2001 A Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bonds or in lieu of and substitution for the Bonds destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Series 2001 A Bonds so surrendered shall be canceled and held for the account of the Issuer. If the Series 2001 A Bonds shall have

matured or be about to mature, instead of issuing a substitute Bond the Issuer may pay the same, and, if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 3.07.      Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2001 A Bonds shall be secured forthwith by a first lien on the Net Revenues derived from the System, on a parity with the Prior Bonds. The Net Revenues derived from the System in an amount sufficient to pay the principal of and interest on the Series 2001 A Bonds and the Prior Bonds, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 2001 A Bonds and the Prior Bonds as the same become due.

Section 3.08.      Form of Bond. Subject to the provisions hereof, the text of the Series 2001 A Bonds and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or by any resolution adopted after the date of adoption hereof and prior to the issuance thereof:

(FORM OF BOND)

ARMSTRONG PUBLIC SERVICE DISTRICT

WATER REVENUE BOND, SERIES 2001 A  
(UNITED STATES DEPARTMENT OF AGRICULTURE)

\$550,000

No. AR-1

Date: \_\_\_\_\_, 2001

FOR VALUE RECEIVED, ARMSTRONG PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of FIVE HUNDRED FIFTY THOUSAND DOLLARS (\$550,000), plus interest on the unpaid principal balance at the rate of 4.5% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and \$2,525, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Bond, in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Borrower hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of additions, extensions and improvements to the waterworks system (the "System") of the Borrower, is payable solely from the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Resolution and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized

denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the West Virginia Code, as amended (the "Act"), and a Resolution of the Borrower duly adopted December 11, 2001, authorizing issuance of this Bond (the "Resolution").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farmers Home Rural Development Act. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

**THIS BOND IS ISSUED ON A PARITY, AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, WITH THE BORROWER'S WATER REVENUE BOND, 1974, AS DESCRIBED IN THE RESOLUTION.**

IN WITNESS WHEREOF, ARMSTRONG PUBLIC SERVICE DISTRICT has caused this Bond to be executed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, all as of the date hereinabove written.

ARMSTRONG PUBLIC SERVICE DISTRICT  
(Name of Borrower)

[CORPORATE SEAL]

\_\_\_\_\_  
(Signature of Executive Official)

Chairman, Public Service Board  
(Title of Executive Official)

P. O. Box 156  
(P. O. Box No. or Street Address)

Kimberley, West Virginia 25118  
(City, State and Zip Code)

ATTEST:

\_\_\_\_\_  
(Signature of Attesting Official)

Secretary, Public Service Board  
(Title of Executive Official)

(Form of)

RECORD OF ADVANCES

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

(Form of Assignment)

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:  
  
\_\_\_\_\_

## ARTICLE IV

### SYSTEM REVENUES AND APPLICATION THEREOF; DISPOSITION OF BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created with (or continued if previously established by the Prior Resolutions) and shall be held by the Depository Bank, separate and apart from all other funds or accounts of the Depository Bank and from each other:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund; and
- (3) Series 2001 A Bonds Construction Account.

Section 4.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with (or continued if previously established by the Prior Resolutions) and shall be held by the Commission separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

- (1) Series 1974 Bonds Sinking Fund; and
- (2) Series 1974 Bonds Reserve Account; and
- (3) Series 2001 A Bonds Reserve Account.

Section 4.03. Bond Proceeds; Series 2001 A Bonds Construction Account. The proceeds of the sale of the Series 2001 A Bonds shall be deposited upon receipt by the Issuer in the Series 2001 A Bonds Construction Account. The monies in the Series 2001 A Bonds Construction Account in excess of the amount insured by FDIC shall be secured at all times by the Depository Bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Monies in the Series 2001 A Bonds Construction Account shall be expended by the Issuer solely for the purposes provided herein.

Monies in the Series 2001 A Bonds Construction Account shall be used solely to pay the cost of acquisition and construction of the Project upon vouchers and other documentation approved by the Purchaser.

Until completion of acquisition and construction of the Project, the Issuer will additionally transfer from the Series 2001 A Bonds Construction Account and pay to the

Purchaser on or before the due date, such sums as shall be from time to time required to make the monthly installments on the Series 2001 A Bonds if there are not sufficient Net Revenues to make such monthly payment.

Pending application as provided in this Section 4.03, money and funds in the Series 2001 A Bonds Construction Account shall be invested and reinvested at the direction of the Issuer, to the extent possible in accordance with applicable law, in Qualified Investments.

When acquisition and construction of the Series 2001 A Bonds has been completed and all costs thereof have been paid or provision for such payment has been made, any balance remaining in the Series 2001 A Bonds Construction Account shall be disposed of in accordance with the regulations of the Purchaser.

Section 4.04. Covenants of the Issuer as to System Revenues and Funds.

So long as any of the Series 2001 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2001 A Bonds Reserve Account, a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Series 2001 A Bonds remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the Holders of the Series 2001 A Bonds as follows:

A. REVENUE FUND. The entire Gross Revenues derived from the operation of the System, and all parts thereof, and all Tap Fees received, shall be deposited as collected by the Issuer in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in the Resolutions and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner provided in the Resolutions.

B. DISPOSITION OF REVENUES. All Revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority, subject to the provisions of the Prior Resolutions not otherwise modified herein:

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

(2) The Issuer shall next, each month, transfer from the Revenue Fund and (i) remit on the first day of each month, to the Commission for deposit in the 1974 Bonds Sinking Fund, the amount required by the Prior Resolutions to pay interest and principal on the 1974 Bonds; and (ii) beginning on

January 13, 2002, remit to the National Finance Office, the amounts required to pay the interest on the Series 2001 A Bonds until January 13, 2004 and continuing on the 13th day of each month thereafter, the amounts required to amortize the interest and principal on the Series 2001 A Bonds over the life of the Bond issue. All payments with respect to principal of and interest on the Prior Bonds and the Series 2001 A Bonds shall be made on an equal pro rata basis in accordance with the respective aggregate principal amounts thereof outstanding and on a parity with each other.

(3) The Issuer shall next, each month, transfer from the Revenue Fund and (i) on the first day of each month, remit to the Commission for deposit into the 1974 Bond Reserve Account, the amount required by the Prior Resolutions; and (ii) beginning on January 13, 2004 and continuing on the 13th day of each month thereafter, remit to the Commission for deposit into the Series 2001 A Bonds Reserve Account, an amount equal to 1/2 of 1/120th of the Series 2001 A Bonds Reserve Requirement, until the amount in the Series 2001 A Bonds Reserve Account equals the Series 2001 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2001 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 2001 A Bonds Reserve Requirement. Monies in the Series 2001 A Bonds Reserve Account shall be used solely to make up any deficiency for monthly payments of the principal of and interest on the Series 2001 A Bonds to the National Finance Office as the same shall become due or for prepayment of installments on the Series 2001 A Bonds, or for mandatory prepayment of the Series 2001 A Bonds as hereinafter provided, and for no other purpose; provided, however, earnings from monies in the Series 2001 A Bond Reserve Account, so long as the Series 2001 A Bonds Reserve Requirement is on deposit and maintained therein, shall be returned not less than once each year, by the Commission to the Issuer, to be deposited in the Revenue Fund.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund an amount equal to 2 1/2% of the Gross Revenues each month, exclusive of any payment for account of any Reserve

Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in Qualified Investments. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, improvements or extensions to the System; provided, that any deficiencies in any Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

(5) After all the foregoing provisions for use of monies in the Revenue Fund have been fully complied with, any monies remaining therein and not permitted to be retained therein may be used to prepay installments of the Bonds, pro rata, or for any lawful purpose.

Whenever the monies in the Series 2001 A Bonds Reserve Account shall be sufficient to prepay the Series 2001 A Bonds in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Series 2001 A Bonds at the earliest practical date and in accordance with applicable provisions hereof.

The Commission is hereby designated as the Fiscal Agent for the administration of the Series 2001 A Bonds Reserve Account as herein provided, and all amounts required for the Series 2001 A Bonds Reserve Account will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein. If required by the Purchaser at anytime, the Issuer shall make the necessary arrangements whereby required payments into said account shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

The Issuer shall, on dates set forth above (if any such date is not a business day, then the next occurring business day), deposit with the Commission the required reserve account payments with respect to the Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to

the custody, use and application thereof consistent with the provisions of this Bond Legislation.

The Depository Bank is hereby designated as the Fiscal Agent for the administration of the Renewal and Replacement Fund as herein provided, and all amounts required for the Renewal and Replacement Fund will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written instructions stating the amount remitted for deposit into each such fund.

The Revenue Fund, the Series 2001 A Bonds Reserve Account and the Renewal and Replacement Fund shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a lien thereon for further securing payment of the Series 2001 A Bonds and the interest thereon.

If on any payment date the Revenues are insufficient to make the payments and transfers as hereinabove provided, the deficiency shall be made up in the subsequent payments and transfers in addition to those which would otherwise be required to be made on the subsequent payment dates.

Principal, interest or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 2001 A Bonds and the Prior Bonds, in accordance with the respective principal amounts then Outstanding.

Subject to the Prior Resolutions, the Commission and the Depository Bank, at the direction of the Issuer, shall keep the monies in the Series 2001 A Bonds Reserve Account and the Renewal and Replacement Fund invested and reinvested to the fullest extent possible in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund or account under this Bond Legislation shall, unless otherwise provided herein or required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated

fund" managed by the West Virginia Investment Management Board. Any investment shall be held in and at all times deemed a part of the fund or account in which such monies were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. Earnings from monies in the Series 2001 A Bonds Reserve Account, so long as the Series 2001 A Bonds Reserve Requirement is on deposit and maintained therein, shall be returned not less than once each year, by the Commission to the Issuer, to be deposited in the Revenue Fund.

C. CHANGE OF DEPOSITORY BANK. The Issuer may designate another bank or trust company insured by FDIC as Depository Bank if the Depository Bank should cease for any reason to serve or if the Governing Body determines by resolution that the Depository Bank or its successor should no longer serve as Depository Bank. Upon any such change, the Governing Body will cause notice of the change to be sent by registered or certified mail to the Purchaser.

D. USER CONTRACTS. The Issuer shall, prior to delivery of the Series 2001 A Bonds, provide evidence that there will be at least 799 bona fide users of the System upon completion of the Project, in full compliance with the requirements and conditions of the Purchaser.

E. CHARGES AND FEES. The Issuer shall remit from the Revenue Fund to the Commission or the Depository Bank such additional sums as shall be necessary to pay the echarges and fees of the Commission or the Depository Bank then due.

F. INVESTMENT OF EXCESS BALANCES. The monies in excess of the sum insured by FDIC in any of such funds or accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State of West Virginia.

G. REMITTANCES. All remittances made by the Issuer to the Commission or the Depository Bank shall clearly identify the fund or account into which each amount is to be deposited.

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

Section 4.05. Interim Construction Financing. In order to pay certain costs of the Project pending receipt of proceeds of the Grants and advances of principal of the Series 2001 A Bonds, the Issuer may issue and sell its interim construction notes in an aggregate principal amount not to exceed \$550,000 (the "Notes"): The Notes shall be in the form of a line of credit from a commercial bank or other lender, and the Issuer is hereby authorized to enter into the credit agreement with such commercial bank or other lender. 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 credit agreement.

The Notes shall be special obligations of the Issuer payable as to principal and interest solely from proceeds of the Series 2001 A Bonds or the Grants. 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, if any, 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 herein.

## ARTICLE V

### GENERAL COVENANTS, ETC.

Section 5.01.      General Statement. So long as the Series 2001 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2001 A Bonds Reserve Account a sum sufficient to prepay the entire principal of the Series 2001 A Bonds remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Holder of the Series 2001 A Bonds.

Section 5.02.      Rates. The Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide Revenues in each Fiscal Year sufficient to produce Net Revenues equal to not less than 115% of the annual debt service on the Series 2001 A Bonds and the Prior Bonds and sufficient to make the payments required herein into all funds and accounts and all the necessary expenses of operating and maintaining the System during such Fiscal Year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate Revenues for such purposes.

Section 5.03.      Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as the Series 2001 A Bonds are outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 5.04.      Issuance of Additional Parity Bonds or Obligations. 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, reciting the conclusion that the Net Revenues for the Fiscal year following the year in which such Parity Bonds are to be issued shall be at least 120% of the average annual debt service requirements on the following:

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

No additional Parity Bonds or obligations payable out of any of the Revenues of the System shall be issued, except with the prior written consent of the Purchaser.

The foregoing limitation may be waived or modified by the written consent of the Holders of the Prior Bonds.

Section 5.05. Insurance and Bonds. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Series 2001 A Bonds remain outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System and mechanical and electrical equipment in place or stored on the site in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Series 2001 A Bonds.

(c) Vehicular Public Liability Insurance, in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated at any time or times for the benefit of the Issuer, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle for the Issuer.

(d) Workers' Compensation Coverage for All Employees of the District Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds have been or will be filed with the Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39. Workers' compensation coverage shall be maintained as required by the laws of the State of West Virginia.

(e) Flood Insurance to be procured, to the extent available at reasonable cost to the Issuer; however, if the System is located in a community which has been notified as having special flood or mudslide prone areas, flood insurance must be obtained.

(f) Fidelity Bonds will be provided as to every member of the Governing Body and as to every officer and employee thereof having custody of the Revenue Fund or of any revenues or other funds of the Issuer in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount of \$50,000 upon the treasurer, provided, however, that no bond shall be required insofar as custody of the Series 2001 A Bonds Construction Account is concerned so long as checks thereon require the signature of a representative of the Purchaser.

(g) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Series 2001 A Bonds are outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Purchaser may specify, with insurance carriers or bonding companies acceptable to the Purchaser.

Section 5.06. Statutory Mortgage Lien. For the further protection of the Holder of the Series 2001 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, on a parity with the Prior Bonds, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of the Series 2001 A Bonds.

Section 5.07.      Events of Default. Each of the following events is hereby declared an "Event of Default":

(a) Failure to make payment of any monthly amortization installment up on the Series 2001 A Bonds at the date specified for payment thereof; and

(b) Failure to duly and punctually observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Series 2001 A Bonds or herein, or violation of or failure to observe any provision of any pertinent law.

Section 5.08.      Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, the Purchaser may proceed to protect and enforce its rights by an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement, or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights.

Upon application by the Purchaser, such court may, upon proof of such default, appoint a receiver for the affairs of the Issuer and the System. The receiver so appointed shall administer the System on behalf of the Issuer, shall exercise all the rights and powers of the Issuer with respect to the System, shall proceed under the direction of the court to obtain authorization to increase rates and charges of the System, and shall have the power to collect and receive all revenues and apply the same in such manner as the court may direct.

Section 5.09.      Fiscal Year; Budget. While the Series 2001 A Bonds are outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a Fiscal Year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than 30 days prior to the beginning of each Fiscal Year, the Issuer agrees to adopt the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such Fiscal Year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each Fiscal Year.

If for any reason the Issuer shall not have adopted the Annual Budget before the 1st day of any Fiscal Year, it shall adopt a Budget of Current Expenses from month to month until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the next year preceding by more than 10%; and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual

Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

Section 5.10. Compensation of Members of Governing Body. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Governing Body in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Net Revenues to fall below the amount required to meet all payments provided for herein, nor when there is default in the performance of or compliance with any covenant or provision hereof.

Section 5.11. Covenant to Proceed and Complete. The Issuer hereby covenants to proceed as promptly as possible with the acquisition and construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer on file with the Secretary on the date of adoption hereof, subject to permitted changes.

Section 5.12. Books and Records; Audits. 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 the Purchaser shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

The Issuer shall, at least once a year, cause said books, records and accounts of the System to be properly audited by an independent competent firm of certified public accountants and shall mail a copy of such audit report to the Purchaser. The Issuer shall further comply with the Act with respect to such books, records and accounts.

Section 5.13. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Series 2001 A Bonds are outstanding.

Section 5.14. No Competition. To the extent legally allowable, the Issuer will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

ARTICLE VI

RATES, ETC.

Section 6.01. Initial Schedule of Rates and Charges; Rules. A. The initial schedule of rates and charges for the services and facilities of the System, subject to change consonant with the provisions hereof, shall be as set forth in the Final Order of the Public Service Commission of West Virginia, entered on September 5, 2001, Case No. 00-1844-PWD-CN which Final Order is incorporated herein by reference as a part hereof.

B. There shall not be any discrimination or differential in rates between customers in similar circumstances.

C. All delinquent fees, rates and charges for services or facilities of the System shall be liens on the premises served of equal degree, rank and priority with the lien on such premises of state, county, school and municipal taxes, as provided in the Act. The Issuer shall have all remedies and powers provided under the Act and other applicable provisions of law with regard to the collection and enforcement of such fees, rates and charges.

D. The Issuer will not render or cause to be rendered any free services of any nature by the System nor any of the facilities; and in the event that the Issuer or any department, agency, officer or employee thereof should avail itself or themselves of the services or facilities of the System, the same fees, rates and charges applicable to other customers receiving like services under similar circumstances shall be charged, such charges shall be paid as they accrue, and revenues so received shall be deposited and accounted for in the same manner as other Revenues of the System.

E. The Issuer may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

F. The Issuer, to the extent permitted by law, will not accept payment of any water bill from a customer served with water and sewer services by the Issuer without payment at the same time of a sewer bill owed by such customer for the same premises.

ARTICLE VII  
MISCELLANEOUS

Section 7.01.      Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid, to the Holder of the Series 2001 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 2001 A Bonds, the pledge of Net Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Series 2001 A Bonds, shall thereupon cease, terminate and become void and be discharged and satisfied.

Section 7.02.      Modification or Amendment. The Bond Legislation may not be modified or amended after final passage without the prior written consent of the Purchaser.

Section 7.03.      Delivery of Bonds. The Chairman, Secretary and Treasurer of the Governing Body are hereby authorized and directed to cause the Series 2001 A Bonds, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 7.04.      Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed severable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Series 2001 A Bonds.

Section 7.05.      Conflicting Provisions Repealed. The Prior Resolutions and all parts thereof not expressly hereby changed shall continue in full force and effect and this Bond Legislation shall be supplemental to the Prior Resolutions.

All resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed; provided that this Section shall not be applicable to the Loan Resolution (Form FmHA 442-47).

Section 7.06.      Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 7.07.      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 adoption of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairman, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 7.08.      Effective Time. This Resolution shall take effect immediately upon its adoption.

Adopted this 11th day of December, 2001.

ARMSTRONG PUBLIC SERVICE DISTRICT

Thomas Bauer  
Chairman

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board  
of ARMSTRONG PUBLIC SERVICE DISTRICT on the 11th day of December, 2001.

Dated: December 13, 2001.

[SEAL]

Secretary

  
\_\_\_\_\_

12/06/01  
028360/99001

# SPECIMEN

ARMSTRONG PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND, SERIES 2001 A  
(UNITED STATES DEPARTMENT OF AGRICULTURE)

\$550,000

No. AR-1

Date: December 13, 2001

FOR VALUE RECEIVED, ARMSTRONG PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of FIVE HUNDRED FIFTY THOUSAND DOLLARS (\$550,000), plus interest on the unpaid principal balance at the rate of 4.5% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and \$2,525, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Bond, in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Borrower hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of additions, extensions and improvements to the waterworks system (the "System") of the Borrower, is payable solely from the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Resolution and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange therefor.

This Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the West Virginia Code, as amended (the "Act"), and a Resolution of the Borrower duly adopted December 11, 2001, authorizing issuance of this Bond (the "Resolution").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farmers Home Rural Development Act. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

**THIS BOND IS ISSUED ON A PARITY, AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, WITH THE BORROWER'S WATER REVENUE BOND, 1974, AS DESCRIBED IN THE RESOLUTION.**

IN WITNESS WHEREOF, ARMSTRONG PUBLIC SERVICE DISTRICT  
has caused this Bond to be executed by its Chairman and its corporate seal to be hereunto  
affixed or imprinted hereon and attested by its Secretary, all as of the date hereinabove  
written.

ARMSTRONG PUBLIC SERVICE DISTRICT

[CORPORATE SEAL]

*J. J. [Signature]*  
Chairman, Public Service Board  
Armstrong Public Service District  
P. O. Box 156  
Kimberley, West Virginia 25118

ATTEST:

*[Signature]*  
Secretary, Public Service Board

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$99,389	December 13, 2001	(19) \$	
(2) \$		(20) \$	
(3) \$		(21) \$	
(4) \$		(22) \$	
(5) \$		(23) \$	
(6) \$		(24) \$	
(7) \$		(25) \$	
(8) \$		(26) \$	
(9) \$		(27) \$	
(10) \$		(28) \$	
(11) \$		(29) \$	
(12) \$		(30) \$	
(13) \$		(31) \$	
(14) \$		(32) \$	
(15) \$		(33) \$	
(16) \$		(34) \$	
(17) \$		(35) \$	
(18) \$		(36) \$	
	TOTAL	\$	

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:  
  
\_\_\_\_\_

028360/99001



**ARMSTRONG PUBLIC SERVICE DISTRICT  
(WEST VIRGINIA)**

**SEWER REFUNDING REVENUE BONDS, SERIES 2002 A**

**BOND RESOLUTION**

**Table of Contents**

RECITALS	1
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**ARTICLE I**

**DEFINITIONS; STATUTORY AUTHORITY; FINDINGS**

Section 1.01	Definitions	3
Section 1.02	Authority for this Resolution	11
Section 1.03	Findings	11
Section 1.04	Resolution Constitutes Contract	13

**ARTICLE II**

**AUTHORIZATION OF REFUNDING**

Section 2.01	Authorization of Refunding	14
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**ARTICLE III**

**THE BONDS**

Section 3.01	Form and Payment of Bonds	15
Section 3.02	Execution of Bonds	15
Section 3.03	Authentication and Registration	16
Section 3.04	Negotiability and Registration	16
Section 3.05	Bonds Mutilated, Destroyed, Stolen or Lost	17
Section 3.06	Term Bonds	18
Section 3.07	Notice of Redemption	19
Section 3.08	Persons Treated as Owners	20
Section 3.09	Temporary Bonds	20
Section 3.10	Authorization of Bonds	21
Section 3.11	Book Entry System for Bonds	21

Section 3.12	Delivery of Bonds	23
Section 3.13	Form of Bonds	23
Section 3.14	Disposition of Proceeds of Bonds	24
Section 3.15	Designation of Bonds as "Qualified Tax-Exempt Obligations"	25

**ARTICLE IV  
FUNDS AND ACCOUNTS; SYSTEM REVENUES  
AND APPLICATION THEREOF**

Section 4.01	Establishment of Funds and Accounts with Depository Bank	26
Section 4.02	Establishment of Funds and Accounts with Bond Commission	26
Section 4.03	System Revenues and Application Thereof	26

**ARTICLE V  
INVESTMENTS; NON-ARBITRAGE;  
REBATES OF EXCESS INVESTMENT EARNINGS**

Section 5.01	Investments	31
Section 5.02	Arbitrage	32
Section 5.03	Tax Certificate and Rebate	32
Section 5.04	Continuing Disclosure Agreement	33

**ARTICLE VI  
ADDITIONAL COVENANTS OF THE ISSUER**

Section 6.01	Covenants Binding and Irrevocable	34
Section 6.02	Bonds not to be Indebtedness of the Issuer	34
Section 6.03	Bonds Secured by Parity Pledge of Net Revenues and Monies in Sinking Fund	34
Section 6.04	Rates	34
Section 6.05	Operation and Maintenance	35
Section 6.06	Sale of the System	35
Section 6.07	Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances	36
Section 6.08	Additional Parity Bonds and Subordinate Debt	36
Section 6.09	Insurance and Bonds	38
Section 6.10	No Free Services	38
Section 6.11	Enforcement of Collections	39
Section 6.12	No Competing Franchise	40

Section 6.13	Books and Records	40
Section 6.14	Operating Budget	41
Section 6.15	Mandatory Connections	42
Section 6.16	Statutory Mortgage Lien	42
Section 6.17	Tax Covenants	42
Section 6.18	Municipal Bond Insurance Policy	43
Section 6.19	Merger, Consolidation or Acquisition of Issuer	44

**ARTICLE VII  
DEFAULTS AND REMEDIES**

Section 7.01	Events of Default	45
Section 7.02	Enforcement	45
Section 7.03	Appointment of Receiver	46
Section 7.04	Restoration of Issuer and Bondholder	47

**ARTICLE VIII  
REGISTRAR AND PAYING AGENT**

Section 8.01	Appointment of Registrar	48
Section 8.02	Responsibilities of Registrar	48
Section 8.03	Evidence on Which Registrar May Act	48
Section 8.04	Compensation and Expenses	48
Section 8.05	Certain Permitted Acts	49
Section 8.06	Resignation of Registrar	49
Section 8.07	Removal	49
Section 8.08	Appointment of Successor	49
Section 8.09	Transfer of Rights and Property to Successor	50
Section 8.10	Merger or Consolidation	50
Section 8.11	Adoption of Authentication	50
Section 8.12	Paying Agent	50

**ARTICLE IX  
DEFEASANCE; DISCHARGE OF PLEDGE OF RESOLUTION**

Section 9.01	Defeasance; Discharge of Pledge of Resolution	52
--------------	---	----

**ARTICLE X  
MISCELLANEOUS**

Section 10.01	Amendment of Resolution	53
Section 10.02	Evidence of Signatures of Bondholders and Ownership of Bonds	53
Section 10.03	Preservation and Inspection of Documents	54
Section 10.04	Cancellation of Bonds	54
Section 10.05	Failure to Present Bonds	54
Section 10.06	Notices, Demands and Requests	55
Section 10.07	No Personal Liability	55
Section 10.08	Law Applicable	56
Section 10.09	Parties Interested Herein	56
Section 10.10	Severability of Invalid Provisions	56
Section 10.11	Table of Contents and Headings	56
Section 10.12	Conflicting Provisions Repealed	56
Section 10.13	Covenant of Due Procedure, Etc.	56
Section 10.14	Effective Date	56
	SIGNATURES	57
	CERTIFICATION	58
	EXHIBIT A - BOND FORM	59

ARMSTRONG PUBLIC SERVICE DISTRICT

A RESOLUTION AUTHORIZING THE REFUNDING OF THE SEWER REVENUE BOND, SERIES 1985, OF ARMSTRONG PUBLIC SERVICE DISTRICT; THE ISSUANCE OF SEWER REFUNDING REVENUE BONDS, SERIES 2002 A, OF THE DISTRICT IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$900,000, THE PROCEEDS OF WHICH SHALL BE EXPENDED FOR SUCH REFUNDING AND TO PAY COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING A CONTINUING DISCLOSURE AGREEMENT AND OTHER DOCUMENTS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS.

WHEREAS, Armstrong Public Service District (the "Issuer") presently owns and operates a public sewerage system (the "System") and has heretofore financed the acquisition and construction of the System and certain additions, extensions and improvements thereto by issuance of a series of bonds, being the Sewer Revenue Bond, Series 1985, dated March 26, 1985, issued in the original aggregate principal amount of \$778,000 (the "Series 1985 Bonds").

WHEREAS, the Series 1985 Bonds were issued pursuant to a resolution of the Issuer duly adopted on January 11, 1984, as supplemented (collectively, the "Prior Resolutions");

WHEREAS, under the provisions of Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), the Issuer is authorized and empowered to issue refunding revenue bonds for the purpose of retiring or refinancing all or any part of the outstanding Series 1985 Bonds;

WHEREAS, the Issuer is advised that present value debt service savings will be realized as a result of the refunding of the Series 1985 Bonds;

WHEREAS, the Issuer has determined and hereby determines that it would therefore be to the benefit of the Issuer and its residents to refund the Series 1985 Bonds in

the manner set forth herein with proceeds of a series of bonds to be designated "Sewer Refunding Revenue Bonds, Series 2002 A" (the "Series 2002 A Bonds"), in the maximum aggregate principal amount of not more than \$900,000, and other monies of the Issuer; and

WHEREAS, the Issuer now desires to authorize the refunding of the Series 1985 Bonds as aforesaid, and to provide for the financing thereof by the issuance of the Series 2002 A Bonds as hereinafter provided;

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF ARMSTRONG PUBLIC SERVICE DISTRICT:

## ARTICLE I

### DEFINITIONS; STATUTORY AUTHORITY; FINDINGS

Section 1.01.      Definitions. All capitalized terms used in this Resolution and not otherwise defined in the recitals or in the text hereof shall have the meanings specified below, unless the context expressly requires otherwise:

"Act" means Chapter 16, Article 13A of the West Virginia Code of 1931, as amended and in effect on the date of delivery of the Series 2002 A Bonds.

"Authorized Newspaper" means a financial journal or newspaper of general circulation in the City of New York, New York, printed in the English language and customarily published on each business day of the Registrar, whether or not published on Saturdays, Sundays or legal holidays, and so long as so published, shall include The Bond Buyer and Redemption Digest.

"Authorized Officer" means the Chairman of the Governing Body of the Issuer or any Acting Chairman duly selected by the Governing Body.

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

"Bond Counsel" shall mean any law firm having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds, appointed by the Issuer, and shall initially mean Steptoe & Johnson PLLC, Charleston, West Virginia.

"Bondholder," "Holder of the Bonds," "Owner of the Bonds" or any similar term means any person who shall be the registered owner of any outstanding Bond.

"Bond Register" means the books of the Issuer maintained by the Registrar for the registration and transfer of Bonds.

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

"Bonds" means the Series 2002 A Bonds and any additional parity Bonds hereafter issued within the terms, restrictions and conditions contained herein.

"Business Day" means any day other than a Saturday, Sunday or a day on which national banking associations or West Virginia banking corporations are authorized by law to remain closed.

"Certificate of Authentication and Registration" means the Certificate of Authentication and Registration on the Series 2002 A Bonds, in substantially the form set forth in EXHIBIT A - BOND FORM hereto.

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

"Closing Date" means the date upon which there is an exchange of the Series 2002 A Bonds for the proceeds representing the original purchase price thereof.

"Code" shall mean the Internal Revenue Code of 1986, as amended and supplemented from time to time, and Regulations thereunder.

"Consulting Engineers" means any qualified engineer or engineers or firm or firms of engineers that shall at any time now or hereafter be retained by the Issuer as Consulting Engineers for the System, or portion thereof.

"Costs" or similar terms means all those costs now or hereafter permitted by the Act to be financed with bonds issued pursuant hereto, including, without limitation, the costs of refunding the Series 1985 Bonds (which amount shall reflect the Independent Certified Public Accountant's determination of the Redemption Price of the Series 1985 Bonds), interest accruing or to accrue thereon, redemption premiums, premiums for municipal bond insurance and reserve account insurance, letter of credit fees, expenses for fiscal or other agents, legal expenses and any other costs or expenses necessary, incidental, desirable or appurtenant to the issuance of the Series 2002 A Bonds and the refunding of the Series 1985 Bonds.

"Costs of Issuance Fund" means the Costs of Issuance Fund created by Section 4.01 hereof.

"Depository Bank" means the bank or banks to be designated as such in the Supplemental Resolution, and any other bank or national banking association located in the State of West Virginia, eligible under the laws of the State of West Virginia to receive deposits of state and municipal funds and insured by the FDIC that may hereafter be appointed by the Issuer as Depository Bank.

"DTC" means the Depository Trust Company, New York, New York, or its successor thereof.

"DTC-eligible" means, with respect to the Series 2002 A Bonds, meeting the qualifications prescribed by DTC.

"Event of Default" means any occurrence or event specified in Section 7.01.

"FDIC" means the Federal Deposit Insurance Corporation or 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" or "Board" means the public service board of the Issuer, as it may now or hereafter be constituted.

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

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

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

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

"Municipal Bond Insurance Policy" means the municipal bond insurance policy, if any, issued by a Bond Insurer simultaneously with the delivery of the Series 2002 A Bonds, insuring the payment of the principal of and interest on all or any of the Series 2002 A Bonds in accordance with the terms thereof.

"Net Proceeds" means the face amount of the Series 2002 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Series 2002 A Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2002 A Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

"Nonpurpose Investment" means any investment property which is acquired with the gross proceeds of the Series 2002 A Bonds and is not acquired in order to carry out the governmental purpose of the Series 2002 A Bonds.

"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 fiscal agents, the Depository Bank, the Registrar and the Paying Agent (all as herein defined), other than those capitalized as part of the costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Original Purchaser" means Crews & Associates, Little Rock, Arkansas, as the purchasers of the Series 2002 A Bonds directly from the Issuer, or, if the Issuer and such Original Purchaser do not agree to the purchase of the Series 2002 A Bonds with interest rates and other terms allowable under the Act, such other person or persons, firm or firms, bank or banks, corporation or corporations or such other entity or entities as shall purchase the Series 2002 A Bonds directly from the Issuer, as determined by a resolution supplemental hereto; provided, that the Original Purchaser and the Issuer shall agree to the purchase of the Series 2002 A Bonds, as hereinafter defined, including the exact principal amount thereof and interest rate or rates thereon as fixed by said supplemental resolution to be adopted by the Issuer at the time of approval of such sale of said Series 2002 A Bonds.

"Outstanding," when used with reference to the Series 2002 A Bonds and as of any particular date, describes all Bonds theretofore and thereupon being issued and delivered except (a) any Bond canceled by the registrar for such Bond at or prior to said date; (b) any Bond for the payment of which monies, equal to its principal amount, with interest to the date of maturity, shall be held in trust under this Resolution and set aside for such payment

(whether upon or prior to maturity); (c) any Bond deemed to have been paid as provided by Section 9.01; and (d) with respect to determining the number or percentage of Bondholders or Bonds for the purpose of consents, notices and the like, any Bond registered to the Issuer. Notwithstanding the foregoing, in the event that a Bond Insurer has paid principal of and/or interest on any Bond, such Bond shall be deemed to be Outstanding until such time as a Bond Insurer has been reimbursed in full.

"Paying Agent" means the Registrar or other entity designated as such for the Series 2002 A Bonds in the Supplemental Resolution, and any successor thereto appointed in accordance with Section 8.12 hereof.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state or local governmental unit and use as a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to "incidental use," if any, of the proceeds of the issue and/or proceeds used for "qualified improvements," if any.

"Prior Resolutions" means the resolution of the Issuer duly adopted January 11, 1984, authorizing the Series 1985 Bonds.

"Purchase Price," for the purpose of computation of the Yield of the Series 2002 A Bonds, has the same meaning as the term "issue price" in Sections 1273(b) and 1274 of the Code, and, in general, means the initial offering price of the Series 2002 A Bonds to the public (not including bond houses and brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers), at which price a substantial amount of the Series 2002 A Bonds of each maturity is sold or, if the Series 2002 A Bonds are privately placed, the price paid by the first buyer of the Series 2002 A Bonds or the acquisition cost of the first buyer. "Purchase Price," for purposes of computing Yield of Nonpurpose Investments, means the fair market value of the Nonpurpose Investments on the date of use of Gross Proceeds of the Series 2002 A Bonds for acquisition thereof, or if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Series 2002 A Bonds.

"Qualified Investments" means and includes any of the following, unless otherwise set forth in the Supplemental Resolution:

- (a) Government Obligations;

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

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

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

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

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

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be

replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia Investment Management Board pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

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

"Record Date" means the day of the month which shall be so stated in the Series 2002 A Bonds, regardless of whether such day is a Saturday, Sunday or legal holiday.

"Redemption Date" means the date fixed for redemption of any Bonds of the Issuer called for redemption.

"Redemption Price" means the price at which any Bonds of the Issuer may be called for redemption and includes the principal of and interest on such Bonds to be redeemed, plus the interest and premium, if any, required to be paid to effect such redemption.

"Registrar" means the bank to be designated in the Supplemental Resolution as the Registrar for the Series 2002 A Bonds, and any successor thereto appointed in accordance with Section 8.08 hereof.

"Regulations" means temporary and permanent regulations promulgated under the Code, and includes applicable regulations promulgated under the Internal Revenue Code of 1954.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund created by the Prior Resolutions and continued hereby.

"Resolution" means this Resolution and all orders and resolutions supplemental hereto or amendatory hereof.

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

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

"Series 1985 Bonds" means the Issuer's Sewer Revenue Bond, Series 1985, dated March 26, 1985, issued in the original aggregate principal amount of \$778,000.

"Series 2002 A Bonds" means the Sewer Refunding Revenue Bonds, Series 2002 A, of the Issuer, originally authorized to be issued pursuant to this Resolution.

"Series 2002 A Bonds Redemption Account" means the Series 2002 A Bonds Redemption Account created by Section 4.02 hereof.

"Series 2002 A Bonds Reserve Account" means the Series 2002 A Bonds Reserve Account created by Section 4.02 hereof.

"Series 2002 A Bonds Reserve Requirement" means, as of any date of calculation, the lesser of (i) 10% of the original stated principal amount of the Series 2002 A Bonds; (ii) the maximum amount of principal and interest which will become due on the Series 2002 A Bonds in any year; or (iii) 125% of the average amount of principal and interest which will become due on the Series 2002 A Bonds.

"Series 2002 A Bonds Sinking Fund" means the Series 2002 A Bonds Sinking Fund created by Section 4.02 hereof.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution amendatory hereof or supplemental hereto and, when preceded by the article "the," refers specifically to the Supplemental Resolution to be adopted by the Issuer following adoption of this Resolution, setting forth the final amounts, maturities, interest rates and other terms of the Series 2002 A Bonds and authorizing the sale of the Series 2002 A Bonds to the Original Purchaser and setting forth provisions specific to the Bond Insurer, if any; provided, that any provision intended to be included in the Supplemental Resolution and not so included may be contained in any other Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by this Resolution to be set aside and held for the payment of or security for the Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund and any reserve accounts.

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

"Term Bonds" means Bonds subject to mandatory sinking fund redemption, as described by Section 3.06 hereof.

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations and vice versa; and words importing the masculine gender shall include the feminine and neuter genders and vice versa; and any requirement for execution or attestation of the Bond or any certificate or other document by the Chairman or the Secretary shall mean that such Bond, certificate or other document may be executed or attested by an Acting Chairman or Acting Secretary.

Additional terms and phrases are defined in this Resolution as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with generally accepted accounting principles.

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Resolution; and the term "hereafter" means after the date of adoption of this Resolution.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Resolution so numbered.

Section 1.02.      Authority for this Resolution. This Resolution is adopted pursuant to the provisions of the Act and other applicable provisions of law.

Section 1.03.      Findings. The Governing Body hereby finds and determines as follows:

A.     The Issuer is a public service district and public corporation and political subdivision of the State of West Virginia, in Fayette County of said State.

B.     The Issuer now owns and operates the System, the acquisition and construction of which has been financed in part by the proceeds of the Series 1985 Bonds.

C.     The Issuer derives revenues from the System which are pledged for payment of the Series 1985 Bonds. Except for such pledge thereof, said revenues are not pledged or encumbered in any manner.

D. The Issuer intends to refund the Series 1985 Bonds in their entirety with proceeds of the Series 2002 A Bonds and other funds of the Issuer, to issue the Series 2002 A Bonds and to pledge the Net Revenues of the System for payment thereof. Upon issuance and delivery of the Series 2002 A Bonds and the defeasance of the Series 1985 Bonds, the Series 2002 A Bonds shall have a first lien on the System and the Revenues therefrom.

E. [RESERVED].

F. The estimated revenues to be derived in each year from the operation of the System after the refunding and defeasance of the Series 1985 Bonds will be sufficient to pay all Operating Expenses of the System and to make all other payments provided for in this Resolution.

G. Based upon the assumed principal amount, maturity schedule and interest rates for the Series 2002 A Bonds presented to the Issuer by the Original Purchaser, and after making allowance for the use of cash on hand of the Issuer, the Series 2002 A Bonds show a net present value debt service savings to the Issuer after deducting all expenses of the refunding and the costs of issuing the Series 2002 A Bonds.

H. The Issuer shall not sell the Series 2002 A Bonds without setting forth in the Supplemental Resolution the determination set forth in paragraph G above, based upon the actual principal amount, maturity schedule and interest rates for the Series 2002 A Bonds, and the Issuer shall not issue the Series 2002 A Bonds without having obtained from an Independent Certified Public Accountant a certification that the amount of savings stated to be achieved by the refunding shall in fact be saved, based upon their review, comparison and analysis of the net interest cost in dollars of the Series 2002 A Bonds and the net interest cost in dollars of the Series 1985 Bonds.

I. Subject to the determination and certification required by paragraph H above, it is in the best interests of the Issuer, and the residents thereof, that the Issuer issue the Series 2002 A Bonds and secure the Series 2002 A Bonds by a pledge and assignment of the Net Revenues derived from the operation of the System, the monies in the Series 2002 A Bonds Sinking Fund and the Series 2002 A Bonds Reserve Account, unexpended proceeds of the Series 2002 A Bonds and as further set forth herein.

J. The Series 2002 A Bonds and the Certificate of Authentication and Registration to be endorsed thereon are to be in substantially the forms set forth in EXHIBIT A - BOND FORM attached hereto and incorporated herein by reference, with necessary and appropriate variations, omissions and insertions as permitted or required by this Resolution or a Supplemental Resolution or as deemed necessary by the Registrar or the Issuer.

K. All things necessary to make the Series 2002 A Bonds, when authenticated by the Registrar and issued as in this Resolution provided, the valid, binding and legal special obligations of the Issuer according to the import thereof, and to validly pledge and assign those funds pledged hereby to the payment of the principal of and interest on the Series 2002 A Bonds, will be timely done and duly performed.

L. The adoption of this Resolution, and the execution and issuance of the Series 2002 A Bonds, subject to the terms thereof, will not result in any breach of, or constitute a default under, any instrument to which the Issuer is a party or by which it may be bound or affected.

Section 1.04. Resolution Constitutes Contract. In consideration of the acceptance of the Series 2002 A Bonds by those who shall own or hold the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of such Bondholders of any and all of such Series 2002 A Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bond, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

## ARTICLE II

### AUTHORIZATION OF REFUNDING

Section 2.01. Authorization of Refunding. All Series 1985 Bonds Outstanding as of the date of issuance of the Series 2002 A Bonds are hereby ordered to be refunded, and the pledge of Net Revenues in favor of the Holders of the Series 1985 Bonds imposed by the Prior Resolutions, the monies in the funds and accounts created by the Prior Resolutions pledged to payment of the Series 1985 Bonds, and any other funds pledged by the Prior Resolutions to payment of the Series 1985 Bonds are hereby ordered terminated, discharged and released upon the payment to the Holder of the Series 1985 Bonds from the proceeds of the Series 2002 A Bonds and from other monies available therefor, of the following: (a) an amount equal to the fiscal and paying agent charges to become due and payable in connection with the Series 1985 Bonds; and (b) an amount which will provide for the immediate payment of the principal of and interest on the Series 1985 Bonds, plus the premium, if any, as of the date of Closing. Contemporaneously with the payment to the Holder of the Series 1985 Bonds of the above-referenced amounts, the amount on deposit in the reserve account created and maintained on behalf of the Series 1985 Bonds shall be released from the lien created by the Prior Resolutions and paid to the Holder of the Series 1985 Bonds to reduce the outstanding principal of the Series 1985 Bonds to be paid from the proceeds of the Series 2002 A Bonds.

## ARTICLE III

### THE BONDS

Section 3.01.      Form and Payment of Bonds. No Bond shall be issued pursuant to this Resolution except as provided in this Article III. Any Bonds issued pursuant to this Resolution after the issuance of the Series 2002 A Bonds, as hereinafter provided, may be issued only as fully registered Bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof for any year of maturity. All Series 2002 A Bonds shall be dated as of the date provided in a Supplemental Resolution applicable to such series. Series 2002 A Bonds shall bear interest from the interest payment date next preceding the date of authentication or, if authenticated after the Record Date but prior to the applicable interest payment date or on such interest payment date, from such interest payment date or, if no interest on such Bonds has been paid, from the date thereof; provided however, that, if, as shown by the records of the Registrar, interest on such Bonds shall be in default, Bonds issued in exchange for Bonds surrendered for transfer or exchange shall bear interest from the date to which interest has been paid in full on the initial Bonds surrendered.

The principal of and the premium, if any, on the Series 2002 A Bonds shall be payable in any coin or currency which, on the respective date of such payment, is legal tender for the payment of public and private debts under the laws of the United States of America upon surrender at the principal office of the Paying Agent. Interest on the Series 2002 A Bonds shall be paid by check or draft made payable and mailed to the Holder thereof at his address as it appears in the Bond Register at the close of business on the Record Date, or, if requested, in the case of a Registered Owner of \$500,000 or more of the Series 2002 A Bonds, by wire transfer to a domestic bank account specified in writing at least 5 days prior to such interest payment date by such Registered Owner.

In the event any Series 2002 A Bond is redeemed in part, such bond shall be surrendered to and canceled by the Registrar, and the Issuer shall execute, and the Registrar shall authenticate and deliver to the Holder thereof, another Bond in the principal amount of said Bond then Outstanding.

Section 3.02.      Execution of Bonds. The Series 2002 A Bonds shall be executed in the name of the Issuer by the Chairman, by his or her manual or facsimile signature, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Secretary by his or her manual or facsimile signature; provided, that, all such signatures and the seal may be by facsimile. In case any one or more of the officers who shall have signed or sealed any of the Series 2002 A Bonds shall cease to be such officer of the Issuer before the Series 2002 A Bonds so signed and sealed have been actually sold and delivered, such Series 2002 A Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Series 2002 A Bonds

had not ceased to hold such office. Any Series 2002 A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Series 2002 A Bonds shall hold the proper office in the Issuer, although at the date of such Series 2002 A Bonds such person may not have held such office or may not have been so authorized.

Section 3.03. Authentication and Registration. No Series 2002 A Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication and Registration on such Series 2002 A Bond, substantially in the form set forth in EXHIBIT A - BOND FORM attached hereto and incorporated herein by reference with respect to the Series 2002 A Bonds, shall have been duly manually executed by the Registrar. Any such manually executed Certificate of Authentication and Registration upon any such Series 2002 A Bond shall be conclusive evidence that such Series 2002 A Bond has been authenticated, registered and delivered under this Resolution. The Certificate of Authentication and Registration on any Series 2002 A Bond shall be deemed to have been executed by the Registrar if signed by an authorized officer of the 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 3.04. Negotiability and Registration. Subject to the requirements for transfer set forth below, the Series 2002 A Bonds shall be, and have all of the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State, and each successive Holder, in accepting any of said Series 2002 A Bonds, shall be conclusively deemed to have agreed that such Series 2002 A Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Holder shall further be conclusively deemed to have agreed that said Series 2002 A Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Series 2002 A Bonds remain Outstanding, the Registrar shall keep and maintain books for the registration and transfer of the Series 2002 A Bonds. Series 2002 A Bonds shall be transferable only by transfer of registration upon the Bond Register by the registered owner thereof in person or by his attorney or legal representative duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or such duly authorized attorney or legal representative. Upon transfer of a Series 2002 A Bond, there shall be issued at the option of the Holder or the transferee another Bond or Bonds of the aggregate principal amount equal to the unpaid amount of the transferred Bond and of the same series, interest rate and maturity of said transferred Bond.

Upon surrender thereof at the office of the Registrar with a written instrument of transfer satisfactory to the Registrar and duly executed by the registered owner or his attorney or legal representative duly authorized in writing, Series 2002 A Bonds may at the

option of the Holder thereof be exchanged for an equal aggregate principal amount of Series 2002 A Bonds of the same series, maturity and interest rate, in any authorized denominations.

In all cases in which the privilege of transferring or exchanging a Series 2002 A Bond is exercised, Bonds shall be delivered in accordance with the provisions of this Resolution. All Series 2002 A Bonds surrendered in any such transfer or exchange shall forthwith be canceled by the Registrar. Transfers of Series 2002 A Bonds, the initial exchange of Bonds and exchanges of Bonds in the event of partial redemption of fully registered Bonds shall be made by the Registrar without charge to the Holder or the transferee thereof, except as provided below. For other exchanges of Series 2002 A Bonds, the Registrar may impose a service charge. For every such transfer or exchange of bonds, the Registrar may make a charge sufficient to reimburse its office for any tax or other governmental charge required to be paid with respect to such transfer or exchange, and such tax or governmental charge, and such service charge for exchange other than the initial exchange or in the event of partial redemption, shall be paid by the person requesting such transfer or exchange as a condition precedent to the exercise of the privilege of making such transfer or exchange. The Registrar shall not be obliged to make any such transfer or exchange of Series 2002 A Bonds that have been called for redemption.

Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2002 A Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may execute, in its discretion, and the Registrar shall authenticate, register and deliver any new Bond of like series, maturity and principal amount as the Bond, so mutilated, destroyed, stolen or lost, in exchange and 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 the Issuer and the Registrar proof of his ownership thereof and that said Bond has been destroyed, stolen or lost and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer or the Registrar may prescribe and paying such expenses as the Issuer or the Registrar may incur. The name of the Bondholder listed in the Bond Register shall constitute proof of ownership. All Series 2002 A Bonds so surrendered shall be submitted to and canceled by the Registrar, and evidence of such cancellation shall be given to the Issuer. If such Series 2002 A Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer, by and through the Registrar, may pay the same, upon being indemnified as aforesaid, and, if such Bond be lost, stolen or destroyed, without surrender therefor.

Any such duplicate Series 2002 A Bonds issued pursuant to this section shall constitute original, additional contractual obligations on the part of the Issuer, whether or not the lost, stolen or destroyed Bonds be at any time found by any one, and such duplicate Bonds shall be entitled to equal and proportionate benefits and rights as to lien and source of and security for payment from the Revenues pledged herein with all other Bonds issued hereunder.

Section 3.06. Term Bonds. In the event Term Bonds are issued pursuant to this Resolution, the following provisions shall apply:

A. The amounts to be deposited, apportioned and set apart by the Issuer from the Revenue Fund and into the Series 2002 A Bonds Redemption Account in accordance with Subsection 4.03A(2) shall include (after credit as provided below) on the first of each month, beginning on the first day of that month which is 12 months prior to the first mandatory Redemption Date of said Term Bonds, a sum equal to 1/12th of the amount required to redeem the principal amount of such Term Bonds which are to be redeemed as of the next ensuing mandatory Redemption Date, which amounts and dates, if any, with respect to a series of Series 2002 A Bonds shall be set forth in the Supplemental Resolution relating thereto.

B. At its option, to be exercised on or before the 60th day next preceding any such mandatory Redemption Date, the Issuer may (a) deliver to the Registrar for cancellation such Term Bonds in any aggregate principal amount desired or (b) receive a credit in respect of its mandatory redemption obligation for any such Term Bonds which prior to said date have been redeemed (otherwise than pursuant to this section) and canceled by the Registrar and not theretofore applied as a credit against any such mandatory redemption obligation. Each Term Bond so delivered or previously redeemed shall be credited by the Registrar at 100% of the principal amount thereof against the obligation of the Issuer on such mandatory Redemption Date, and Term Bonds delivered in excess of such mandatory redemption obligation shall be credited against future mandatory redemption obligations in the order directed by the Issuer, and the principal amount of such Term Bonds to be redeemed pursuant to mandatory sinking fund redemption shall be accordingly reduced.

C. The Issuer shall on or before the 60th day next preceding each mandatory Redemption Date furnish the Registrar and the Bond Commission with its certificate indicating whether and to what extent the provisions of (a) and (b) of the preceding paragraph are to be utilized with respect to such mandatory redemption payment and stating, in the case of the credit provided for in (b) of the preceding paragraph, that such credit has not theretofore been applied against any mandatory redemption obligation.

D. After said 60th day but prior to the date on which the Registrar selects the Term Bonds to be redeemed, the Bond Commission may use the monies in the Series 2002 A Bonds Redemption Account to purchase Term Bonds at a price less than the par value thereof and accrued interest thereon. The Bond Commission shall advise the Issuer and the Registrar of any Term Bonds so purchased, and they shall be credited by the Registrar at 100% of the principal amount thereof against the obligation of the Issuer on such mandatory Redemption Date, and any excess shall be credited against future mandatory redemption obligations in the order directed by the Issuer, and the principal amount of such Term Bonds to be redeemed pursuant to mandatory sinking fund redemption shall be accordingly reduced.

E. The Registrar shall call for redemption, in the manner provided herein, an aggregate principal amount of such Term Bonds, at the principal amount thereof plus interest accrued to the Redemption Date (interest to be paid from the Series 2002 A Bonds Sinking Fund), as will exhaust as nearly as practicable such Series 2002 A Bonds Redemption Account payment designated to be made in accordance with paragraph (A) of this section. Such redemption shall be by random selection made on the 45th day preceding the mandatory Redemption Date, in such manner as may be determined by the Registrar. For purposes of this section, "Term Bonds" shall include any portion of a fully registered Term Bond, in integrals of \$5,000.

Section 3.07. Notice of Redemption. Unless waived by any Holder of the Series 2002 A Bonds to be redeemed, official notice of any redemption shall be given by the Registrar on behalf of the Issuer by mailing a copy of an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the Bond Insurer, the Original Purchaser and the registered owner of the Series 2002 A Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such registered owner to the Bond Registrar.

So long as DTC (as CEDE & CO.) is the registered Owner of the Series 2002 A Bonds, the Registrar shall send all notices of redemption to DTC and shall verify that DTC has received notice. Copies of all redemption notices relating to optional redemption of the Series 2002 A Bonds shall also be sent to registered securities depositories.

All official notices of redemption shall be dated and shall state:

- (1) The Redemption Date;
- (2) The Redemption Price;
- (3) If less than all outstanding Series 2002 A Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Series 2002 A Bonds to be redeemed;
- (4) That on the Redemption Date the Redemption Price and interest accrued will become due and payable upon each such Series 2002 A Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date;
- (5) The place where such Series 2002 A Bonds are to be surrendered for payment of the Redemption Price, which place of payment shall be the principal office of the Registrar; and

(6) Such other information, if any, as shall be required for DTC-eligible Bonds.

If funds sufficient to redeem all Series 2002 A Bonds called for optional redemption have not been deposited with the Paying Agent at the time of mailing any notice of optional redemption, such notice shall also state that such optional redemption is subject to the deposit of such monies with the Paying Agent on or before the Redemption Date. If such monies are not so deposited, the Registrar shall notify all holders of Series 2002 A Bonds called for redemption of such fact.

Official notice of redemption having been given as aforesaid, the Series 2002 A Bonds or portions of the Series 2002 A Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Issuer shall default in the payment of the Redemption Price) such Series 2002 A Bonds or portions of Series 2002 A Bonds shall cease to bear interest. Upon surrender of such Series 2002 A Bonds for redemption in accordance with said notice, such Series 2002 A Bonds shall be paid by the Registrar at the Redemption Price. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Series 2002 A Bond, there shall be prepared for the registered owner a new Bond or Bonds of the same maturity in the amount of the unredeemed principal of such Bond. All Series 2002 A Bonds which have been redeemed shall be canceled and destroyed by the Bond Registrar and shall not be reissued.

Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of proceedings for the redemption of Series 2002 A Bonds, and failure to mail or otherwise send such notice shall not affect the validity of proceedings for the redemption of any portion of Series 2002 A Bonds for which there was no such failure.

Section 3.08. Persons Treated as Owners. The Issuer, the Registrar and any agent of the Issuer or the Registrar may treat the person in whose name any Series 2002 A Bond is registered as the owner of such Series 2002 A Bond for the purpose of receiving payment of the principal of, and interest on, such Series 2002 A Bond and for all other purposes, whether or not such Series 2002 A Bond is overdue.

Section 3.09. Temporary Bonds. Until Series 2002 A Bonds of any series in definitive form are ready for delivery, the Issuer may execute and the Registrar shall authenticate, register, if applicable, and deliver, subject to the same provisions, limitations and conditions set forth in this Article III, one or more printed, lithographed or typewritten Series 2002 A Bonds in temporary form, substantially in the form of the definitive Series 2002 A Bonds of such series, with appropriate omissions, variations and insertions, and in authorized denominations. Until exchanged for Series 2002 A Bonds in definitive form, such Bonds in temporary form shall be entitled to the lien and benefit created under this

Resolution. Upon the presentation and surrender of any Series 2002 A Bond or Bonds in temporary form, the Issuer shall, without unreasonable delay, prepare, execute and deliver to the Registrar, and the Registrar shall authenticate, register, if applicable, and deliver, in exchange therefor, a Bond or Bonds in definitive form. Such exchange shall be made by the Registrar without making any charge therefor to the Holder of such Series 2002 A Bond in temporary form.

Section 3.10. Authorization of Series 2002 A Bonds. For the purposes of paying a portion of the costs of refunding all of the Series 1985 Bonds of the Issuer, funding the Series 2002 A Bonds Reserve Account, paying costs in connection therewith and paying certain costs of acquisition and construction of certain improvements and additions to the System, there shall be issued the Series 2002 A Bonds of the Issuer, in an aggregate principal amount of not more than \$900,000. The Series 2002 A Bonds shall be designated "Sewer Refunding Revenue Bonds, Series 2002 A" and shall be issued in fully registered form, in the denomination of \$5,000 or any integral multiple thereof for any year of maturity, not exceeding the aggregate principal amount of Series 2002 A Bonds maturing in the year of maturity for which the denomination is to be specified. The Series 2002 A Bonds shall be numbered from AR-1 consecutively upward. The Series 2002 A Bonds shall be dated; shall be in such aggregate principal amount; shall bear interest at such rate or rates, not exceeding the then legally permissible rate, payable semiannually on such dates; shall mature on such dates and in such amounts; shall be subject to such mandatory and optional redemption provisions; and shall have such other terms, all as the Issuer shall prescribe herein and in the Supplemental Resolution.

Section 3.11. Book Entry System for Bonds. A. The Series 2002 A Bonds shall initially be issued in the form of one fully-registered bond for the aggregate principal amount of the Series 2002 A Bonds of each maturity, registered in the name of CEDE & CO., as nominee of DTC. Except as provided in paragraph E below, all of the Series 2002 A Bonds shall be registered in the registration books kept by the Registrar in the name of CEDE & CO., as nominee of DTC; provided that if DTC shall request that the Series 2002 A Bonds be registered in the name of a different nominee, the Registrar shall exchange all or any portion of the Series 2002 A Bonds registered in the name of such nominee or nominees. No person other than DTC or its nominee shall be entitled to receive from the Issuer or the Registrar either a Series 2002 A Bond or any other evidence of ownership of the Series 2002 A Bonds, or any right to receive any payment in respect thereof unless DTC or its nominee shall transfer record ownership of all or any portion of the Series 2002 A Bonds on the registration books maintained by the Registrar, in connection with discontinuing the book entry system as provided in paragraph E below.

B. At or prior to settlement for the Series 2002 A Bonds, the Issuer and the Registrar shall execute or signify their approval of a representation letter addressed to DTC in a form satisfactory to DTC (the "Representation Letter"). Any successor Registrar shall,

in its written acceptance of its duties under this Resolution, agree to take any actions necessary from time to time to comply with the requirements of the Representation Letter.

C. So long as the Series 2002 A Bonds or any portion thereof are registered in the name of DTC or any nominee thereof, all payments of the principal or Redemption Price of or interest on such Series 2002 A Bonds shall be made to DTC or its nominee at the addresses set forth in the Representation Letter in New York Clearing House or equivalent next day funds on the dates provided for such payments to be made to any Bondholder under this Resolution. Each such payment to DTC or its nominee shall be valid and effective to fully discharge all liability of the Issuer and the Registrar with respect to the principal or Redemption Price of or interest on the Series 2002 A Bonds to the extent of the sum or sums so paid. In the event of the redemption of less than all of the Series 2002 A Bonds Outstanding of any maturity, the Registrar shall not require surrender by DTC of the Series 2002 A Bonds so redeemed, but DTC may return such Series 2002 A Bonds and make an appropriate notation on the Series 2002 A Bond certificate as to the amount of such partial redemption; provided that DTC shall deliver to the Registrar, upon request, a written confirmation of such partial redemption. The records maintained by the Registrar shall be conclusive as to the amount of the Series 2002 A Bonds of such maturity which have been redeemed.

D. The Issuer, the Paying Agent and the Registrar may treat DTC as the sole and exclusive owner of the Series 2002 A Bonds registered in its name or the name of its nominee for the purposes of payment of the principal or Redemption Price of or interest on the Series 2002 A Bonds, selecting the Series 2002 A Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Bondholders under this Resolution, registering the transfer of Series 2002 A Bonds, obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever; and neither the Issuer nor the Registrar shall be affected by any notice to the contrary. Neither the Issuer nor the Registrar shall have any responsibility or obligation to any direct or indirect participant in DTC, any person claiming a beneficial ownership interest in the Series 2002 A Bonds under or through DTC or any such participant, or any other person which is not shown on the registration books of the Registrar as being a Bondholder with respect to (i) the Series 2002 A Bonds, (ii) the accuracy of any records maintained by DTC or any such participant, (iii) the payment by DTC or any such participant of any amount in respect of the principal or Redemption Price of or interest on the Series 2002 A Bonds, (iv) any notice which is permitted or required to be given to Bondholders under this Resolution, (v) the selection by DTC or any such participant of any person to receive payment in the event of a partial redemption of the Series 2002 A Bonds or (vi) any consent given or other action taken by DTC as Bondholder.

E. The book entry system for registration of the ownership of the Series 2002 A Bonds may be discontinued at any time if either: (i) DTC determines to resign as securities depository for the Series 2002 A Bonds; or (ii) the Issuer determines that

continuation of the system of book entry transfers through DTC (or through a successor securities depository) is not in the best interest of the beneficial owners of the Series 2002 A Bonds. In either of such events (unless in the case described in clause (ii) above, the Issuer appoints a successor securities depository), the Series 2002 A Bonds shall be delivered in registered certificate form to such persons, and in such maturities and principal amounts, as may be designated by DTC, but without any liability on the part of the Issuer or the Registrar for the accuracy of such designation. Whenever DTC requests the Issuer and the Registrar to do so, the Issuer and the Registrar shall cooperate with DTC in taking appropriate action after reasonable notice to arrange for another securities depository to maintain custody of certificates evidencing the Series 2002 A Bonds.

Section 3.12.      Delivery of Bonds. The Issuer shall execute and deliver the Series 2002 A Bonds to the Registrar, and the Registrar shall authenticate, register and deliver the Series 2002 A Bonds to the Original Purchaser upon receipt of the documents set forth below:

- (A) A list of the names in which the Series 2002 A Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Registrar may reasonably require;
- (B) A request and authorization to the Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2002 A Bonds to the Original Purchaser;
- (C) Copies of this Resolution and the Supplemental Resolution certified by the Secretary;
- (D) The unqualified approving opinion upon the Series 2002 A Bonds by Bond Counsel; and
- (E) A copy of such other documents, certifications and verifications as the Original Purchaser may reasonably require.

Section 3.13.      Form of Bonds. The definitive Series 2002 A Bonds shall be in substantially the form set forth in EXHIBIT A - BOND FORM attached hereto and incorporated herein by reference, with such necessary and appropriate omissions, insertions and variations as are approved by those officers executing such Series 2002 A Bonds on behalf of the Issuer and execution thereof by such officers shall constitute conclusive evidence of such approval, and the definitive Series 2002 A Bonds shall have the form of the opinion of Steptoe & Johnson PLLC, as Bond Counsel, attached thereto or printed on the reverse thereof.

Section 3.14.      Disposition of Proceeds of Bonds. Upon the issuance and delivery of the Series 2002 A Bonds, the Issuer shall forthwith deposit the proceeds thereof as follows:

A. All interest accrued on the Series 2002 A Bonds from the date thereof to the date of delivery thereof shall be deposited in the Series 2002 A Bonds Sinking Fund and applied to payment of interest on the Series 2002 A Bonds at the first interest payment date.

B. An amount of the proceeds of the Series 2002 A Bonds which, together with other monies or securities available for such purpose, specifically including, but not limited to, monies on deposit in the Series 1985 Bonds Reserve Account, shall be sufficient to accomplish the refunding and defeasance of the Series 1985 Bonds (which amount shall be set forth in the Supplemental Resolution) shall be paid to the Holder of the Series 1985 Bonds.

C. An amount of the proceeds of the Series 2002 A Bonds equal to the Series 2002 A Bonds Reserve Requirement shall be remitted to the Bond Commission for deposit in the Series 2002 A Bonds Reserve Account; provided that, to the extent the Series 2002 A Bonds Reserve Requirement is satisfied in whole or in part from proceeds of any fund or account established for the Series 1985 Bonds pursuant to the Prior Resolutions, proceeds of the Series 2002 A Bonds shall be deposited in the Series 2002 A Bonds Reserve Account only to the extent needed to satisfy the balance of the Series 2002 A Bonds Reserve Requirement.

D. The balance of any proceeds of the Series 2002 A Bonds and any monies in any fund or account established for the Series 1985 Bonds pursuant to the Prior Resolutions, not used for any of the purposes set forth above, shall be deposited with the Depository Bank in the Costs of Issuance Fund and shall be drawn out, used and applied by the Issuer solely to pay costs of issuance of the Series 2002 A Bonds and miscellaneous costs of refunding the Series 1985 Bonds at the written direction of the Issuer. All such costs of issuance shall be paid within 60 days of the Closing Date. Monies not to be applied immediately to pay such costs of issuance and refunding may be invested in accordance with this Resolution, subject however, to applicable yield restrictions as may be in effect under the Code. To the extent any proceeds of the Series 2002 A Bonds remain after paying costs of issuance of the Series 2002 A Bonds, such monies shall be used to pay, within 6 months of the date of issuance, the costs of acquisition and construction of capital improvements to the System. If for any reason such proceeds, or any part thereof, are not necessary for, or are not applied to such purpose within 6 months after the Closing Date, such unapplied proceeds shall be transferred by the Issuer to the Series 2002 A Bonds Sinking Fund. All such proceeds shall constitute a trust fund for such purposes, and there hereby is created a lien upon such monies until so applied in favor of the Holders of the Series 2002 A Bonds.

Section 3.15. Designation of Bonds as "Qualified Tax-Exempt Obligations". The Issuer hereby designates the Series 2002 A Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b)(3)(B) of the Code and covenants that the Series 2002 A Bonds do not constitute private activity bonds as defined in Section 141 of the Code, and that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Code) from gross income for federal income tax purposes (excluding, however, obligations issued to currently refund any obligation of the Issuer to the extent the amount of the refunding obligation does not exceed the amount of the refunded obligation and private activity bonds, as defined in Section 141 of the Code, other than qualified 501(c)(3) bonds as defined in Section 145 of the Code), including the Series 2002 A Bonds, have been or shall be issued by the Issuer, including all subordinate entities of the Issuer, during the calendar year 2002.

## ARTICLE IV

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

Section 4.01. Establishment of Funds and Accounts with Depository Bank. Pursuant to this Article IV, the following special funds or accounts are hereby created with (or continued if previously established), and shall be held by, the Depository Bank, segregated and apart from all other funds or accounts of the Depository Bank and the Issuer and from each other:

- (1) Revenue Fund (established by the Prior Resolutions);
- (2) Renewal and Replacement Fund (established by the Prior Resolutions);
- (3) Costs of Issuance Fund; and
- (4) Rebate Fund.

Section 4.02. Establishment of Funds and Accounts with Bond Commission. Pursuant to this Article IV, the following special funds or accounts are hereby created with (or continued if previously established), and shall be held by, the Bond Commission, separate and apart from all other funds or accounts of the Bond Commission and the Issuer and from each other:

- (1) Series 2002 A Bonds Sinking Fund;
- (2) Within the Series 2002 A Bonds Sinking Fund, the Series 2002 A Bonds Reserve Account; and
- (3) Within the Series 2002 A Bonds Sinking Fund; the Series 2002 A Bonds Redemption Account.

Section 4.03. System Revenues and Application Thereof. So long as any of the Series 2002 A Bonds shall be Outstanding and unpaid, the Issuer covenants as follows:

A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt by the Issuer in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Resolution and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided.

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

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Bond Commission, (i) commencing 6 months prior to the first interest payment date on the Series 2002 A Bonds, for deposit in the Series 2002 A Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on the Series 2002 A Bonds on the next ensuing semiannual interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2002 A Bonds Sinking Fund and the next ensuing semiannual interest payment date is less than or greater than 6 months, then such monthly payments shall be increased or decreased proportionately to provide, 1 month prior to the next ensuing semiannual interest payment date, the required amount of interest coming due on such date; and provided further that, the initial amount required to be transferred from the Revenue Fund and deposited in the Series 2002 A Bonds Sinking Fund shall be reduced by the amount of accrued interest on the Series 2002 A Bonds deposited therein and subsequent amounts required to be transferred from the Revenue Fund and deposited in the Series 2002 A Bonds Sinking Fund shall be reduced by the amount of any earnings credited to the Series 2002 A Bonds Sinking Fund; and (ii) commencing 12 months prior to the first principal payment date or mandatory Redemption Date of the Series 2002 A Bonds, for deposit in the Series 2002 A Bonds Sinking Fund, and in the Series 2002 A Bonds Redemption Account therein in the case of Term Bonds which are to be redeemed, a sum equal to 1/12th of the amount of principal which will mature or be redeemed and become due on the Series 2002 A Bonds on the next ensuing principal payment date or mandatory Redemption Date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2002 A Bonds Sinking Fund and the next ensuing annual principal payment date or mandatory Redemption Date is less than or greater than 12 months, then such monthly payments shall be increased or decreased proportionately to provide, 1 month prior to the next ensuing annual principal payment date or mandatory Redemption Date, the required amount of principal coming due on such date, and provided further, that the amount of such deposits shall be reduced by the amount of any earnings credited to the Series 2002 A Bonds Sinking Fund and not previously credited pursuant to the preceding paragraph.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Bond Commission, for deposit in the Series 2002 A Bonds Reserve Account, an amount sufficient to remedy any decrease in value of the Series 2002 A Bonds Reserve Account below the Series 2002 A Bonds Reserve Requirement or any withdrawal from the Series 2002 A Bonds Reserve Account, beginning with the first full calendar month following the date on which (a) the valuation of investments in the Series 2002 A Bonds Reserve Account results in a determination that the amount of monies and the value of the Qualified Investments deposited to the credit of the Series 2002 A Bonds Reserve Account is less than the Series 2002 A Bonds Reserve Requirement, or (b) any amount is withdrawn from the Series 2002 A Bonds Reserve Account for deposit into the Series 2002 A Bonds Sinking Fund. To the extent Net Revenues and any other legally available funds are available therefor, the amount so deposited shall be used to restore the amount of monies on deposit in the Series 2002 A Bonds Reserve Account to an amount equal to the Series 2002 A Bonds Reserve Requirement to the full extent that such Net Revenues are available; provided, that no payments shall be required to be made into the Series 2002 A Bonds Reserve Account whenever and as long as the amount deposited therein shall be equal to the Series 2002 A Bonds Reserve Requirement.

(4) The Issuer shall next, from the monies remaining in the Revenue Fund (as previously set forth in the Prior Resolutions and not in addition thereto), on the first day of each month, transfer to the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. 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 Qualified Investments. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in any Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

Monies in the Series 2002 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 2002 A Bonds as the same shall become due, whether by maturity or redemption prior to maturity. Amounts in the Series 2002 A Bonds Reserve Account shall be used only for the purpose of making payments of principal of and interest on the Series 2002 A Bonds when due, when amounts in the Series 2002 A Bonds Sinking Fund are insufficient therefor and for no other purpose.

The Issuer shall not be required to make any further payments into the Series 2002 A Bonds Sinking Fund or the Series 2002 A Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the aggregate principal amount of Series 2002 A Bonds issued pursuant to this Resolution then Outstanding, plus the amount of interest due or thereafter to become due on the Series 2002 A Bonds then Outstanding.

As and when additional Bonds ranking on a parity with the Series 2002 A Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at or before maturity and to accumulate a balance in the respective reserve account in an amount equal to the maximum amount of principal and interest which will become due in any year for account of such additional parity Bonds.

The payments into the Series 2002 A Bonds Sinking Fund shall be made on the first day of each month, except that, when the first day of any month shall be a Saturday, Sunday or legal holiday, then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Bond Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Resolution.

The Issuer shall restore any withdrawals from the Series 2002 A Bonds Reserve Account which have the effect of reducing the assets therein below the Series 2002 A Bonds Reserve Requirement from the first Net Revenues available after all required payments have been made in full in the order set forth above.

The Bond Commission is hereby designated as the fiscal agent for the administration of the Series 2002 A Bonds Sinking Fund and the Series 2002 A Bonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Bond Commission from the Revenue Fund by the Issuer at the times provided herein.

B. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period

as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

C. The Issuer shall remit from the Revenue Fund to the Bond Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Bond 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 any charges and fees then due.

D. The monies 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 Net Revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 4.03, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

F. All remittances made by the Issuer to the Bond Commission shall clearly identify the fund or account into which each amount is to be deposited.

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

## ARTICLE V

### INVESTMENTS; NON-ARBITRAGE; REBATES OF EXCESS INVESTMENT EARNINGS

Section 5.01.        Investments. The Issuer shall invest and reinvest, and shall instruct the Bond Commission and the Depository Bank to invest and reinvest, any monies held as a part of the funds and accounts created by this Resolution in Qualified Investments to the fullest extent possible under applicable laws, this Resolution, the need for such monies for the purposes set forth herein and the specific restrictions and provisions set forth in this section.

Except as provided below, any investment shall be held in and at all times deemed a part of the fund or account in which such monies were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The Issuer 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 Issuer may make any and all investments permitted by this section through the bond department of the Depository Bank. The Depository Bank shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The following specific provisions shall apply with respect to any investments made under this section:

(A) Qualified Investments acquired for the Series 2002 A Bonds Reserve Account shall mature or be subject to retirement at the option of the holder within not more than 5 years from the date of such investment.

(B) The Issuer shall, or shall cause the Bond Commission to semiannually transfer from the Series 2002 A Bonds Reserve Account to the Series 2002 A Bonds Sinking Fund, any earnings on the monies deposited therein and any other funds in excess of the requirement therefor; provided, however, that there shall at all times remain on deposit in the Series 2002 A Bonds Reserve Account an amount at least equal to the Series 2002 A Bonds Reserve Requirement.

(C) In computing the amount in any fund or account, Qualified Investments shall be valued at the lower of the cost or

the market price, exclusive of accrued interest. Valuation of all funds and accounts shall occur annually, except in the event of a withdrawal from the Series 2002 A Bonds Reserve Account, whereupon it shall be valued immediately after such withdrawal. If amounts on deposit in the Series 2002 A Bonds Reserve Account shall, at any time, be less than the applicable requirement therefor, the Bond Insurer, if any, shall be notified immediately of such deficiency, such deficiency shall be made up from the first available Net Revenues in the order set forth in Section 4.03 hereof.

(D) All amounts representing accrued and capitalized interest shall be held by the Bond Commission, pledged solely to the payment of interest on the Series 2002 A Bonds and invested only in Government Obligations maturing at such times and in such amounts as are necessary to match the interest payments to which they are pledged.

(E) Notwithstanding the foregoing, all monies deposited in the Series 2002 A Bonds Sinking Fund may be invested by the Bond Commission in the West Virginia "consolidated fund" managed by the West Virginia Investment Management Board pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended.

Section 5.02. Arbitrage. The Issuer covenants that (i) it will restrict the use of the proceeds of the Series 2002 A Bonds in such manner and to such extent as may be necessary, so that the Series 2002 A Bonds will not constitute "arbitrage bonds" under Section 148 of the Code and Regulations prescribed thereunder, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Series 2002 A Bonds) so that the interest on the Series 2002 A Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 5.03. Tax Certificate and Rebate. A. The Issuer shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of the Series 2002 A Bonds. In addition, the Issuer covenants to comply with all Regulations from time to time in effect and applicable to the Series 2002 A Bonds as may be necessary in order to fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations,

regardless of whether such actions may be contrary to any of the provisions of this Resolution.

B. The Issuer shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, the Issuer shall deposit, or cause to be deposited, in the Rebate Fund such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder and used only for payment of rebatable arbitrage to the United States. The Issuer shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States in the time and at the address prescribed by the Regulations as the same may be from time to time in effect, with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor. The Issuer at its expense, may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer may deem appropriate in order to assure compliance with this Section 5.03. The Issuer shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 5.03 in accordance with the requirements of Section 148(f) of the Code and such Regulations. In the event the Issuer fails to make such rebates as required, the Issuer shall pay any and all penalties and the required amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, in order to maintain the exclusion of interest on the Series 2002 A Bonds from gross income for federal income tax purposes.

Section 5.04. Continuing Disclosure Agreement. The Issuer shall deliver a continuing disclosure agreement or certificate in form acceptable to the Original Purchaser sufficient to ensure compliance with SEC Rule 15c2-12, as it may be amended from time to time.

## ARTICLE VI

### ADDITIONAL COVENANTS OF THE ISSUER

Section 6.01. Covenants Binding and Irrevocable. All the covenants, agreements and provisions of this Resolution shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2002 A Bonds, as prescribed by Article VII. In addition to the other covenants, agreements and provisions of this Resolution, the Issuer hereby covenants and agrees with the Holders of the Series 2002 A Bonds, as hereinafter provided in this Article VI. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2002 A Bonds, or the interest thereon, are Outstanding and unpaid.

Section 6.02. Bonds not to be Indebtedness of the Issuer. The Series 2002 A Bonds shall not 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 Net Revenues of the System, the monies in the Series 2002 A Bonds Sinking Fund and the Series 2002 A Bonds Reserve Account therein, and the unexpended proceeds of the Series 2002 A Bonds, all as herein provided. No Holder or Holders of the Series 2002 A Bonds issued hereunder shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2002 A Bonds or the interest thereon.

Section 6.03. Bonds Secured by Parity Pledge of Net Revenues and Monies in Sinking Fund. The payment of the debt service of all of the Series 2002 A Bonds issued hereunder shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System. The Net Revenues derived from the System, in an amount sufficient to pay the interest on and principal of the Series 2002 A Bonds herein authorized, and to make the payments into the Series 2002 A Bonds Sinking Fund, including the Series 2002 A Bonds Reserve Account therein, and all other payments provided for in this Resolution, are hereby irrevocably pledged in the manner provided in this Resolution to the payment of the interest on and principal of the Series 2002 A Bonds herein authorized as the same become due and for the other purposes provided in this Resolution.

Section 6.04. Rates. Equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such

purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Series 2002 A Bonds and all other obligations secured by a lien on or payable from such revenues prior to, on a parity with, or junior to, the Series 2002 A Bonds.

Section 6.05. Operation and Maintenance. The Issuer will operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and state requirements and standards.

Section 6.06. Sale of the System. So long as the Series 2002 A Bonds are outstanding and except as otherwise required by law, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Bonds Outstanding, or to effectively defease this Resolution in accordance with Article IX hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2002 A Bonds, immediately be remitted to the Bond Commission for deposit in the Series 2002 A Bonds Sinking Fund, and the Issuer shall direct the Bond Commission to apply such proceeds to the payment of principal of and interest on the Series 2002 A Bonds. Any balance remaining after the payment of the Series 2002 A Bonds and interest thereon shall be remitted to the Issuer by the Bond Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property 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 be remitted by the Issuer to the Bond Commission for deposit in the Sinking Funds 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. Such payment of such proceeds into the Sinking Funds or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Resolution. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of over 50% in amount of the Bonds then Outstanding and the Consulting Engineers. The 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 6.07. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 6.07 and Section 6.08, the Issuer shall not issue any obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2002 A Bonds. All obligations issued by the Issuer after the issuance of the Series 2002 A Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Series 2002 A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2002 A Bonds, and the interest thereon, if any, upon any or all of the income and revenues of the System pledged for payment of the Series 2002 A Bonds and the interest thereon, if any, in this Resolution, or upon the System or any part thereof.

Section 6.08. Additional Parity Bonds and Subordinate Debt. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2002 A Bonds pursuant to this Resolution, except under the conditions and in the manner herein provided (unless less restrictive than the provisions of the resolutions authorizing the Prior Bonds, in which case the more restrictive provisions shall apply).

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2002 A Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the acquisition or construction of extensions and improvements to the System or refunding any series of Bonds, 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 an Independent Certified Public Accountant reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest, if any, on the following:

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

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from the improvements to be financed by such Parity Bonds and any increase in rates adopted 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 issuance of such additional parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountant, as stated in a certificate signed by such Independent Certified Public Accountant, on account of increased rates, rentals, fees and charges for the System adopted 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

extensions or improvements, if any, to the System that are to be financed by such Parity Bonds.

All covenants and other provisions of this Resolution (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Resolution required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on revenues of the System is subject to the prior and superior liens of the Series 2002 A Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2002 A Bonds.

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

Any certifications requiring computations establishing that debt service coverage is sufficient to support the issuance of parity Additional Bonds or that requisite debt service savings are available to support the issuance of refunding bonds shall, in all cases, be evidenced by a certificate of an Independent Certified Public Accountant.

No additional bonds, notes, certificates, contracts or any other obligations shall be issued by the Issuer unless no Event of Default shall have occurred and be continuing with respect to the Bonds.

Section 6.09. Insurance and Bonds. The Issuer hereby covenants and agrees, that so long as the Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance and bonds and worker's compensation coverage with a reputable insurance carrier or carriers or bonding company or companies covering the following risks and 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 and destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund.

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 \$500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

C. WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT OR COMPLETION BONDS, such bonds to be in the amounts of not less than 100% of the amount of any construction contract and to be required of each contractor dealing directly with the Issuer and such payment bonds will be filed with the Clerk of the County Commission of the County in which such work is to be performed prior to commencement of construction of any additions, extensions or improvements for the System in compliance with West Virginia Code, Section 38-2-39.

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

E. BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

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

Section 6.10. 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 thereof shall avail himself 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 6.11.      Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rates, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid and 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 changes, 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 and facilities of the System and any services and facilities of the waterworks system, if so owned by the Issuer, to all delinquent users of services and facilities of the System and will not restore such services of the System (or waterworks system) until all billing for charges for the services and facilities of the System, plus reasonable interest penalty charges for the restoration of service, has been fully paid. If the waterworks system is not owned by the Issuer, the Issuer shall enter into a termination agreement with the water provider, subject to any required approval of such agreement by the Public Service Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

Section 6.12.      No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of any franchise or permit to any person, firm, corporation or body, or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 6.13.      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 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, to the extent allowable under and in accordance with the rules and regulations of the Public Service Commission of West Virginia and the Act. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books and along with other bookkeeping records as prescribed by the Issuer. The Issuer shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Issuer shall be reported to such agent of the Issuer as it shall direct.

The Issuer shall file with the Original Purchaser and any Bond Insurer, and shall mail to any Bondholder requesting the same, an annual report within 30 days following the date of receipt of the final audit containing a balance sheet, statement of revenues, expenses, and changes in retained earnings, and statement of cash flows, as prescribed by generally accepted accounting principles.

The Issuer shall also file with the Original Purchaser and any Bond Insurer, and mail to any Bondholder requesting the same, an annual report containing the following:

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

(B) A statement of account balances in all funds and accounts provided for herein and status of said funds.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by an Independent Certified Public Accountant in compliance with OMB Circular 128 or any successor thereto and the Single Audit Act, shall mail upon request, and make available generally, the report of said Independent Certified Public Accountant, or a summary thereof, to any Holder or Holders of Bonds issued pursuant to this Resolution and shall file said report with the Original Purchaser.

Section 6.14. Operating Budget. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, or at such earlier date, prepare and adopt by resolution a detailed budget of the estimated revenues and 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 a registered professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of such a registered professional engineer that such increased expenditures

are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Original Purchaser 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 Original Purchaser, the Bond Insurer, if any, and to any Bondholder or anyone acting for and in behalf of such Bondholder who requests the same.

Section 6.15. 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 and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Division of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Division of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

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

Section 6.16. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2002 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 2002 A Bonds.

Section 6.17. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Series 2002 A Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 2002 A Bonds during the term thereof is, under the terms of the Series 2002 A Bonds or any underlying arrangement, directly or indirectly, secured by any

interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) in the event that both (A) in excess of 5% of the Net Proceeds of the Series 2002 A Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 2002 A Bonds during the term thereof is, under the terms of the Series 2002 A Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 2002 A Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the System, or if the Series 2002 A Bonds are for the purpose of financing more than one project, a portion of the System, and shall not exceed the proceeds used for the governmental use of that portion of the System to which such Private Business Use is related.

B. **PRIVATE LOAN LIMITATION.** The Issuer shall assure that not in excess of the lesser of 5% of the Net Proceeds of the Series 2002 A Bonds or \$5,000,000 are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. **FEDERAL GUARANTEE PROHIBITION.** The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 2002 A Bonds to be directly or indirectly "federally guaranteed" within the meaning of Section 149(b) of the Code and Regulations promulgated thereunder.

D. **INFORMATION RETURN.** The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 2002 A Bonds and the interest thereon, including without limitation, the information return required under Section 149(e) of the Code.

E. **FURTHER ACTIONS.** The Issuer will take all actions that may be required of it so that the interest on the Series 2002 A Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 6.18      Municipal Bond Insurance Policy. The Issuer may apply for a Municipal Bond Insurance Policy for the Series 2002 A Bonds. In the event a Municipal Bond Insurance Policy is obtained, additional covenants and provisions of the Issuer may be required by the Bond Insurer as a condition to insuring the Series 2002 A Bonds. These additional covenants and provisions shall be set forth in a Supplemental Resolution, shall

apply to the Series 2002 A Bonds, and shall be controlling in the event any other provisions of this Resolution may be in conflict therewith.

Section 6.19.      Merger, Consolidation or Acquisition of Issuer. The Issuer may, without the consent of the holders of the Series 2002 A Bonds, either merge into, be consolidated with or be acquired by, another public service district or municipality at any time following the issuance of the Series 2002 A Bonds; provided, however, that such merger, consolidation or acquisition may only occur if the Issuer first obtains a written statement by an Independent Certified Public Accountant that the merged, consolidated or acquiring entity will, immediately following such merger, consolidation or acquisition, satisfy the test for the issuance of additional parity bonds set forth in Section 6.08 hereof.

## ARTICLE VII

### DEFAULTS AND REMEDIES

Section 7.01.      Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2002 A Bonds:

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

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part in this Resolution or any Supplemental Resolution or in the Series 2002 A Bonds contained, and such default shall have continued for a period of 30 days after written notice specifying such default and requiring the same to be remedied shall have been given to the Issuer by any Bondholder or any Bond Insurer; 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.

The Issuer must cure any covenant default within 30 days after notice of the default, and failure (i) to pay principal of or interest on the Bonds, or (ii) to comply with the Subordinate Debt provisions shall be an immediate event of default.

No waivers shall be granted by any party to the Bond documents without the prior written consent of the Bond Insurer, if any.

Section 7.02.      Enforcement. Upon the happening and continuance of any Event of Default, any Bondholder or any Bond Insurer may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his rights and, in particular:

(A) Bring suit for any unpaid principal or interest then due;

(B) By mandamus or other appropriate proceeding enforce all rights of the Bondholders, including the right to require the Issuer to perform its duties under the Act and this Resolution;

(C) Bring suit upon the Bonds;

(D) 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 Bondholders; and

(E) By action or bill in equity enjoin any acts in violation of this Resolution or the rights of the Bondholders.

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

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

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

Section 7.03. Appointment of Receiver. If there be any Event of Default existing and continuing, any Bondholder or any Bond Insurer shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the principal of and interest on the Bonds, the deposits into the funds and accounts hereby established as herein provided and the payment of Operating Expenses of the System and to apply such rates, rentals, fees, charges or other Revenues in conformity with the provisions of this Resolution and the Act.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of all facilities of the System and shall hold, operate, 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 Series 2002 A Bonds issued pursuant to this Resolution and interest thereon and under any covenants of this Resolution for reserve, sinking or other funds and accounts and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the Revenues of the System shall have been paid and made good, and all defaults under the provisions of this Resolution shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Bondholder shall

have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby and a successor receiver 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 the Holders of the Series 2002 A Bonds issued pursuant to this Resolution. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System, for the sole purpose of the protection of both the Issuer and the Bondholders, and the curing and making good of any default under the provisions of this Resolution, and the title to and ownership of said System shall remain in the Issuer; and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage or otherwise dispose of any assets of the System.

Notwithstanding any other provision of this Resolution, in determining whether the rights of Bondholders will be adversely affected by any action taken pursuant to the terms and provisions of this Resolution, any trustee or Bondholder's committee shall consider the effect on the Bondholders as if no Municipal Bond Insurance Policy were then in effect.

Section 7.04. Restoration of Issuer and Bondholder. In case any Bondholder shall have proceeded to enforce any right under this Resolution by the appointment of a receiver, by entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer and such Bondholder shall be restored to their former positions and rights hereunder, and all rights and remedies of such Bondholder shall continue as if no such proceedings had been taken.

## ARTICLE VIII

### REGISTRAR AND PAYING AGENT

Section 8.01.      Appointment of Registrar. The Registrar for the Series 2002 A Bonds shall be appointed pursuant to the Supplemental Resolution. The Issuer is hereby authorized and directed to enter into an agreement with the Registrar, the substantial form of which agreement is to be approved by Supplemental Resolution.

Section 8.02.      Responsibilities of Registrar. The recitals of fact in the Series 2002 A Bonds shall be taken as statements of the Issuer, and the Registrar shall not be responsible for their accuracy. The Registrar shall not be deemed to make any representation as to, and shall not incur any liability on account of, the validity of the execution of any Series 2002 A Bonds by the Issuer. Notwithstanding the foregoing, the Registrar shall be responsible for any representation in its Certificate of Authentication on the Series 2002 A Bonds. The Registrar and any successor thereto shall agree to perform all the duties and responsibilities spelled out in this Resolution and any other duties and responsibilities incident thereto, all as provided by said agreement described in Section 8.01.

Section 8.03.      Evidence on Which Registrar May Act. Except as otherwise provided by Section 10.02, the Registrar shall be protected in acting upon any notice, resolution, request, consent, order, certificate, opinion or other document believed by it to be genuine and to have been signed or presented by the proper party or parties. Whenever the Registrar shall deem it necessary or desirable that a fact or matter be proved or established prior to taking or suffering any action, such fact or matter, unless other evidence is specifically prescribed, may be deemed to be conclusively proved and established by a certificate of an Authorized Officer of the Issuer, but in its discretion the Registrar may instead accept other evidence of such fact or matter.

Section 8.04.      Compensation and Expenses. The Issuer shall pay to the Registrar from time to time reasonable compensation for all services, including the transfer of registration of Bonds, the first exchange of Bonds and the exchange of Bonds in the event of partial redemption, incurred in the performance of its duties hereunder.

Section 8.05.      Certain Permitted Acts. The Registrar may become the owner of or may deal in Series 2002 A Bonds as fully and with the same rights it would have if it were not Registrar. To the extent permitted by law, the Registrar may act as depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders or effect or aid in any reorganization growing out of the enforcement of the Series 2002 A Bonds or this Resolution, whether or not any such committee shall represent the Holders of a majority in principal amount of the Series 2002 A Bonds Outstanding.

Section 8.06.      Resignation of Registrar. The Registrar may at any time resign and be discharged of its duties and obligations under this Resolution by giving not less than 60 days' written notice to the Issuer and publishing in an Authorized Newspaper notice (or mailing such notice to each Bondholder in the event all Series 2002 A Bonds are fully registered), specifying the date when such resignation shall take effect, within 20 days after the giving of such written notice. A copy of such notice shall also be mailed to each owner of a fully registered Series 2002 A Bond or a coupon Bond registered as to principal (other than to bearer). Such resignation shall take effect upon the day specified in such notice unless a successor shall have been previously appointed by the Issuer or bondholders, in which event such resignation shall take effect immediately.

Section 8.07.      Removal. The Registrar may be removed at any time by the Issuer or by the Holders of a majority in principal amount of the Series 2002 A Bonds then Outstanding by an instrument or concurrent instruments in writing signed and duly acknowledged by the Issuer or by such Bondholders or their attorneys duly authorized in writing and delivered to the Issuer, as the case may be. Copies of each such instrument shall be delivered by the Issuer to the Registrar.

Section 8.08.      Appointment of Successor. In case at any time the Registrar shall resign or shall be removed or shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or if a receiver, liquidator or conservator of the Registrar or of its property shall be appointed, or if any public officer or court shall take charge or control of the Registrar or of its property or affairs, a successor may be appointed by the Holders of a majority in principal amount of the Series 2002 A Bonds then Outstanding by an instrument or concurrent instruments in writing signed by such Bondholders or their attorneys duly authorized in writing and delivered to the Issuer and such successor Registrar, notification thereof being given to the predecessor Registrar. Pending such appointment, the Issuer shall forthwith appoint a Registrar to fill such vacancy until a successor Registrar shall be appointed by such Bondholders. The Issuer shall publish in an Authorized Newspaper (or mail to each Bondholder in the event all Series 2002 A Bonds are fully registered) notice of any such appointment within 20 days after the effective date of such appointment. A copy of such notice shall also be mailed to each owner of a fully registered Bond or a coupon Bond registered as to principal (other than to bearer). Any successor Registrar appointed by the Issuer shall, immediately and without further act, be superseded by a Registrar appointed by such Bondholders. If in a proper case no appointment of a successor Registrar shall be made within 45 days after the Registrar shall have given to the Issuer written notice of resignation or after the occurrence of any other event requiring such appointment, the Registrar or any Bondholder may apply to any court of competent jurisdiction to appoint a successor. Any Registrar appointed under the provisions of this section shall be a bank, trust company or national banking association authorized to perform the duties imposed upon it by this Resolution.

Section 8.09.      Transfer of Rights and Property to Successor. Any predecessor Registrar or Paying Agent shall pay over, assign and deliver any monies, books and records held by it to its successor.

Section 8.10.      Merger or Consolidation. Any company into which the Registrar may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party, or any company to which the Registrar or any public officer or court may sell or transfer all or substantially all of its corporate trust business, shall be the successor to such Registrar without the execution or filing of any paper or the performance of any further act; provided, however, that such company shall be a bank, trust company or national banking association meeting the requirements set forth in Section 8.08.

Section 8.11.      Adoption of Authentication. In case any of the Series 2002 A Bonds shall have been authenticated but not delivered, any successor Registrar may adopt a Certificate of Authentication and Registration executed by any predecessor Registrar and deliver such Bonds so authenticated, and, in case any Series 2002 A Bonds shall have been prepared but not authenticated, any successor Registrar may authenticate such Bonds in the name of the predecessor Registrar or in its own name.

Section 8.12.      Paying Agent. The Bond Commission shall serve as the Paying Agent. Any alternate Paying Agent must be a bank, trust company or national banking association authorized to perform the duties imposed upon it by this Resolution. Such alternate Paying Agent shall signify its acceptance of the duties and obligations imposed upon it pursuant hereto by executing and delivering to the Issuer a written acceptance thereof. Any successor Paying Agent shall take such actions as may be necessary to ensure that the Series 2002 A Bonds shall be and remain DTC-eligible.

Each Paying Agent shall be entitled to payment and reimbursement for reasonable fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by such Paying Agent in connection with such services solely from monies available therefor.

Any bank, trust company or national banking association with or into which any Paying Agent may be merged or consolidated, or to which the assets and business of such Paying Agent may be sold, shall be deemed the successor of such Paying Agent for the purposes of this Resolution. If the position of Paying Agent shall become vacant for any reason, the Issuer shall, within 30 days thereafter, appoint a bank, trust company or national banking association located in the same city as such Paying Agent to fill such vacancy; provided, however, that, if the Issuer shall fail to appoint such Paying Agent within said period, the Bond Commission, a court of competent jurisdiction or a majority of the Bondholders may make such appointment.

The Paying Agent shall enjoy the same protective provisions in the performance of its duties hereunder as are specified in this Article VIII with respect to the Registrar, insofar as such provisions may be applicable.

Notice of the appointment of successor or additional Paying Agents or fiscal agents shall be given in the same manner as provided by Section 8.08 hereof with respect to the appointment of a successor Registrar.

All monies received by the Paying Agent shall, until used or applied as provided in this Resolution, be held in trust for the purposes for which they were received.

## ARTICLE IX

### DEFEASANCE; DISCHARGE OF PLEDGE OF RESOLUTION

Section 9.01. Defeasance; Discharge of Pledge of Resolution. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 2002 A Bonds the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, then this Resolution and the pledges of the Net Revenues and other monies and securities pledged hereunder, and all covenants, agreements and other obligations of the Issuer on behalf of the Holders of the Series 2002 A Bonds made hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied, except as may be necessary to assure the exclusion of interest on the Series 2002 A Bonds from gross income for federal income tax purposes.

The Series 2002 A Bonds for the payment of which either monies in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide monies which, together with the monies, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due the respective principal of and interest on the Series 2002 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 2002 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 Bond Commission or an escrow trustee either monies in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide monies which, together with the monies, if any, deposited with the Bond Commission or said escrow trustee at the same or earlier time shall be sufficient, to pay when due the principal of, any redemption premium on and interest due and to become due on the Series 2002 A Bonds on and prior to the maturity date thereof, or if the Issuer irrevocably determines to redeem any of the Series 2002 A Bonds prior to the maturity thereof, on and prior to said Redemption Date. Neither securities nor monies deposited with the Bond Commission or an escrow trustee 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 of and interest on the Series 2002 A Bonds; provided, that any cash received from such principal, redemption premium, if any, and interest payments on such securities deposited with the Bond Commission or said escrow trustee, 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 of and redemption premium, if any, and interest to become due on the Series 2002 A Bonds on and prior to such maturity or Redemption Dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Bond Commission or said escrow trustee, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations, as such term is limited by the provisions in Section 1.01 hereof or such additional securities as shall be set forth in the Supplemental Resolution.

## ARTICLE X

### MISCELLANEOUS

Section 10.01. Amendment of Resolution. Prior to issuance of the Series 2002 A Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. All provisions required by the Bond Insurer, if any, shall be set forth in the Supplemental Resolution and to the extent they constitute an amendment or modification of the Resolution, shall be controlling. Following issuance of the Series 2002 A Bonds, this Resolution and any Supplemental Resolution may be amended or modified without the consent of any Bondholder or other person, so long as such amendment or modification is not materially adverse to any Bondholder, as determined by an opinion of Bond Counsel. In the event any of the Series 2002 A Bonds are insured, no such amendment or modification which adversely affects the security for such Series 2002 A Bonds or the rights of any Bond Insurer for such Series 2002 A Bonds may be effected without the written consent of such Bond Insurer. No materially adverse amendment or modification to this Resolution, or of any Supplemental Resolution, may be made without the written consent of the Holders of 60% in aggregate principal amount of the Series 2002 A Bonds then Outstanding and affected thereby and such Bond Insurer, which must be filed with the Issuer before any such modification or amendment may be made. No such modification or amendment shall extend the maturity of or reduce the interest rate on, or otherwise alter the terms of payment of the principal of or interest on, any Series 2002 A Bond without the express written consent of the Holder of each Series 2002 A Bond so affected, nor reduce the percentage of Series 2002 A Bonds required for consent to any such modification or amendment.

Section 10.02. Evidence of Signatures of Bondholders and Ownership of Bonds. Any request, consent, revocation of consent or other instrument which this Resolution may require or permit to be signed and executed by Bondholders may be in one or more instruments of similar tenor, and shall be signed or executed by such Bondholders in person or by their attorneys duly authorized in writing. Proof of the execution of any such instrument, or of an instrument appointing or authorizing any such attorney, shall be sufficient for any purpose of this Resolution if made in the following manner, or in any other manner satisfactory to the Issuer or the Registrar, as the case may be, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable:

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

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

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

Any request, consent or other instrument executed by the Holder of any Series 2002 A Bond shall bind all future Holders and owners of such Series 2002 A Bond in respect of anything done or suffered to be done hereunder by the Issuer or the Registrar in accordance therewith.

Section 10.03. Preservation and Inspection of Documents. To the extent allowable under law, all reports, certificates, statements and other documents received by the Registrar under the provisions of this Resolution shall be retained in its possession and shall be available at all reasonable times for the inspection of the Issuer or any Bondholder, and their agents and their representatives, but any such reports, certificates, statements or other documents may, at the election of the Registrar, be destroyed or otherwise disposed of at any time after such date as the pledge created by this Resolution shall be discharged as provided in Section 9.01.

Section 10.04. Cancellation of Bonds. All Series 2002 A Bonds purchased or paid shall, if surrendered to the Issuer, be canceled and delivered to the Registrar, or, if surrendered to the Registrar, be canceled by it. No such Series 2002 A Bonds shall be deemed Outstanding under this Resolution and no Series 2002 A Bonds shall be issued in lieu thereof. All such Series 2002 A Bonds shall be canceled and upon order of the Issuer shall be destroyed, and a certificate evidencing such destruction shall be delivered to the Issuer.

Section 10.05. Failure to Present Bonds. Anything in this Resolution to the contrary notwithstanding, any monies held by the Bond Commission or a Paying Agent in trust for the payment and discharge of any of the Series 2002 A Bonds which remain unclaimed for 1 year after the date on which such Series 2002 A Bonds have become due and payable, whether by maturity or upon call for redemption, shall at the written request of the Issuer be paid by the Bond Commission or said Paying Agent to the Issuer as its absolute property and free from trust, and the Bond Commission or said Paying Agent shall thereupon be released and discharged with respect thereto, and the Holders of such Series 2002 A Bonds shall look only to the Issuer for the payment of such Series 2002 A Bonds; provided, however, that, before making any such payment to the Issuer, the Registrar, if so advised by the Bond Commission, or said Paying Agent shall send to the Holder, at the address listed on the Bond Register, by certified mail, a notice that such monies remain unclaimed and that, after a date named in said notice, which date shall be not less than 30 days after the date of

such notice is mailed, the balance of such monies then unclaimed will be returned to the Issuer. If any of said Series 2002 A Bonds is a coupon Bond, the Registrar or said Paying Agent shall also publish such notice, not less than 30 days prior to the date such monies will be returned to the Issuer, in an Authorized Newspaper.

Section 10.06. Notices, Demands and Requests. Unless otherwise expressly provided, all notices, demands and requests to be given or made hereunder to or by the Issuer, the Registrar, the Paying Agent, the Depository Bank, the Original Purchaser or the Bond Insurer shall be in writing and shall be properly made if sent by United States mail, postage prepaid, and addressed as follows or if hand-delivered to the individual to whom such notice, demand or request is required to be directed as indicated below:

ISSUER

Armstrong Public Service District  
Post Office Box 156  
Kimberly, West Virginia 25118  
Attn: General Manager

REGISTRAR AND PAYING AGENT

[Name(s) and address(es) to be set forth in Supplemental Resolution]

DEPOSITORY BANK

[Name and address to be set forth in Supplemental Resolution]

ORIGINAL PURCHASER

Crews & Associates  
300 Summers Street, Suite 930  
Charleston, West Virginia 25301

BOND INSURER

[Name and address, if any, to be set forth in Supplemental Resolution]

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

Section 10.07. No Personal Liability. No member of the Issuer or officer or employee of the Issuer shall be individually or personally liable for the payment of the principal of or the interest on any Series 2002 A Bond, but nothing herein contained shall

relieve any such member, official or employee from the performance of any official duty provided by law or this Resolution.

Section 10.08. Law Applicable. The laws of the State shall govern the construction of this Resolution and of all Bonds issued hereunder.

Section 10.09. Parties Interested Herein. Nothing in this Resolution expressed or implied is intended or shall be construed to confer upon, or give to, any person or corporation, other than the Issuer, the Registrar, the Paying Agent, the Holders of the Series 2002 A Bonds and the Original Purchaser, any right, remedy or claim under or by reason of this Resolution. All the covenants, stipulations, promises and agreements contained in this Resolution by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the Registrar, the Paying Agent, the Holders of the Series 2002 A Bonds and the Original Purchaser.

Section 10.10. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Resolution.

Section 10.11. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 10.12. Conflicting Provisions Repealed. All orders, resolutions or parts thereof in conflict with the provisions of this Resolution, are, to the extent of such conflict, hereby repealed.

Section 10.13. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairman, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 10.14. Effective Date. This Resolution shall take effect immediately upon adoption.

Adopted this 5th day of December, 2002.

Thomas Bowen  
Chairman

CERTIFICATION

Certified a true, correct and complete copy of a Resolution duly adopted by the Public Service Board of Armstrong Public Service District on the 5th day of December, 2002.

Dated this 23rd day of December, 2002.

[SEAL]

  
Secretary

11/19/02  
664320.00002

EXHIBIT A - BOND FORM

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

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

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

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
ARMSTRONG PUBLIC SERVICE DISTRICT  
SEWER REFUNDING REVENUE BOND, SERIES 2002 A

INTEREST RATE

MATURITY DATE

BOND DATE

CUSIP NO.

REGISTERED OWNER: \_\_\_\_\_

PRINCIPAL AMOUNT: \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That ARMSTRONG PUBLIC SERVICE DISTRICT (WEST VIRGINIA), a public service district and public corporation and political subdivision of the State of West Virginia in Fayette 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 Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the Issuer shall default in the payment of interest on any Interest

Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on \_\_\_\_\_ 1 and \_\_\_\_\_ 1, in each year, beginning \_\_\_\_\_ 1, 200\_\_ (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Resolution.

Interest accruing on this Bond on and prior to the Maturity Date hereof shall be payable by check or draft mailed by \_\_\_\_\_, \_\_\_\_\_, West Virginia, as paying agent (in such capacity, the "Paying Agent"), to the Registered Owner hereof as of the applicable Record Date (each \_\_\_\_\_ 15 and \_\_\_\_\_ 15) or, in the event of a default in the payment of Bonds, that special record date to be fixed by the hereinafter named Registrar by notice given to the Registered Owners not less than 10 days prior to said special record date at the address of such Registered Owner as it appears on the registration books of the Issuer maintained by \_\_\_\_\_, \_\_\_\_\_, West Virginia, as registrar (in such capacity, the "Registrar"), or, at the option of any Registered Owner of at least \$500,000 in aggregate principal amount of Bonds, by wire transfer in immediately available funds to a domestic bank account specified in writing by the Registered Owner to the Paying Agent at least 5 days prior to such Record Date. Principal and premium, if any, shall be paid when due upon presentation and surrender of this Bond for payment at the principal corporate trust office of the Paying Agent, in \_\_\_\_\_, West Virginia.

This Bond is one of an issue of a series of bonds, in the aggregate principal amount of \$ \_\_\_\_\_ designated "Armstrong Public Service District Sewer Refunding Revenue Bonds, Series 2002 A" (the "Bonds"), of like tenor and effect, except as to number, denomination, date of maturity and interest rate, dated \_\_\_\_\_ 1, 2002, the proceeds of which are to be used, together with other funds of the Issuer, (i) to refund all of the Sewer Revenue Bonds, Series 1985, dated March 26, 1985, of the Issuer outstanding in the total aggregate principal amount of \$ \_\_\_\_\_ (the "Series 1985 Bonds"), which were issued to finance a portion of the cost of acquisition and construction of the public sewerage system of the Issuer (the "System"); (ii) to fund a reserve account for the Bonds; and (iii) to pay certain costs of issuance of the Bonds and related costs. The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), and a resolution duly adopted by the Issuer on \_\_\_\_\_, 2002 and supplemented by a supplemental resolution duly adopted by the Issuer on \_\_\_\_\_, 2002 (hereinafter collectively referred to as the "Resolution"), and is subject to all the terms and conditions of the Resolution. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled

to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Resolution. Reference is hereby made to the Resolution, as the same may be amended and supplemented from time to time, for a description of the rights, limitations of rights, obligations, duties and immunities of the Issuer, the Registrar, the Paying Agent, the Registered Owners of the Bonds and the Registered Owners of any subsequently issued additional bonds. Executed counterparts or certified copies of the Resolution are on file at the office of the Issuer.

The Bonds of this issue are subject to redemption prior to their stated maturity dates, as provided in the Resolution and as set forth in the following lettered paragraphs:

(A) Optional Redemption. The Bonds are not subject to optional redemption prior to \_\_\_\_\_. At the option of the Issuer, the Bonds will be subject to redemption prior to maturity on and after \_\_\_\_\_, \_\_\_\_\_, as a whole at any time and in part on any Interest Payment Date, in inverse order of maturity and by random selection within maturities if less than all of any maturity, at a redemption price (expressed as a percentage of the principal amount) set forth below, plus interest accrued to the date fixed for redemption:

Period During Which Redeemed <u>(Dates Inclusive)</u>	Redemption <u>Price</u>
--	----------------------------

(B) Mandatory Sinking Fund Redemption. The Bonds maturing on \_\_\_\_\_, are subject to mandatory sinking fund redemption prior to maturing on \_\_\_\_\_ of the years and in the principal amounts set forth below, at the redemption price of 100% of the principal amount of each Bond so called for redemption plus interest accrued to the date fixed for redemption:

<u>Bonds Maturing</u>	
Year ( )	<u>Principal Amount</u>

<u>Bonds Maturing</u>	
Year ( )	<u>Principal Amount</u>

Bonds Maturing

Year (    )                      Principal Amount

Bonds Maturing

Year (    )                      Principal Amount

Bonds Maturing

Year (    )                      Principal Amount

\* Final Maturity

In the event of any redemption of less than all outstanding Bonds, Bonds shall be selected for redemption by lot or in such other manner deemed appropriate by the Paying Agent. If less than all the Bonds are to be redeemed, the Bonds to be redeemed shall be identified by reference to the Series designation, date of issue, CUSIP numbers and Maturity Dates.

Notice of any redemption of this Bond, unless waived, shall be given by the Paying Agent on behalf of the Issuer by mailing an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the Registered Owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such Registered Owner to the Registrar. A copy of such notice of redemption shall also be mailed to the Registrar. Notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the redemption price therein specified, and from and after such date (unless the Issuer shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest.

Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of proceedings for the redemption of this Bond.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Resolution) to be derived from the operation of the System and from monies in the reserve account created under the Resolution for the Bonds (the "Series 2002 A

Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2002 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with, or junior to, the Bonds.

All monies received from the sale of this Bond except for accrued interest thereon shall be applied solely to refund the Series 1985 Bonds, fund a reserve account for the Bonds, and pay costs of issuance hereof, and there shall be, and hereby is, created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

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

This Bond, under the provisions of the Act is and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may be transferred only upon the surrender hereof at the office of the Registrar and otherwise as provided by the Resolution.

This Bond is, under the Act, exempt from taxation by the State of West Virginia, and the other taxing bodies of the State.

This Bond has been designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended.

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

All provisions of the Resolution and the 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, ARMSTRONG PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman, and its corporate seal to be imprinted hereon and attested by its Secretary, and has caused this Bond to be dated as of the Bond Date specified above.

[SEAL]

(Manual or Facsimile Signature)

Chairman

ATTEST:

(Manual or Facsimile Signature)

Secretary

11//19/02  
028360.00001

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the fully registered Bonds described in the within-mentioned Resolution and has been duly registered in the name of the Registered Owner on the date set forth below. Attached hereto is the complete text of the opinion of Steptoe & Johnson PLLC, bond counsel, signed originals of which are on file with the Registrar, delivered and dated on the date of the original delivery of and payment for the Bonds.

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

\_\_\_\_\_  
as Registrar

By \_\_\_\_\_  
Its Authorized Officer

(FORM OF)  
ASSIGNMENT

Social Security or Other Identifying Number of Assignee \_\_\_\_\_

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers  
unto \_\_\_\_\_

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

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

\_\_\_\_\_  
SIGNATURE GUARANTEED:

\_\_\_\_\_  
(Bank, Trust Company or Firm)

\_\_\_\_\_  
(Authorized Officer)

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

ARMSTRONG PUBLIC SERVICE DISTRICT  
Sewer Refunding Revenue Bonds, Series 2002 A

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO DATES, AMOUNTS, MATURITIES, INTEREST RATES, REDEMPTION PROVISIONS, PURCHASE PRICE AND OTHER DETAILS AS TO THE SEWER REFUNDING REVENUE BONDS, SERIES 2002 A, OF ARMSTRONG PUBLIC SERVICE DISTRICT; AUTHORIZING AND APPROVING A BOND PURCHASE AGREEMENT, A CONTINUING DISCLOSURE CERTIFICATE, A REGISTRAR AGREEMENT, AN OFFICIAL STATEMENT AND OTHER INSTRUMENTS RELATING TO THE BONDS; APPOINTING A REGISTRAR, PAYING AGENT, AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS AND THE REFUNDING.

WHEREAS, Armstrong Public Service District (the "Issuer"), in the County of Fayette, State of West Virginia, is a public service district and public corporation of said State, the governing body of which is this public service board (the "Governing Body");

WHEREAS, the Governing Body duly adopted on December 5, 2002, a resolution (the "Resolution") entitled:

A RESOLUTION AUTHORIZING THE REFUNDING OF THE SEWER REVENUE BOND, SERIES 1985, OF ARMSTRONG PUBLIC SERVICE DISTRICT; THE ISSUANCE OF SEWER REFUNDING REVENUE BONDS, SERIES 2002 A, OF THE DISTRICT IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$900,000, THE PROCEEDS OF WHICH SHALL BE EXPENDED FOR SUCH REFUNDING AND TO PAY COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE

SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING A CONTINUING DISCLOSURE CERTIFICATE AND OTHER DOCUMENTS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS.

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Resolution when used herein;

WHEREAS, the Resolution provided for the refunding of the Issuer's Sewer Revenue Bonds, Series 1985, dated March 26, 1985 (the "Series 1985 Bonds"), and issuance of its Sewer Refunding Revenue Bonds, Series 2002 A (the "Series 2002 A Bonds"), in an aggregate principal amount not to exceed \$900,000, for the purposes of paying a portion of the costs of such refunding, funding all or a portion of a reserve account for the Series 2002 A Bonds, and paying costs of issuance thereof, all in accordance with Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act");

WHEREAS, the Resolution further provided that the exact dates, amounts, maturities, interest rates, redemption provisions, purchase price and other terms of the Series 2002 A Bonds should be established, that a Registrar, Paying Agent and Depository Bank be designated, that a Bond Purchase Agreement, a Continuing Disclosure Certificate, a Registrar Agreement and an Official Statement be approved and that other matters pertaining to the Series 2002 A Bonds be provided for by a supplemental resolution of the Governing Body upon receipt of a Bond Purchase Agreement acceptable to the Governing Body;

WHEREAS, the Series 2002 A Bonds are proposed to be purchased by Crews & Associates, Inc. (the "Original Purchaser"), pursuant to a Bond Purchase Agreement between the Original Purchaser and the Issuer, dated the date of adoption hereof (the "Bond Purchase Agreement");

WHEREAS, the Governing Body deems it essential and desirable that this Resolution be adopted, that the Bond Purchase Agreement, the Continuing Disclosure Certificate and the Registrar Agreement hereinafter provided for be entered into by the Issuer, that the Official Statement relating to the Series 2002 A Bonds, hereinafter described, be approved, that the dates, amounts, maturities, interest rates, redemption provisions, purchase price and other details of the Series 2002 A Bonds be fixed hereby in the manner

stated herein, and that other matters relating to the Series 2002 A Bonds be herein provided for, all in accordance with the Resolution;

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

Section 1. Pursuant to the Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Series 2002 A Bonds. The Series 2002 A Bonds shall be dated December 1, 2002, upon original issuance, shall be issued in the aggregate principal amount, bear interest payable semiannually on April 1 and October 1 of each year, commencing April 1, 2003, shall mature on April 1 in such years, and shall have such redemption provisions and other terms as are set forth in EXHIBIT A - SERIES 2002 A BOND TERMS, attached hereto and incorporated by reference herein. All other provisions relating to the Series 2002 A Bonds shall be as provided in the Resolution, and the Series 2002 A Bonds shall be in substantially the form provided in the Resolution.

Section 2. The Bond Purchase Agreement by and between the Original Purchaser and the Issuer, dated the date of adoption of this Supplemental Resolution, substantially in the form submitted to this meeting, and the execution and delivery (in multiple counterparts) by the Chairman thereof shall be and the same are hereby authorized, approved, and directed. The Chairman shall execute and deliver the Bond Purchase Agreement with such changes, insertions and omissions as may be approved by the Chairman. The execution of the Bond Purchase Agreement by the Chairman shall be conclusive evidence of any approval required by this Section, and authorization of any action required by the Bond Purchase Agreement relating to the issuance and sale of the Series 2002 A Bonds, including the payment of all necessary fees and expenses in connection therewith. The price of the Series 2002 A Bonds, pursuant to the Bond Purchase Agreement, shall be \$748,060.80 (par amount of \$785,000, less Underwriter's Discount of \$25,000, less original issue discount of \$11,939.20), plus interest accrued from the date of the Series 2002 A Bonds to the date of delivery of the Series 2002 A Bonds, expected to be on or about December 23, 2002.

Section 3. The Issuer does hereby approve the transfer of \$72,914.94 from the Series 1985 Bonds Reserve Account, held by the Depository Bank, directly to the Holder of the Series 1985 Bonds to provide sufficient funds to defease the Series 1985 Bonds.

Section 4. The Continuing Disclosure Certificate by and between the Issuer and the Original Purchaser, to be dated as of the date of delivery of the Series 2002 A Bonds, substantially in the form submitted to this meeting, and the execution and delivery (in multiple counterparts) by the Chairman thereof shall be and the same are hereby authorized, approved and directed. The Chairman shall execute and deliver the Continuing Disclosure Certificate with such changes, insertions and omissions as may be approved by the Chairman.

The execution of the Continuing Disclosure Certificate by the Chairman shall be conclusive evidence of any approval required by this Section.

Section 5. The Official Statement dated the date of adoption of this Supplemental Resolution, to be substantially in the form of the Preliminary Official Statement described below (with such changes, insertions and omissions as may be necessary or advisable in the opinion of the Chairman), and the distribution of counterparts or copies thereof by the Original Purchaser are hereby approved. The Chairman shall execute and deliver the Official Statement with such changes, insertions and omissions as may be approved by the Chairman. The execution of the Official Statement by the Chairman shall be conclusive evidence of any approval required by this Section. The distribution by the Original Purchaser of the Preliminary Official Statement dated December 9, 2002 (which is a "deemed final" official statement in accordance with SEC Rule 15c2-12), substantially in the form submitted to this meeting is hereby ratified and approved. The certificate of the Issuer relating to compliance with SEC Rule 15c2-12 and the execution and delivery thereof by the Chairman is hereby ratified and approved.

Section 6. The Registrar Agreement by and between the Issuer and the Registrar designated herein, to be dated as of the date of delivery of the Series 2002 A Bonds, substantially in the form submitted to this meeting, shall be and the same is hereby approved. The Chairman shall execute and deliver the Registrar Agreement with such changes, insertions and omissions as may be approved by the Chairman. The execution of the Registrar Agreement by the Chairman shall be conclusive evidence of any approval required by this Section.

Section 7. The firm of Steptoe & Johnson PLLC, Charleston, West Virginia, is hereby appointed bond counsel to the Issuer in connection with the issuance of the Series 2002 A Bonds.

Section 8. The Issuer does hereby appoint and designate United Bank, Inc, Charleston, West Virginia, for the purpose of serving in the capacity of Registrar and City National Bank, Montgomery, West Virginia, for the purpose of serving as Depository Bank.

Section 9. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission for the purpose of serving in the capacity of Paying Agent.

Section 10. The notice addresses for the Registrar, Paying Agent and Original Purchaser shall be as follows:

REGISTRAR

Ms. Kathy Smith, Vice President and Trust Officer  
United Bank, Inc.  
500 Virginia Street, East  
Charleston, West Virginia 25301  
Attention: Trust Department

PAYING AGENT

West Virginia Municipal Bond Commission  
#8 Capitol Street, Suite 500  
Charleston, West Virginia 25301  
Attention: Executive Director

ORIGINAL PURCHASER

Crews & Associates, Inc.  
Post Office Box 2764 25330-2764  
930 One Valley Square  
Charleston, West Virginia 25301  
Attention: Public Finance

Section 11. Based upon the actual principal amount, maturity schedule and interest rates for the Series 2002 A Bonds, as set forth in EXHIBIT A - SERIES 2002 A BOND TERMS, attached hereto, it is hereby determined that the Series 2002 A Bonds show a net savings to the Issuer after deducting all expenses of the refunding. Prior to delivery of the Series 2002 A Bonds, the Issuer shall have obtained from Howard W. Cloke, III, CPA, or such other independent certified public accountant acceptable to the Chairman, a certification that the amount of savings stated to be achieved by the refunding shall in fact be correct, based upon their review, comparison and analysis of the total net debt service in dollars of the Series 2002 A Bonds and the remaining total net debt service in dollars of the Series 1985 Bonds. The Chairman is hereby authorized and directed to employ Howard W. Cloke, III, CPA, Barboursville, West Virginia, or such other independent certified public accountant satisfactory to bond counsel, to supply the certification required herein and to take other actions required in connection with the refunding.

Section 12. The Chairman and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates, including a tax and arbitrage certificate, required or desirable in connection with the Series 2002 A Bond issue to the end that the Series 2002 A Bonds may be delivered on a timely basis to the Original Purchaser pursuant to the Bond Purchase Agreement.

Section 13. This Supplemental Resolution shall be effective immediately.

Adopted this 12th day of December, 2002.

Thomas Bowen  
Chairman

EXHIBIT A - SERIES 2002 A BOND TERMS

TERM BONDS

<u>Bond No.</u>	<u>CUSIP</u>	<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Price or Yield</u>
AR-1	042459AA5	04/01/2008	\$125,000	4.000%	100.000%
AR-2	042459AB3	04/01/2013	\$140,000	4.700%	100.000%
AR-3	042459AC1	04/01/2018	\$180,000	5.100%	97.915%
AR-4	042459AD9	04/01/2022	\$180,000	5.500%	97.669%
AR-5	042459AE7	04/01/2025	\$160,000	5.600%	97.506%

Optional Redemption

The Series 2002 A Bonds maturing on or after April 1, 2013, at the option of the District, will be subject to redemption prior to maturity on or after April 1, 2008, as a whole or in part at any time, at a redemption price (expressed as a percentage of the principal amount to be redeemed) set forth below, plus accrued interest to the date fixed for redemption:

Period During Which Redeemed  
(both dates inclusive)

Redemption Date	Redemption Price
April 1, 2008 - March 31, 2009	102 %
April 1, 2009 - March 31, 2010	101 %
April 1, 2010 - and thereafter	100 %

If fewer than all of the Series 2002 A Bonds shall be called for optional redemption, the particular maturities of the Series 2002 A Bonds to be redeemed shall be selected by the District in such manner, as it shall determine. So long as the Series 2002 A Bonds are maintained under a book-entry system, the selection of individual ownership interests in the Series 2002 A Bonds to be credited with any partial redemption shall be made as described herein under "BOOK-ENTRY ONLY SYSTEM."

Sinking Fund Redemption

The Series 2002 A Bonds maturing April 1, 2008, shall be subject to mandatory redemption prior to maturity in part from monies on deposit in the Series 2002 A Bonds Sinking Fund at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to the mandatory redemption date, on April 1, 2003, and on each April 1 thereafter to and including April 1, 2008, in annual principal amounts as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2003	\$10,000	2006	\$25,000
2004	\$20,000	2007	\$25,000
2005	\$20,000	2008*	\$25,000

The principal amount of Series 2002 A Bonds maturing April 1, 2008, delivered to or purchased by the Commission shall reduce pro tanto the principal amount of Series 2002 A Bonds to be redeemed on the mandatory redemption date with respect to such maturity next following such delivery or purchase.

The Series 2002 A Bonds maturing April 1, 2013, shall be subject to mandatory redemption prior to maturity in part from monies on deposit in the Series 2002 A Bonds Sinking Fund at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to the mandatory redemption date, on April 1, 2009, and on each April 1 thereafter to and including April 1, 2013, in annual principal amounts as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2009	\$25,000	2012	\$30,000
2010	\$25,000	2013*	\$30,000
2011	\$30,000		

The principal amount of Series 2002 A Bonds maturing April 1, 2013, delivered to or purchased by the Commission shall reduce pro tanto the principal amount of Series 2002 A Bonds to be redeemed on the mandatory redemption date with respect to such maturity next following such delivery or purchase.

The Series 2002 A Bonds maturing April 1, 2018, shall be subject to mandatory redemption prior to maturity in part from monies on deposit in the Series 2002 A Bonds Sinking Fund at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to the mandatory redemption date, on April 1, 2014, and on each April 1 thereafter to and including April 1, 2018, in annual principal amounts as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2014	\$30,000	2017	\$40,000
2015	\$35,000	2018*	\$40,000
2016	\$35,000		

The principal amount of Series 2002 A Bonds maturing April 1, 2018, delivered to or purchased by the Commission shall reduce pro tanto the principal amount of Series 2002 A Bonds to be redeemed on the mandatory redemption with respect to such maturity next following such delivery or purchase.

The Series 2002 A Bonds maturing April 1, 2022, shall be subject to mandatory redemption prior to maturity in part from monies on deposit in the Series 2002 A Bonds Sinking Fund at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to the mandatory redemption date, on April 1, 2019, and each April 1 thereafter to and including April 1, 2022, in annual principal amounts as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2019	\$40,000	2021	\$45,000
2020	\$45,000	2022*	\$50,000

The principal amount of Series 2002 A Bonds maturing April 1, 2022, delivered to or purchased by the Commission shall reduce pro tanto the principal amount of Series 2002 A Bonds to be redeemed on the mandatory redemption date with respect to such maturity next following such delivery or purchase.

The Series 2002 A Bonds maturing April 1, 2025 shall be subject to mandatory redemption prior to maturity in part from monies on deposit in the Series 2002 A Bonds Sinking Fund at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to the mandatory redemption date, on April 1, 2023, and on each April 1 thereafter to and including April 1, 2025, in annual principal amounts as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2023	\$50,000	2025*	\$55,000
2024	\$55,000		

The principal amount of Series 2002 A Bonds maturing April 1, 2025, delivered to or purchased by the Commission shall reduce pro tanto the principal amount of Series 2002 A Bonds to be redeemed on the mandatory redemption date with respect to such maturity next following such delivery or purchase.

\*Stated maturity.

CERTIFICATION

Certified a true, correct and complete copy of a Supplemental Resolution duly adopted by the Public Service Board of ARMSTRONG PUBLIC SERVICE DISTRICT on the 12th day of December, 2002.

Dated this 23rd day of December, 2002.

[SEAL]

  
Secretary

12/12/02  
028360.00001

# SPECIMEN

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. AR-1

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
ARMSTRONG PUBLIC SERVICE DISTRICT  
SEWER REFUNDING REVENUE BOND, SERIES 2002 A

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>BOND DATE</u>	<u>CUSIP NO.</u>
4.000%	April 1, 2008	12/1/2002	042459 AA5

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS  
(\$125,000.00)

KNOW ALL MEN BY THESE PRESENTS: That ARMSTRONG PUBLIC SERVICE DISTRICT (WEST VIRGINIA), a public service district and public corporation and political subdivision of the State of West Virginia in Fayette 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 Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the Issuer shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered

for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on April 1 and October 1, in each year, beginning April 1, 2003 (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Resolution.

Interest accruing on this Bond on and prior to the Maturity Date hereof shall be payable by check or draft mailed by West Virginia Municipal Bond Commission Charleston, West Virginia, as paying agent (in such capacity, the "Paying Agent"), to the Registered Owner hereof as of the applicable Record Date (each March 15 and September 15) or, in the event of a default in the payment of Bonds, that special record date to be fixed by the hereinafter named Registrar by notice given to the Registered Owners not less than 10 days prior to said special record date at the address of such Registered Owner as it appears on the registration books of the Issuer maintained by United Bank, Inc., Charleston, West Virginia, as registrar (in such capacity, the "Registrar"), or, at the option of any Registered Owner of at least \$500,000 in aggregate principal amount of Bonds, by wire transfer in immediately available funds to a domestic bank account specified in writing by the Registered Owner to the Paying Agent at least 5 days prior to such Record Date. Principal and premium, if any, shall be paid when due upon presentation and surrender of this Bond for payment at the principal corporate trust office of the Paying Agent in Charleston, West Virginia.

This Bond is one of an issue of a series of bonds, in the aggregate principal amount of \$785,000 designated "Armstrong Public Service District Sewer Refunding Revenue Bonds, Series 2002 A" (the "Bonds"), of like tenor and effect, except as to number, denomination, date of maturity and interest rate, dated December 1, 2002, the proceeds of which are to be used, together with other funds of the Issuer, (i) to refund all of the Sewer Revenue Bonds, Series 1985, dated March 26, 1985, of the Issuer outstanding in the total aggregate principal amount of \$716,441.41 (the "Series 1985 Bonds"), which were issued to finance a portion of the cost of acquisition and construction of the public sewerage system of the Issuer (the "System"); (ii) to fund a reserve account for the Bonds; and (iii) to pay certain costs of issuance of the Bonds and related costs. The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), and a resolution duly adopted by the Issuer on December 5, 2002 and supplemented by a supplemental resolution duly adopted by the Issuer on December 12, 2002 (hereinafter collectively referred to as the "Resolution"), and is subject to all the terms and conditions of the Resolution. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Resolution. Reference is hereby made to the Resolution, as the same may be amended and supplemented from time to time, for a description of the rights, limitations of rights,

obligations, duties and immunities of the Issuer, the Registrar, the Paying Agent, the Registered Owners of the Bonds and the Registered Owners of any subsequently issued additional bonds. Executed counterparts or certified copies of the Resolution are on file at the office of the Issuer.

The Bonds of this issue are subject to redemption prior to their stated maturity dates, as provided in the Resolution and as set forth in the following lettered paragraphs:

#### Optional Redemption

The Series 2002 A Bonds maturing on or after April 1, 2013, at the option of the District, will be subject to redemption prior to maturity on or after April 1, 2008, as a whole or in part at any time, at a redemption price (expressed as a percentage of the principal amount to be redeemed) set forth below, plus accrued interest to the date fixed for redemption:

#### Period During Which Redeemed (both dates inclusive)

Redemption Date	Redemption Price
April 1, 2008 - March 31, 2009	102%
April 1, 2009 - March 31, 2010	101
April 1, 2010 and thereafter	100

If fewer than all of the Series 2002 A Bond shall be called for optional redemption, the particular maturities of the Series 2002 A Bonds to be redeemed shall be selected by the District in such manner, as it shall determine. So long as the Series 2002 A Bonds are maintained under a book-entry system, the selection of individual ownership interests in the Series 2002 A Bonds to be credited with any partial redemption shall be made as described herein under "BOOK-ENTRY ONLY SYSTEM."

#### Sinking Fund Redemption

The Series 2002 A Bonds maturing April 1, 2008, April 1, 2013, April 1, 2018, April 1, 2022 and April 1, 2025, shall be subject to mandatory redemption prior to maturity in part from moneys on deposit in the Series 2002 A Bonds Sinking fund at redemption prices equal to 100% of the principal amounts thereof, plus accrued interest to the mandatory redemption dates, on the dates and in the amounts set forth below:

Series 2008 Term Bonds

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2003	\$10,000	2006	\$25,000
2004	20,000	2007	25,000
2005	20,000	2008*	25,000

Series 2013 Term Bonds

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2009	\$25,000	2012	\$30,000
2010	25,000	2003*	30,000
2011	30,000		

Series 2018 Term Bonds

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2014	\$30,000	2017	\$40,000
2015	35,000	2018*	40,000
2016	35,000		

Series 2022 Term Bonds

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2019	\$40,000	2021	\$45,000
2020	45,000	2022*	50,000

Series 2025 Term Bonds

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2023	\$50,000	2025*	\$55,000
2024	55,000		

The principal amount of Series 2002 A Bonds maturing April 1, 2008, April 1, 2013, April 1, 2018, April 1, 2022 and April 1, 2025, delivered to or purchased by the Commission shall reduce pro tanto the principal amount of Series 2002 A Bonds to be redeemed on the mandatory redemption date with respect to such maturity next following such delivery or purchase.

\*Stated maturity

In the event of any redemption of less than all outstanding Bonds, Bonds shall be selected for redemption by lot or in such other manner deemed appropriate by the Paying Agent. If less than all the Bonds are to be redeemed, the Bonds to be redeemed shall be identified by reference to the Series designation, date of issue, CUSIP numbers and Maturity Dates.

Notice of any redemption of this Bond, unless waived, shall be given by the Paying Agent on behalf of the Issuer by mailing an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the Registered Owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such Registered Owner to the Registrar. A copy of such notice of redemption shall also be mailed to the Registrar. Notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the redemption price therein specified, and from and after such date (unless the Issuer shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest.

Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of proceedings for the redemption of this Bond.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Resolution) to be derived from the operation of the System and from monies in the reserve account created under the Resolution for the Bonds (the "Series 2002 A Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2002 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with, or junior to, the Bonds.

All monies received from the sale of this Bond except for accrued interest thereon shall be applied solely to refund the Series 1985 Bonds, fund a reserve account for the Bonds, and pay costs of issuance hereof, and there shall be, and hereby is, created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other

obligations of said Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia, and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by said Issuer for the prompt payment of the principal of and interest on the Bonds of which this Bond is one.

This Bond, under the provisions of the Act is and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may be transferred only upon the surrender hereof at the office of the Registrar and otherwise as provided by the Resolution.

This Bond is, under the Act, exempt from taxation by the State of West Virginia, and the other taxing bodies of the State.

This Bond has been designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended.

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

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

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, ARMSTRONG PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman, and its corporate seal to be imprinted hereon and attested by its Secretary, and has caused this Bond to be dated as of the Bond Date specified above.

[SEAL]

Thomas Bowen  
Chairman

ATTEST:

Buffy Middleton  
Secretary

11/19/02  
028360.00001

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

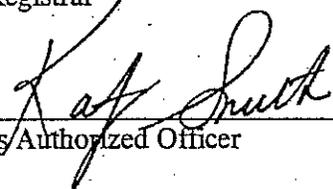
This Bond is one of the fully registered Bonds described in the within-mentioned Resolution and has been duly registered in the name of the Registered Owner on the date set forth below. Attached hereto is the complete text of the opinion of Steptoe & Johnson PLLC, bond counsel, signed originals of which are on file with the Registrar, delivered and dated on the date of the original delivery of and payment for the Bonds.

Dated: December 23, 2002.

UNITED BANK, INC.

as Registrar

By

  
\_\_\_\_\_  
Its Authorized Officer

(FORM OF)  
ASSIGNMENT

Social Security or Other Identifying Number of Assignee \_\_\_\_\_

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers  
unto \_\_\_\_\_

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

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

SIGNATURE GUARANTEED:

\_\_\_\_\_  
(Bank, Trust Company or Firm)

\_\_\_\_\_  
(Authorized Officer)

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

12/17/02  
028360.00001

# SPECIMEN

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. AR-2

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
ARMSTRONG PUBLIC SERVICE DISTRICT  
SEWER REFUNDING REVENUE BOND, SERIES 2002 A

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>BOND DATE</u>	<u>CUSIP NO.</u>
4.700%	April 1, 2013	12/1/2002	042459 AB3

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: ONE HUNDRED FORTY THOUSAND DOLLARS  
(\$140,000.00)

KNOW ALL MEN BY THESE PRESENTS: That ARMSTRONG PUBLIC SERVICE DISTRICT (WEST VIRGINIA), a public service district and public corporation and political subdivision of the State of West Virginia in Fayette 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 Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the Issuer shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered

# SPECIMEN

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. AR-3

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
ARMSTRONG PUBLIC SERVICE DISTRICT  
SEWER REFUNDING REVENUE BOND, SERIES 2002 A

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>BOND DATE</u>	<u>CUSIP NO.</u>
5.100%	April 1, 2018	12/1/2002	042459AC1

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: ONE HUNDRED EIGHTY THOUSAND DOLLARS  
(\$180,000.00)

KNOW ALL MEN BY THESE PRESENTS: That ARMSTRONG PUBLIC SERVICE DISTRICT (WEST VIRGINIA), a public service district and public corporation and political subdivision of the State of West Virginia in Fayette 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 Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the Issuer shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered

# SPECIMEN

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. AR-4

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
ARMSTRONG PUBLIC SERVICE DISTRICT  
SEWER REFUNDING REVENUE BOND, SERIES 2002 A

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>BOND DATE</u>	<u>CUSIP NO.</u>
5.500%	April 1, 2022	12/1/2002	042459AD9

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: ONE HUNDRED EIGHTY THOUSAND DOLLARS  
(\$180,000.00)

KNOW ALL MEN BY THESE PRESENTS: That ARMSTRONG PUBLIC SERVICE DISTRICT (WEST VIRGINIA), a public service district and public corporation and political subdivision of the State of West Virginia in Fayette 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 Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the Issuer shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered

# SPECIMEN

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. AR-5

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
ARMSTRONG PUBLIC SERVICE DISTRICT  
SEWER REFUNDING REVENUE BOND, SERIES 2002 A

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>BOND DATE</u>	<u>CUSIP NO.</u>
5.600%	April 1, 2025	12/1/2002	042459AE7

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: ONE HUNDRED SIXTY THOUSAND DOLLARS  
(\$160,000.00)

KNOW ALL MEN BY THESE PRESENTS: That ARMSTRONG PUBLIC SERVICE DISTRICT (WEST VIRGINIA), a public service district and public corporation and political subdivision of the State of West Virginia in Fayette 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 Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the Issuer shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date