

**ELLENBORO-LAMBERTON PUBLIC SERVICE DISTRICT**

**COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS,  
SERIES 2015 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
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 Gross Revenues
Section 3.08	Form of Bonds
	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Section 7.05	Conflicting Provisions Repealed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 Date
	SIGNATURES
	CERTIFICATION

**ELLENBORO-LAMBERTON PUBLIC SERVICE DISTRICT**

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS AND EXTENSIONS TO THE WATERWORKS PORTION OF THE EXISTING PUBLIC COMBINED WATERWORKS AND SEWERAGE FACILITIES OF ELLENBORO-LAMBERTON PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$470,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2015 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 BY THE PUBLIC SERVICE BOARD OF ELLENBORO-LAMBERTON PUBLIC SERVICE DISTRICT:

**ARTICLE I**

**STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS**

Section 1.01. Authority for this Resolution. This Resolution (together with any order or resolution supplemental hereto or amendatory hereof, the “Bond Legislation”) is adopted pursuant to the provisions of Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (collectively, the “Act”), and other applicable provisions of law.

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

A. Ellenboro-Lamberton Public Service District (the “Issuer”) is a public service district, a public corporation and political subdivision of the State of West Virginia in Ritchie County of said State, duly created pursuant to the Act by the County Commission of Ritchie County.

B. The Issuer currently owns and operates a public combined waterworks and sewerage system. However, it is deemed necessary and desirable for the health, safety, advantage, convenience, and welfare of the inhabitants of the Issuer that there be acquired, constructed, and maintained certain improvements and extensions to the waterworks portion of the existing combined waterworks and sewerage facilities consisting of installing water line, gate valves, fire hydrant assemblies, variable frequency drive constant pressure booster pump and control valve station and all necessary appurtenances (the “Project”), (the existing public combined waterworks and sewerage facilities of the Issuer, the Project and any further extensions or improvements thereto are herein called the “System”), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The Issuer intends to permanently finance a portion of the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the United States Department of Agriculture (the "Purchaser") pursuant to the Act.

D. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all Operating Expenses of the System, the principal of and interest on the Bonds and payments into all funds and accounts and other payments provided for herein.

E. It is deemed necessary for the Issuer to issue its Combined Waterworks and Sewerage System Revenue Bonds in the total aggregate principal amount of not more than \$470,000 in one or more series, being the Combined Waterworks and Sewerage System Revenue Bonds, Series 2015 A (United States Department of Agriculture), (the "Series 2015 A Bonds"), to permanently finance a portion of the costs of acquisition and construction of the Project. 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 2015 A Bonds; 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 are no outstanding obligations of the Issuer which will rank on a parity with the Series 2015 A Bonds as to liens, pledge, source of and security for payment.

H. It is in the best interest of the Issuer that the Series 2015 A Bonds be sold to the Purchaser, pursuant to the terms and provisions of the Letters of Conditions, dated February 20, 2014, 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 2015 A Bonds, or will have so complied prior to issuance of the Series 2015 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.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2015 A Bonds by the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for

the equal benefit, protection and security of the Bondholders of any and all of such Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

“Act” means, collectively, Chapter 16, Article 13A of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

“Authorized Officer” means the Chairman of the Governing Body of the Issuer or any temporary Chairman duly selected by the Governing Body.

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

“Bond Legislation,” “Resolution,” “Bond Resolution” or “Local Act” means this Bond Resolution and all orders and resolutions supplemental hereto or amendatory hereof.

“Bond Registrar” means the Issuer, the Bank or other entity to be designated as such in this Resolution or the Supplemental Resolution and its successors and assigns.

“Bonds” means, collectively, the Series 2015 A Bonds, and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another resolution of the Issuer.

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

“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 2015 A Bonds for all or a portion of the proceeds of the Series 2015 A Bonds from the Purchaser.

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

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

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

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

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

“Facilities” or “waterworks and sewerage 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 therefore, hereafter at any time constructed or acquired.

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

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

“Governing Body” means the 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.

“Grants” means, collectively, all grant monies received by the Issuer for the Project.

“Gross Revenues” means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that “Gross Revenues” does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined, purchased pursuant to Article 8.01 hereof) or any Tap Fees, as hereinafter defined.

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

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

“Issuer” means Ellenboro-Lamberton Public Service District, a public service district, public corporation and political subdivision of the State of West Virginia, in Ritchie County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

“Letter of Conditions” means, collectively, the Letter of Conditions of the Purchaser dated February 20, 2014, providing for the purchase of the Series 2015 A Bonds from the Issuer by the Purchaser, and any and all amendments thereto.

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

“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 forgoing, 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 principals and retention of a sum not to exceed 1/6th 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 the Series 2015 A Bonds Reserve Account, the Renewal and Replacement Fund and the other funds and accounts established by Article IV hereof 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 authenticated and delivered except (i) any Bond canceled by the Bond Registrar or 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 or registered to the Issuer.

“Parity Bonds” means additional Bonds issued under the provisions and within the limitations prescribed by Section 5.04 hereof.

“Project” means the Project as described in Section 1.02B hereof.

“Purchaser” or “Government” means the United States Department of Agriculture, Rural Utilities Service, and any successor thereof acting for and on behalf of the United States of America, which is expected to be the original purchaser and Registered Owner of the Series 2015 A Bonds.

“Qualified Investments” means and includes any of the following:

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
- (c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land

Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

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

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

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

(g) Repurchase agreements, 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 Board of Treasury Investments pursuant 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 exempt from federal income taxation, and which are rated at least “A” by Moody’s Investors Service, Inc. or Standard & Poor’s Corporation.

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

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

“Renewal and Replacement Fund” means the Renewal and Replacement Fund established by Section 4.01 hereof.

“Revenue Fund” means the Revenue Fund established by Section 4.01 hereof.

“Secretary” means the Secretary of the Governing Body of the Issuer.

“Series 2015 A Bonds” means the Combined Waterworks and Sewerage System Revenue Bonds, Series 2015 A (United States Department of Agriculture), authorized hereby to be issued pursuant to this Bond Legislation.

“Series 2015 A Bonds Project Construction Account” means the Series 2015 A Bonds Construction Trust Fund established by Section 4.01 hereof.

“Series 2015 A Bonds Reserve Account” means the Series 2015 A Bonds Reserve Account established by Section 4.02 hereof.

“Series 2015 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 2015 A Bonds in the then current or any succeeding year.

“State” means the State of West Virginia.

“System” means the complete existing waterworks and sewerage system of the Issuer and all waterworks and sewerage facilities owned by the Issuer and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the waterworks and sewerage system; and shall include the Project and any and all extensions, additions, betterments and improvements thereto hereafter acquired or constructed for the waterworks and sewerage system from any sources whatsoever, both within and without the Issuer.

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

Additional terms and phrases are defined in this Resolution as they are used. Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender; and any requirement for execution or attestation of the bonds or any certificate or other document by the 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 not to exceed \$1,641,000, 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 Bonds hereby authorized shall be applied as provided in Article IV hereof. The Issuer has received bids and will

enter into contracts for the acquisition and construction of the Project, in an amount and otherwise compatible with the financing plan submitted to the Purchaser.

The estimated maximum cost of the acquisition and construction of the Project is \$1,641,000 of which \$470,000 will be obtained from the proceeds of sale of the Series 2015 A Bonds herein authorized; \$383,500 will be obtained from grants from the Purchaser; and \$787,500 will be obtained from a Small Cities Block grant.

### **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 2015 A Bonds of the Issuer, to be known as “Combined Waterworks and Sewerage System Revenue Bonds, Series 2015 A (United States Department of Agriculture)”, are hereby authorized to be issued in the aggregate principal amount of \$470,000, for the purpose of financing the cost of the acquisition and construction of the Project.

Section 3.02. Description of Bonds. The Series 2015 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 2015 A Bonds shall bear interest from the date of delivery, payable monthly at the rate of 3.0% 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 \$1,730, 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 2015 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 2015 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 2015 A Bonds, and the right to principal of and stated interest on the Series 2015 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 2015 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 2015 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 2015 A Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on the Series 2015 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 2015 A Bonds, and, upon presentation for such purpose, the Bond Registrar shall, under such reasonable regulations as it may prescribe, register the Series 2015 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 2015 A Bonds as hereinbefore provided.

The Bond Registrar shall accept the Series 2015 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 2015 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 2015 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 2015 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 2015 A Bonds shall cease to be such officer of the Issuer before the Series 2015 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 2015 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 2015 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 2015 A Bonds so surrendered shall be canceled and held for the account of the Issuer. If the Series 2015 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 Gross Revenues. The payment of the debt service of all Series 2015 A Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Gross Revenues derived from the System. Such Gross Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 2015 A Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 3.08. Form of Bonds. Subject to the provisions hereof, the text of the Series 2015 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 SERIES 2015 A BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
ELLENBORO-LAMBERTON PUBLIC SERVICE DISTRICT  
COMBINED WATERWORKS AND SEWERAGE  
SYSTEM REVENUE BOND, SERIES 2015 A  
(UNITED STATES DEPARTMENT OF AGRICULTURE)

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

No. AR-1

Date: \_\_\_\_\_, 2015

FOR VALUE RECEIVED, ELLENBORO-LAMBERTON PUBLIC SERVICE DISTRICT (the "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 \_\_\_\_\_, 20\_\_ and continuing on the corresponding day of each month for the first 24 months after the date hereof, and monthly installments of \$ \_\_\_\_\_, covering principal and interest, beginning \_\_\_\_\_, 20\_\_, except that the final installment shall be paid on \_\_\_\_\_, 20\_\_ (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 (i) financing a portion of the costs of acquisition and construction of improvements and extensions to the waterworks portion of the existing public waterworks and sewerage system (the "System") of the Borrower; and (ii) paying costs of issuance of the Bonds (the "Bonds") and related costs, is payable solely from the Gross Revenues to be derived from the operation of the System in the manner provided in the hereinafter defined Resolution. This Bond does not in any manner constitute an indebtedness of 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 Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the 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 on \_\_\_\_\_, 2015, 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 Farmer and Rural Development Act of 1965. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

THERE ARE NO OUTSTANDING OBLIGATIONS OF THE ISSUER WHICH WILL RANK ON A PARITY WITH THE SERIES 2015 A BONDS AS TO LIENS, PLEDGE, SOURCE OF AND SECURITY FOR PAYMENT.

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, ELLENBORO-LAMBERTON 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.

ELLENBORO-LAMBERTON PUBLIC SERVICE DISTRICT

[CORPORATE SEAL]

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary

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

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers to \_\_\_\_\_ 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 Borrower with full power of substitution in the premises.

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

\_\_\_\_\_

In 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 with and shall be held by the Depository Bank, separate and apart from all other funds or accounts of the Depository Bank and from each other:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund; and
- (4) Series 2015 A Bonds Project Construction Account.

B. Establishment of Funds and Accounts with Commission. The following special funds or accounts are created 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 2015 A Bonds Reserve Account.

Section 4.02. Bond Proceeds; Project Construction Account. The proceeds of the sale of the Series 2015 A Bonds shall be deposited upon receipt by the Issuer in the Series 2015 A Bonds Project Construction Account. The monies in the Series 2015 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 2015 A Bonds Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

Monies in the Series 2015 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 2015 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 2015 A Bonds if there are not sufficient Gross Revenues to make such monthly payment.

Pending application as provided in this Section 4.02, money and funds in the Series 2015 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 2015 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 2015 A Bonds shall be Outstanding and unpaid, or until there shall have been set apart in the Series 2015 A Bonds Reserve Account, a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Series 2015 A Bonds remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the Holders of the Series 2015 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 Gross Revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

(1) The Issuer shall next, each month, on or before the due date thereof, transfer from the Revenue Fund and remit to the National Finance Office the amounts required to pay interest on the Series 2015 A Bonds.

(2) The Issuer shall next, each month, transfer from the Revenue Fund and on or before the due date thereof, remit to the National Finance Office, commencing 24 months following the date of delivery of the Series 2015 A Bonds, the amount required to amortize the principal of the Series 2015 A Bonds over the life of the bond issue.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and 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 2015 A Bonds Reserve Account, an amount equal to 10% of the monthly payment amount, until the amount in the Series 2015 A Bonds Reserve Account equals the Series 2015 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2015 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 2015 A Bonds Reserve Requirement.

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

(5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund, an amount equal to 2.5% of the Gross Revenues each month, exclusive of any payments for account of the Series 2015 A Bonds Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in 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 Series 2015 A Bonds Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

Whenever the money in the Series 2015 A Bonds Reserve Account shall be sufficient to prepay the Series 2015 A Bonds in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Series 2015 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 2015 A Bonds Reserve Account. All amounts required for the Series 2015 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 2015 A Bonds and the interest thereon.

The Series 2015 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 2015 A Bonds and the interest thereon.

If on any payment date the Gross 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.

The Commission shall keep the monies in the Series 2015 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 2015 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 2015 A Bonds, provide evidence that there will be at least 258 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 2015 A Bonds shall be Outstanding and unpaid, or until there shall have been set apart in the Series 2015 A Bonds Reserve Account, sums sufficient to prepay the entire principal of the Series 2015 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 2015 A Bonds.

Section 5.02. Rates. Prior to the issuance of the Series 2015 A Bonds, equitable rates or charges for the use of and service rendered by the System shall be established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated 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, if any, on the Series 2015 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2015 A Bonds; provided that, amounts equal to or in excess of the reserve requirements are on deposit respectively in the Series 2015 A Bonds Reserve Account and any reserve accounts for obligations on a parity with the Series 2015 A Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2015 A Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 2015 A Bonds. In any event, the Issuer shall not reduce the rates or charges for services described in Section 6.01 hereof.

Section 5.03. Sale of the System. So long as the Series 2015 A Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of the system, or any part thereof without the prior written consent of the Purchaser. Such consent will provide for the 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 Gross Revenues of the System shall be issued, except with the prior written consent of the Purchaser.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2015 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 2015 A 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 Series 2015 A Bonds and the RUS Bonds, representing 75% of the then-outstanding principal indebtedness.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. All Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Gross Revenues of the System and their source of and security for payment from said revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Series 2015 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 2015 A Bonds.

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

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 2015 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 \$1,000,000 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 \$500,000 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 2015 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 \$1,000,000 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 \$500,000 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 2015 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 2015 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of the Series 2015 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 2015 A Bonds at the date specified for payment thereof; or

(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 2015 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 2015 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 Gross 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 2015 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 waterworks portion of the System, subject to change consonant with the provisions hereof, shall be as set forth in the Recommended Decision of the Public Service Commission of West Virginia entered September 18, 2014, which became

Final Order on October 8, 2014, in Case No. 14-0806-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 2015 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 2015 A Bonds, the pledge of Gross Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Series 2015 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 2015 A Bonds, the Issuer may not defease the Series 2015 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 and Secretary of the Governing Body are hereby authorized and directed to cause the Series 2015 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 2015 A Bonds.

Section 7.05. Conflicting Provisions Repealed. 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.

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

Adopted this 10th day of February, 2015.

ELLENBORO-LAMBERTON PUBLIC SERVICE DISTRICT

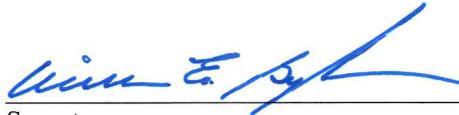
By:   
Its: Chairman

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of ELLENBORO-LAMBERTON PUBLIC SERVICE DISTRICT on February 10, 2015.

Dated: February 12, 2015.

[SEAL]



Secretary

254910.00001



**Rural Development**

February 20, 2014

West Virginia State  
Office

1550 Earl Core Road,  
Suite 101  
Morgantown, WV  
26505

Voice 304.284.4860  
1.800.295.8228  
Fax 304.284.4893

~~James H. Walters, Chairman  
Ellenboro-Lamberton Public Service District  
P.O. Box 240  
Harrisville WV 26362~~

Re: Union Ridge and Victory Ridge  
Water Line Extensions Project

Dear Mr. Walters:

This letter, with Attachments 1 through 10 and enclosures, 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 USDA, Rural Development (RD). 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 \$470,000, an RD grant in the amount of \$383,500, and other funding in the amount of \$787,500, for a total project cost of \$1,641,000. The other funding is planned in the form of a Small Cities Block Grant from the State of West Virginia.

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 website located at [www.rurdev.usda.gov/UWEP\\_HomePage.html](http://www.rurdev.usda.gov/UWEP_HomePage.html) for the following:

1. RUS Instruction 1780
2. RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Standard Documents on Water and Waste Projects with RUS Financial Assistance"
3. RUS Bulletin 1780-30, "Water Programs Audit Guide and Compliance Supplement"
4. RUS Bulletin 1780-31, "Water Programs Compliance Supplement for OMB Circular A-133 Audits"

USDA is an equal opportunity provider and employer.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).

If you do not have internet access, we will provide the appropriate documents.

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

- Attachment No. 1 – Project Construction Budget (All Copies)
- Attachment No. 2 – Water and Waste Processing Checklist (All Copies)
- Attachment No. 3 – Water Users Agreement (Applicant and Attorney Copies)
- Attachment No. 4 – Declination Statement (Applicant and Attorney Copies)
- Attachment No. 5 – Form RD 1927-9, “Preliminary Title Opinion” (Attorney Copy)
- Attachment No. 6 – Form RD 442-22, “Opinion of Counsel Relative to Rights-of-Way” (Attorney Copy)
- Attachment No. 7 – Form RD 1927-10, “Final Title Opinion” (Attorney Copy)
- Attachment No. 8 – Guidance to Local Attorney (Applicant and Attorney Copies)
- Attachment No. 9 – WV Supplemental General Conditions (Engineer Copy)
- Attachment No. 10 – Various other RD forms as identified on 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. In accordance with RUS Staff Instruction 1782-1, Section 1782.20(u)(5), 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 project applicants. In the event that USDA determines that your project has not progressed 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. System for Award Management – System for Award Management (SAM) is a Federal Government database that has combined federal procurement systems and the Catalog of Federal Domestic Assistance into one system. The initiation of SAM includes the functionality of (1) Central Contractor Registry (CCR), (2) Federal Agency Registration (Fedreg), (3) Online Representations and Certifications Application, and (4) Excluded Parties List System (EPLS). The benefits of SAM include streamlined and integrated processes, elimination of data redundancies, and reduced costs while providing improved capability. Registering with SAM is required for all recipients of Federal loans and grants. Registration expires every 12 months and must be renewed. Federal regulation 2 CFR 25.110 requires recipients to maintain this registration until all funds have been expended. Funds will not be disbursed to recipients with expired registrations. Failure to maintain a current SAM registration could delay loan closings and/or payments during construction. Detailed instructions on registration and renewal are available at [www.sam.gov](http://www.sam.gov) or can be provided by our agency.

3. Loan Repayment – The loan will be scheduled for repayment over a period of 40 years. The payments due the first 24 months will consist of interest only. Payments for the remaining 456 months will be equal amortized monthly installments. For planning purposes use a 3.5% interest rate and a monthly amortization factor of .00397, which provides for a monthly payment of \$1,866.00. You will be required 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. The District 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 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 the District may be required to refinance (graduate) the unpaid balance of its RD loan, in whole or in part, upon the request of RD if at any time it shall be determined the District is able to obtain a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time.

4. Security – The loan must be secured by a statutory lien of equal priority, a pledge of the system’s revenues and other agreements between you and RD as set forth in the bond resolution which must be properly adopted and executed by the appropriate officials of the District. Additional security requirements are contained in RUS Bulletin 1780-12 and RUS Bulletin 1780-27 which are mentioned later.
5. Users – This conditional commitment is based upon you providing evidence that you will have at least 258 bona fide users on the proposed system when it has been completed and is placed in operation. This evidence will consist of 28 signed user agreements and a signed certification from you that identifies and attests to the number of users actually connected to and using the District’s existing water system, which is to be expanded by the new project, at the time you request authorization to advertise the proposed project for construction bids.

The enclosed Water Users Agreement will be used. Each user signing an agreement must make a user contribution of \$100.00. Each potential user who is located along planned lines and declines the offered service will be provided an opportunity to sign a “Service Declination Statement.” A guide “Service Declination Statement” is attached for your use. If a potential user refuses to sign either a user agreement or a declination statement, the individual making the contact for the District should complete the declination statement for that potential user and note thereon his/her visit with the potential user, the potential user’s refusal to sign, and the reason therefore. The declination statement should also be dated and signed by the individual making the contact.

Before RD can agree to the project being advertised for construction bids, you must provide evidence that the total required number of bona fide users has been acquired and that all potential users have been offered the proposed service. Information and material evidencing compliance with this requirement must consist of (1) your certification (written) as to the number of users connected to and using the water service of the existing system (paying monthly bills), (2) signed user agreements, (3) signed service declination statements, (4) records evidencing user contributions having been paid, (5) a map locating each potential user's property in the new service area identifying it by number, (6) a list of all signed bona fide users numbered so as to be a cross-reference with the map, and (7) a list of all declination statements numbered so as to be a cross-reference with the map.

6. Accounting Services – The accountant has agreed 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 will certify that the accounts and records as required by your bond resolution have been established and are operational.

Agency regulations outline requirements for the submission of management reports and audits. Appropriate state statutes place certain audit requirements on the District. "Government Auditing Standards" (Revised July 2007), which may be accessed at [www.gao.gov/govaud/ybk01.htm](http://www.gao.gov/govaud/ybk01.htm), and RUS Bulletins 1780-30 and 1780-31, which may be accessed at our agency website, [www.rurdev.usda.gov/UWEP\\_HomePage.html](http://www.rurdev.usda.gov/UWEP_HomePage.html), outline audit requirements.

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

7. 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 District 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 District'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 District has already acquired real property(s) (land or facilities), the District's attorney will provide a separate final title opinion(s) covering such property(s) on the day of loan closing.
8. 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:
- a. West Virginia Department of Highways
  - b. State Department of Health
  - c. Department of Environmental Protection

d. Public Land Corporation

9. 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 RD.
- 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.

10. 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 the estimated highest monthly construction drawdown. Once construction is complete, you may decrease the amount of your coverage. Please note that the cost of the temporary increase in coverage is an eligible project cost.

The minimum coverage acceptable to RD 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. 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.

#### 11. Environmental Requirements --

- a. Mitigation – At the conclusion of the proposal’s environmental review process, specific actions were negotiated with environmental regulatory officials to avoid or minimize adverse environmental impacts. Those actions(s) are required for successful completion of the project and must be adhered to during project design and construction.

The contractor(s) and subcontractor(s) shall comply with all applicable Federal, State, and Local laws and regulations concerning environmental pollution control and abatements as well as any specific requirements that may be stated in the contract(s).

- b. 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.

12. 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.

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.

13. 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 provide 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.

14. Contract Documents, Final Plans and Specifications –

- a. The contract documents should consist of the following:
  - i. EJCDC Document No. C-520, 2007 Edition, “Suggested Form of Agreement between Owner and Contractor (Stipulated Price) and EJCDC Document No. C-700, 2007 Edition, “Standard General Conditions of the Construction Contract” and Attachments. The EJCDC document is issued under copyright and cannot be provided by RD.
  - ii. “WV Supplemental General Conditions.” (See Attachment No. 9)

**RUS Bulletin 1780-26, “Guidance for the Use of EJCDC Standard Documents on Water and Waste Projects with RUS Financial Assistance (August 20, 2009 Version),” must be used by your engineer in the preparation of the contract documents.**

- b. The contract documents must provide, as a minimum, the following insurance:
  - i. Liability Insurance – Personal Liability -- \$500,000; Property Damage -- \$200,000 each occurrence. This coverage must include indemnification of the District and its engineer. EJCDC Document C-700, “Standard General Conditions of the Construction Contract” and Exhibit H 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 RD for approval.
- d. The project must be designed in compliance with Section 504 of the Rehabilitation Act of 1973.

15. Disbursement of Funds – The RD funds will be advanced as they are needed in the amount(s) necessary to cover the RD proportionate share of any disbursements required of the District, over 30 day periods. Funds will be disbursed by electronic transfer of funds.

Any RD grant funds not disbursed immediately upon receipt must be deposited in an interest bearing account except as follows:

- a. Federal grant awards (includes all Federal funding sources) are less than \$120,000 per year.
- b. The best available interest bearing account would not be expected to earn in excess of the following:
  - i. Public Bodies  
Interest earned on grant funds in excess of \$100 per year will be submitted to RD at least quarterly as required in 7 CFR 3016.
- c. The depository would require a minimum balance so high that it would not be feasible.

The District 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 \$250,000 will be secured by a collateral pledge in accordance with Treasury Circular Number 176.

The District 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 RD.

16. Water Purchase Contract – You propose to purchase treated water from the City of Pennsboro; therefore, you must enter into a Water Purchase Contract. Form RD 442-30 must be used unless you receive an exception from RD.
17. At a properly called meeting, you must adopt and properly execute the following forms, and minutes showing the adoption must be provided:

- a. Form RD 1940-1 – “Request for Obligation of Funds”
  - b. RUS Bulletin 1780-12 – “Water or Waste System Grant Agreement”
  - c. RUS Bulletin 1780-27 – “Loan Resolution (Public Bodies)”
  - d. Certification of Compliance
  - e. Form RD 1942-46, “Letter of Intent to Meet Conditions”
18. The enclosed Water and Wastewater Processing Checklist (Attachment No. 2 outlines the items needed to complete the loan and grant docket. All the items listed must be included in the loan and grant docket when it is forwarded to the USDA – Rural Development State Office for loan closing instructions to be issued.
19. Upon receipt of the loan and grant docket, which contains all the items required above, RD 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 RD with (a) a certified bid tabulation, (b) the project engineer’s evaluation of the bids received, and (c) your written 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.
20. Excess Loan and Grant Funds – If, after bid opening, there is determined to be a significant reduction in project cost, the District’s funding needs will be reassessed. Decreases in RD funds will be based on revised project costs and current number of users; however, other factors including RD regulations used at the time of loan and grant approval will remain the same. Obligated loan and grant funds not needed to complete the proposed project will be deobligated. Any reduction will be applied to grant funds first. In such cases, applicable forms, the letter of conditions, and other items will be revised.
21. Use of Remaining Funds – Application contributions will be the first funds expended in the project. Remaining funds may be considered in direct proportion to the amounts obtained from each source and handled as follows:
- a. Remaining funds may be used for eligible loan and grant purposes, provided the use will not result in major changes to the facility(s) and the purpose of the loan and grant remains the same.

- b. Agency loan funds that are not needed will be applied as an extra payment on the Agency indebtedness unless other disposition is required by the bond ordinance, Resolution, or State statute.
- c. Grant funds not expended for eligible purposes will be cancelled. Prior to actual cancellation, you and your attorney and engineer will be notified of the Agency's intent to cancel the remaining funds and given appropriate appeal rights.

If the conditions set forth in this letter are not met within twelve (12) 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 twelve-month period and it is determined the District 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: Alan L. Harris, Area Director  
ATTN: Virginia M. McDonald, Area Specialist  
2118 Ripley Road  
Ripley, WV 25271

Thrasher Engineering  
ATTN: Clay P. Riley, P.E.  
30 Columbia Boulevard  
Clarksburg, WV 26301

Cokeley & Associates, PLLC  
ATTN: Ed Cokeley, CPA  
P.O. Box 240  
Harrisville, WV 27372

Steptoe & Johnson, PLLC ✓  
ATTN: John C. Stump, Esquire  
P.O. Box 1588  
Charleston, WV 25326

Rodney C. Windom, Esquire  
202 East Main Street  
Harrisville, WV 26362

West Virginia Development Office  
ATTN: Kelly Workman, Manager, Project Development  
Capitol Complex, Bldg. 6, Room 553  
Charleston, WV 25305

Union Ridge-Victory Ridge Waterline Extension Project  
Project Construction Budget

<u>PROJECT COST</u>	<u>SCBG</u>	<u>RD GRANT</u>	<u>RD LOAN</u>	<u>TOTAL</u>
CONSTRUCTION	\$ 752,500	\$ 196,100	\$ 239,700	\$ 1,188,300
CONST. CONTINGENCY		\$ 37,400	\$ 45,800	\$ 83,200
LAND & RIGHTS		\$ 11,500	\$ 14,000	\$ 25,500
LEGAL FEES		\$ 4,500	\$ 5,500	\$ 10,000
BOND COUNSEL		\$ 6,800	\$ 8,200	\$ 15,000
PSC COUNSEL		\$ 3,800	\$ 3,700	\$ 7,500
ACCOUNTING		\$ 6,800	\$ 8,200	\$ 15,000
ENGINEERING FEES		\$ 82,800	\$ 101,200	\$ 184,000
Study & Report - \$0				
Basic - \$114,500				
Insp. - \$53,000				
Additional - \$16,500				
INTEREST			\$ 32,865	\$ 32,865
ADMINISTRATION	\$ 34,000			\$ 34,000
TAP FEES	\$ 1,000			\$ 1,000
PROJECT CONTG.		\$ 33,800	\$ 10,835	\$ 44,635
<b>TOTAL</b>	<b>\$ 787,500</b>	<b>\$ 383,500</b>	<b>\$ 470,000</b>	<b>\$ 1,641,000</b>

Rates

Available for general domestic, commercial, and industrial service.

First	3,000	gallons @	\$ 11.48	per M gallons
Next	7,000	gallons @	\$ 9.83	per M gallons
Over	10,000	gallons @	\$ 7.06	per M gallons

Minimum Charge

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

.5/8" x 3/4"	meter	\$ 32.28	per month
3/4"	meter	\$ 48.42	per month
1"	meter	\$ 80.70	per month
1 1/2"	meter	\$ 161.40	per month
2"	meter	\$ 258.24	per month
3"	meter	\$ 484.20	per month
4"	meter	\$ 807.00	per month
6"	meter	\$ 1,614.00	per month
8"	meter	\$ 2,582.40	per month

The above minimum charges are subject to an additional \$0.73 per thousand gallons.

Delayed Payment Penalty

The 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.

Connection Charge

Prior to Construction - \$100.00

After the start of construction, there shall be a charge of \$300.00 for connection to the system.

Reconnection Charge

\$25.00

Use and Income Analysis - See Attached

Cash Flow Analysis - See Attached

Ellenboro Lambertton PSD-Water  
 Customer Bill Analysis  
 For the Month of March, 2012

Statement C  
 Schedule 1

March 2012 Gallons at Base Period Tariff for Annualization Factor

Blocking	Customers	Gallons					Next	Over	
		Gallons (000)	Minimum Bills 5/8"	Minimum Bills 2"	Minimum 2" Meter for Min Bi	Gallons			
Current Rates									
0 to 3,000	116	175	116	1	1	175			
3,000 to 10,000	101	497		2	12	297	188		
Over 10,000	13	831		1	11	36	84		
Totals	230	1503				333	272		
Current Rates			21.81	174.48		0.49	7.76	6.64	4.77
Current Revenues			2530	697.92		85.75	2584.08	1806.08	3339
Annualization Factor									11,042.83
Per Books Annual Revenue									12.57
									<u>138,862.00</u>
Per Books Annual Revenue									138,862.00
One time adjustments									
Adjusted per Books Revenue									<u>138,862.00</u>

Rate increase 48.00%



**ELLENBORO-LAMBERTON PUBLIC SERVICE DISTRICT  
OPERATING BUDGET**

**OPERATING INCOME**

Metered Sales	\$ 220,475	
Penalties		
Other Income	\$ 3,000	
Reconnect Fees		
<b>TOTAL OPERATING INCOME</b>		<u>\$ 223,475</u>

**NON OPERATING INCOME**

Interest income	\$ 8	
<b>TOTAL NON OPERATING INCOME</b>		<u>\$ 8</u>

**TOTAL INCOME**

\$ 223,483

**EXPENSES**

O & M	\$ 169,851	
Taxes	\$ -	
<b>TOTAL EXPENSES</b>		<u>\$ 169,851</u>

**INCOME AVAILABLE FOR D/S (A)**

\$ 53,632

**DEBT SERVICE**

Existing Bond P & I (B)	\$ 14,068	
Proposed Bond P & I (B)	\$ 22,392	
<b>TOTAL DEBT SERVICE</b>		<u>\$ 36,460</u>

**DEBT SERVICE RESERVE**

Existing Debt Service Reserve	\$ -	
Proposed Debt Service Reserve	\$ 2,240	
<b>TOTAL DEBT SERVICE RESERVE</b>		<u>\$ 2,240</u>

**SURPLUS (DEFICIT)**

\$ 14,932

**DEBT COVERAGE (A/B)**

147.10%

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
ELLENBORO-LAMBERTON PUBLIC SERVICE DISTRICT  
COMBINED WATERWORKS AND SEWERAGE  
SYSTEM REVENUE BOND, SERIES 2015 A  
(UNITED STATES DEPARTMENT OF AGRICULTURE)

\$470,000

No. AR-1

Date: February 12, 2015

FOR VALUE RECEIVED, ELLENBORO-LAMBERTON PUBLIC SERVICE DISTRICT (the "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 FOUR HUNDRED SEVENTY THOUSAND DOLLARS (\$470,000), plus interest on the unpaid principal balance at the rate of 3.0% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing March 12, 2015 and continuing on the corresponding day of each month for the first 24 months after the date hereof, and monthly installments of \$1,730, covering principal and interest, beginning February 12, 2017, except that the final installment shall be paid on February 12, 2055 (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 (i) financing a portion of the costs of acquisition and construction of improvements and extensions to the waterworks portion of the existing public waterworks and sewerage system (the "System") of the Borrower; and (ii) paying costs of issuance of the Bonds (the "Bonds") and related costs, is payable solely from the Gross Revenues to be derived from the operation of the System in the manner provided in the hereinafter defined Resolution. This Bond does not in any manner constitute an indebtedness of 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 Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the 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 on February 10, 2015, 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 Farmer and Rural Development Act of 1965. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

**THERE ARE NO OUTSTANDING OBLIGATIONS OF THE ISSUER WHICH WILL RANK ON A PARITY WITH THE SERIES 2015 A BONDS AS TO LIENS, PLEDGE, SOURCE OF AND SECURITY FOR PAYMENT.**

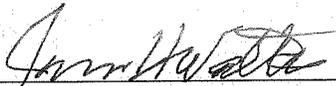
In accordance with the requirements of the United States Department of Agriculture, the Bonds will be in default should any proceeds of the Bonds be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

[Remainder of Page Intentionally Blank]

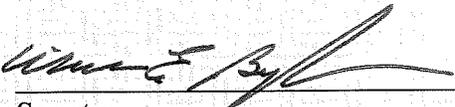
IN WITNESS WHEREOF, ELLENBORO-LAMBERTON PUBLIC SERVICE DISTRICT has caused this Bond to be executed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, all as of the date hereinabove written.

ELLENBORO-LAMBERTON PUBLIC SERVICE DISTRICT

[CORPORATE SEAL]

  
\_\_\_\_\_  
Chairman

ATTEST:

  
\_\_\_\_\_  
Secretary

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$177,403	02/12/2015	(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

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

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers to \_\_\_\_\_ 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 Borrower with full power of substitution in the premises.

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

\_\_\_\_\_  
In presence of:

\_\_\_\_\_

February 12, 2015

Ellenboro-Lamberton Public Service District  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2015 A  
(United States Department of Agriculture)

Ellenboro-Lamberton Public Service District  
Harrisville, West Virginia

United States Department of Agriculture  
Ripley, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by Ellenboro-Lamberton Public Service District in Ritchie County, West Virginia (the "Issuer"), of its \$470,000 Combined Waterworks and Sewerage System Revenue Bonds, Series 2015 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"), a Bond Resolution duly adopted by the Issuer on February 10, 2015, (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.

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

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.

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

**WV MUNICIPAL BOND COMMISSION**

900 Pennsylvania Avenue  
 Suite 1117  
 Charleston, WV 25301  
 (304) 558-3971

**NEW ISSUE REPORT FORM**

Date of Report: 2/12/2015

ISSUE: Ellenboro-Lamberton Public Service District  
Combined Waterworks and Sewerage System Revenue Bonds, Series 2015 A (USDA)

ADDRESS: PO Box 240 Harrisville, WV 26362 COUNTY: Ritchie

**PURPOSE OF ISSUE:**

New Money: x  
 Refunding: \_\_\_\_\_

REFUNDS ISSUE(S) DATED: NA

ISSUE DATE: 2/12/2015

CLOSING DATE: 2/12/2015

ISSUE AMOUNT: \$470,000

RATE: 3.000%

1ST DEBT SERVICE DUE: NA

1ST PRINCIPAL DUE: NA

1ST DEBT SERVICE AMOUNT NA

PAYING AGENT: Issuer

**BOND COUNSEL:**

Firm: Steptoe & Johnson PLLC  
 Contact: John Stump, Esquire  
 Phone: (304) 353.8196

**UNDERWRITERS COUNSEL**

Firm: \_\_\_\_\_  
 Contact: \_\_\_\_\_  
 Phone: \_\_\_\_\_

**CLOSING BANK:**

Bank: \_\_\_\_\_  
 Contact: \_\_\_\_\_  
 Phone: \_\_\_\_\_

**ESCROW TRUSTEE:**

Firm: \_\_\_\_\_  
 Contact: \_\_\_\_\_  
 Phone: \_\_\_\_\_

**KNOWLEDGEABLE ISSUER CONTACT**

Contact: James Walters  
 Position: Chairman  
 Phone: 304.588.3407

**OTHER:**

Agency: United States Department of  
Agriculture  
 Contact: Virginia McDonald  
 Position: \_\_\_\_\_  
 Phone: 304.372.3441

**DEPOSITS TO MBC AT CLOSE**

By:	_____ Wire	_____ Accrued Interest:	\$ _____
	_____ Check	_____ Capitalized Interest:	\$ _____
		_____ Reserve Account:	\$ _____
		_____ Other:	\$ _____

**REFUNDS & TRANSFERS BY MBC AT CLOSE**

By:	_____ Wire	_____ To Escrow Trustee	\$ _____
	_____ Check	_____ To Issuer	\$ _____
	_____ IGT	_____ To Cons. Invest. Func	\$ _____
		_____ To Other:	\$ _____

NOTES: Monthly debt service payments will be made by the District directly to the National Finance Office.  
The Municipal Bond Commission will only hold the Series 2015 A Reserve Account. Payments into the  
Series 2015 A Bonds Reserve Account will commence 24 months following the date hereof.

**FOR MUNICIPAL BOND COMMISSION USE ONLY:**

DOCUMENTS REQUIRED: \_\_\_\_\_  
 TRANSFERS REQUIRED: \_\_\_\_\_  
 \_\_\_\_\_