

THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 B
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

Closing Date: July 27, 2012

TRANSCRIPT OF PROCEEDINGS

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State of West Virginia
WATER DEVELOPMENT AUTHORITY
 180 Association Drive, Charleston, WV 25311-1217
 (304) 558-3612 - (304) 558-0299 (Fax)
 Internet: www.wvwda.org - Email: contact@wvwda.org

Date 7/26/12 Time 1:30 LGA Town of Gilbert Program EDC/RUS

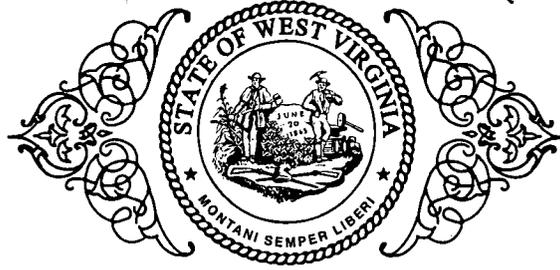
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The Authority requests that the following information concerning the individual who will be responsible for sending Debt Service Payments to the Municipal Bond Commission be provided. (If that individual is in attendance, he/she should also sign above.) Please Print:

Name Vivian Carter Telephone ³⁰⁴ 664-9625 E-Mail TheTownofGilbert@verizon.net
 Address P.O. Box 148, Gilbert, WV 25621

REMINDER: As a participant in this program, the Local Governmental Agency (LGA) agrees and is required to submit annually to the WDA a copy of its audited financial statements and a copy of its adopted budget. Also, pursuant to the Loan Agreement and the NonArbitrage Certificate (both of which are contained in the bond transcript) you are to provide annually to the WDA a rebate calculation certificate.

State of West Virginia



Certificate

*I, Natalie E. Tennant, Secretary of State of the
State of West Virginia, hereby certify that*

THIS IS A TRUE COPY OF CHAPTER 8, ARTICLE 19 OF THE WEST
VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS OFFICE.



*Given under my hand and the
Great Seal of the State of
West Virginia on
July 20, 2012*

Natalie Tennant
Secretary of State

MUNICIPAL CORPORATIONS

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ARTICLE 19

MUNICIPAL AND COUNTY WATERWORKS AND ELECTRIC POWER SYSTEMS

Part I—Municipal Waterworks and Electric Power Systems Authorized; Definition.

Section

- 8-19-1. Acquisition and operation of municipal and county waterworks and electric power systems; construction of improvements to municipal and county electric power systems; extension beyond corporate limits; definitions.

Part II—Limitations on Sale or Lease of Certain Municipal Waterworks.

- 8-19-2. Contracts for purchase of electric power or energy by a municipality; definitions; requirements; payments; rates and charges.

Part III—Right of Eminent Domain.

- 8-19-3. Right of eminent domain; limitations.

Part IV—Revenue Bond Financing.

- 8-19-4. Estimate of cost; ordinance or order for issuance of revenue bonds; interest on bonds; rates for services; exemption from taxation.

Section

- 8-19-5. Publication of abstract of ordinance or order and notice; hearing.
- 8-19-6. Amount, negotiability and execution of bonds.
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- 8-19-8. Lien of bondholders; deeds of trust; security agreements; priority of liens.
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- 8-19-10. Operating contract.
- 8-19-11. Rates or charges for water and electric power must be sufficient to pay bonds, etc.; disposition of surplus.
- 8-19-12. Service charges; sinking fund; amount of bonds; additional bonds; surplus.
- 8-19-12a. Deposit required for new customers; lien for delinquent service rates and charges; failure to cure delinquency; payment from deposit; reconnecting deposit; return of deposit; liens; civil actions; deferral of filing fees and costs in magistrate court action; limitations with respect to foreclosure.
- 8-19-13. Discontinuance of water or electric power service for nonpayment of rates or charges.
- 8-19-14. Bonds for additions, betterments and improvements.
- 8-19-15. System of accounts; audit.
- 8-19-16. Protection and enforcement of rights of bondholders, etc.; receivership.

Part V—Grants, Loans, Advances and Agreements; Cumulative Authority.

- 8-19-17. Grants, loans, advances and agreements.
- 8-19-18. Additional and alternative method for constructing or improving and for financing waterworks or electric power system; cumulative authority.

Part VI—Operation by Board; Construction.

- 8-19-19. Alternative procedure for acquisition, construction or improvement of waterworks or electric power system.
- 8-19-20. Article to be liberally construed.
- 8-19-21. Specifications for water mains and water service pipes.
- 8-19-22. Identification requirement for fire hydrants that are inoperable or unavailable for use in emergency situations.

PART I—MUNICIPAL WATERWORKS AND ELECTRIC POWER SYSTEMS AUTHORIZED; DEFINITION

§ 8-19-1. Acquisition and operation of municipal and county waterworks and electric power systems; construction of improvements to municipal and county electric power systems; extension beyond corporate limits; definitions

(a) Subject to and in accordance with the provisions of this article, any municipality or county commission may acquire, construct, establish, extend, equip, repair, maintain and operate, or lease to others for operation, a waterworks system or an electric power system or construct, maintain and operate additions, betterments and improvements to an existing waterworks system or an existing electric power system, notwithstanding any provision or limitation to the contrary in any other law or charter: Provided, That such municipality or county commission shall not serve or supply water facilities or electric

power facilities or services within the corporate limits of any other municipality or county commission without the consent of the governing body of such other municipality or county commission.

(b) Any municipality or county commission which intends to file an application with the federal energy regulatory commission for a license to acquire, construct, establish, extend, maintain and operate, or lease to others for operation, an electric power system, shall give written notice by certified mail, return receipt requested, and shall give public notice by Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area shall be the municipality or county in which the system is to be located to the governing body of the municipality or the county commission in which such system is or shall be located or, if such system is or shall be located outside of a municipality or county, to the county commission of the county in which such system is or shall be located, at least sixty days prior to the filing of such application: Provided, That the provisions of this subsection shall not apply to any municipality or county commission which, on the date of the passage of this act, has obtained a license from the federal energy regulatory commission to acquire, construct, establish, extend, maintain and operate, or lease to others for operation, an electric power system. If the municipality or county commission receiving such notice does not respond to the notice within sixty days of receipt of such notice, then such other municipality or the county commission shall be deemed to have consented to the application for the proposed electric power system. If such other municipality or the county commission notifies the municipality or county commission that it objects to the proposed electric power system, such other municipality or the county commission shall hold a public hearing on the proposed system within sixty days of receipt of such notice from the municipality or county commission.

(c) As used in this article:

(1) "Waterworks system" means a waterworks system in its entirety or any integral part thereof, including mains, hydrants, meters, valves, standpipes, storage tanks, pump tanks, pumping stations, intakes, wells, impounding reservoirs, pumps, machinery, purification plants, softening apparatus and all other facilities necessary, appropriate, useful, convenient or incidental in connection with or to a water supply system.

(2) "Electric power system" means a system or facility which produces electric power in its entirety or provides for the distribution of electric power for local consumption and use or for distribution and resale or any combination thereof, or any integral part thereof, including, but not limited to, power lines and wires, power poles, guy wires, insulators, transformers, generators, cables, power line towers, voltage regulators, meters, power substations, machinery and all other facilities necessary, appropriate, useful or convenient or incidental in connection with or to an electric power supply system.

Acts 1933, Ex. Sess., c. 26, § 1; Acts 1937, c. 52; Acts 1939, c. 97; Acts 1949, c. 90; Acts 1955, c. 133; Acts 1969, c. 86; Acts 1978, c. 72; Acts 1983, c. 151; Acts 1986, c. 118; Acts 1986, 1st Ex. Sess., c. 18; Acts 1990, c. 141.

conditioned upon performance or nonperformance by any other party. The contract may provide that, in the event of a default by the municipality or any other party to the contract in the performance of each entities' obligations under the contract, any nondefaulting municipality or any other party to the contract shall on a pro rata basis succeed to the rights and interests of, and assume the obligations of, the defaulting party.

(c) Notwithstanding any other provisions of law, ordinance or charter provision to the contrary, a contract under subsection (b) of this section may extend for more than fifty years or fifty years from the date a project is estimated to be placed into normal continuous operation and the execution and effectiveness of the contract is not subject to any authorizations or approvals by the state or any agency, commission, instrumentality or political subdivision thereof except as otherwise specifically required by law.

(d) A contract under subsection (b) of this section may provide that payments by the municipality are made solely from and may be secured by a pledge of and lien upon revenues derived by the municipality from ownership and operation and that payments shall constitute an operating expense of the electric power system. No obligation under the contract shall constitute a legal or equitable pledge, charge, lien or encumbrance upon any property of the municipality or upon any of its income, receipts or revenues, except the revenues of the municipality's electric power system. Neither the faith and credit nor the taxing power of the municipality shall be pledged for the payment of any obligation under the contract.

(e) A municipality contracting under the provisions of subsection (b) of this section is obligated to fix, charge and collect rents, rates, fees and charges for electric power and energy and other services it sells, furnishes or supplies through its electric power system in an amount sufficient to provide revenues adequate to meet its obligations under the contract and to pay any and all other amounts payable from or constituting a charge and lien upon the revenues, including the amounts necessary to pay the principal and interest on any municipal bonds issued related to its electric power system: *Provided*, That any change in the rates and charges of the municipality to the customers of the electric power system under the provisions of this section are subject to the provisions and requirements of section four-b, article two, chapter twenty-four of this code and the obligations of the municipality under the contract are costs of providing electric service within the meaning of that section.

Acts 2007, c. 186, eff. June 6, 2007.

PART III—RIGHT OF EMINENT DOMAIN

§ 8-19-3. Right of eminent domain; limitations

For the purpose of acquiring, constructing, establishing or extending any waterworks system or electric power system, or for the purpose of constructing any additions, betterments or improvements to any waterworks or electric

power system, or for the purpose of acquiring any property necessary, appropriate, useful, convenient or incidental for or to any waterworks or electric power system, under the provisions of this article, the municipality or county commission shall have the right of eminent domain as provided in chapter fifty-four of this code: Provided, That such right of eminent domain for the acquisition of a privately owned waterworks system, or electric power system, or any part thereof, shall not be exercised without prior approval of the public service commission, and in no event shall any municipality or county commission construct, establish or extend beyond the corporate limits of said municipality or county line a municipal or county waterworks or electric power system under the provisions of this article to supply service in competition with an existing privately or municipally or county owned waterworks or electric power system in such municipality or county or within the proposed extension of such system, unless a certificate of public convenience and necessity therefor shall have been issued by the public service commission: Provided, however, That a municipality or county commission may not exercise such right of eminent domain over a privately owned electric power system or any part thereof for the purpose of acquiring, constructing, establishing or extending an electric power system.

Subject to the provisions of this article and notwithstanding the provisions of section nineteen, article twelve of this chapter to the contrary, a municipality or county commission may acquire, construct, establish, extend, equip, repair, maintain and operate, or lease to others for operation, electric generators or electric generating systems or electric transmission systems more than one mile beyond the corporate limits of such municipality or county line and said electric generation systems shall not be under the jurisdiction of the public service commission.

Acts 1933, Ex. Sess., c. 26, § 9; Acts 1937, c. 52; Acts 1969, c. 86; Acts 1978, c. 72; Acts 1983, c. 151; Acts 1990, c. 141.

Library References

Eminent Domain ⇨28, 35.
 Westlaw Topic No. 148.
 C.J.S. Eminent Domain §§ 35, 45.

Notes of Decisions

In general 1

1. In general

The section of the municipal home rule statute enabling municipalities to acquire and establish water, gas and electric systems does not authorize the use of the power of eminent do-

main for the acquisition of privately owned public utilities, but merely authorizes the establishment of utility systems through the process of construction and by the purchase of franchises and properties of going utility concerns. Code 1937, 8A-4-26. *City of Mullens v. Union Power Co.*, 1940, 7 S.E.2d 870, 122 W.Va. 179. Eminent Domain ⇨ 47(1)

PART IV—REVENUE BOND FINANCING

§ 8-19-4. Estimate of cost; ordinance or order for issuance of revenue bonds; interest on bonds; rates for services; exemption from taxation

Whenever a municipality or county commission shall, under the provisions of this article, determine to acquire, by purchase or otherwise, construct, establish, extend or equip a waterworks system or an electric power system, or to construct any additions, betterments or improvements to any waterworks or electric power system, it shall cause an estimate to be made of the cost thereof, and may, by ordinance or order, provide for the issuance of revenue bonds under the provisions of this article, which ordinance or order shall set forth a brief description of the contemplated undertaking, the estimated cost thereof, the amount, rate or rates of interest, the time and place of payment, and other details in connection with the issuance of the bonds. Such bonds shall be in such form and shall be negotiated and sold in such manner and upon such terms as the governing body of such municipality or county commission may by ordinance or order specify. All such bonds and the interest thereon shall be exempt from all taxation by this state, or any county, municipality or county commission, political subdivision or agency thereof. Notwithstanding any other provision of this code to the contrary, the real and personal property which a municipality or county has acquired and constructed according to the provisions of this article, and any leasehold interest therein held by other persons, shall be deemed public property and shall be exempt from taxation by the state, or any county, municipality or other levying body, so long as the same is owned by such municipality or county: Provided, That with respect to electric power systems, this exemption for real and personal property shall be applicable only for such real and personal property (1) physically situate within the municipal or county boundaries of the municipality or county which acquired or constructed such electric power system and there was in place prior to the effective date of the amendments to this section made in the year one thousand nine hundred ninety-two an agreement between the municipality and the county commission for payments in lieu of tax, or (2) acquired or constructed with the written agreement of the county school board, county commission and any municipal authority within whose jurisdiction the electric power system is or is to be physically situate. Notwithstanding anything contained in this statute to the contrary, this exemption shall be applicable to any leasehold or similar interest held by persons other than a municipality or county only if acquired or constructed with the written agreement of the county school board, county commission and any municipal authority within whose jurisdiction the electric power system is or is to be physically situate: Provided, however, That payments made to any county commission, county school board or municipality in lieu of tax pursuant to such an agreement shall be distributed as if the payments resulted from ad valorem property taxation. Such bonds shall bear interest at a rate per annum set by the municipality or county commission, payable at such times, and shall be payable as to principal at such times, not exceeding fifty years from their date, and at such place or places,

within or without the state, as shall be prescribed in the ordinance or order providing for their issuance. Unless the governing body of the municipality or county commission shall otherwise determine, such ordinance or order shall also declare that a statutory mortgage lien shall exist upon the property so to be acquired, constructed, established, extended or equipped, fix minimum rates or charges for water or electricity to be collected prior to the payment of all of said bonds and shall pledge the revenues derived from the waterworks or electric power system for the purpose of paying such bonds and interest thereon, which pledge shall definitely fix and determine the amount of revenues which shall be necessary to be set apart and applied to the payment of the principal of and interest upon the bonds and the proportion of the balance of such revenues, which are to be set aside as a proper and adequate depreciation account, and the remainder shall be set aside for the reasonable and proper maintenance and operation thereof. The rates or charges to be charged for the services from such waterworks or electric power system shall be sufficient at all times to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal thereof as and when the same become due, and reasonable reserves therefor, and to provide for the repair, maintenance and operation of the waterworks or electric power system, and to provide an adequate depreciation fund, and to make any other payments which shall be required or provided for in the ordinance or order authorizing the issuance of said bonds.

Acts 1933, Ex. Sess., c. 26, § 3; Acts 1933, 2nd Ex. Sess., c. 49; Acts 1955, c. 133; Acts 1969, c. 86; Acts 1970, c. 7; Acts 1978, c. 72; Acts 1980, c. 33; Acts 1981, 1st Ex. Sess., c. 2; Acts 1984, c. 128; Acts 1986, 1st Ex. Sess., c. 18; Acts 1990, c. 141; Acts 1992, c. 147.

Library References

Municipal Corporations ☞950(15).
Taxation ☞2313, 2316.
Westlaw Topic Nos. 268, 371.

C.J.S. Municipal Corporations §§ 1708 to
1709.
C.J.S. Taxation §§ 292, 304.

§ 8-19-5. Publication of abstract of ordinance or order and notice; hearing

After the ordinance or order for any project under this article has been adopted, an abstract of the ordinance or order, determined by the governing body to contain sufficient information as to give notice of the contents of such ordinance or order, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the municipality or county. The notice to be published with said abstract of the ordinance or order shall state that said ordinance or order has been adopted, that the municipality or county commission contemplates the issuance of the bonds described in the ordinance or order, that any person interested may appear before the governing body, upon a certain date, which shall be not less than ten days subsequent to the date of the first publication of such abstract and notice and which shall not be prior to the date of the last publication by such abstract and notice, and present protests, and

that a certified copy of the ordinance or order is on file with the governing body for review by interested parties during the office hours of the governing body. At such hearing all protests and suggestions shall be heard and the governing body shall take such action as it considers proper in the premises: Provided, That if at such hearing written protest is filed by thirty percent or more of the freeholders of the municipality or county, then the governing body of said municipality or county shall not take further action unless four fifths of the qualified members of said governing body assent thereto.

Acts 1933, Ex. Sess., c. 26, § 4; Acts 1967, c. 105; Acts 1969, c. 86; Acts 1971, c. 103; Acts 1981, 1st Ex. Sess., c. 2; Acts 1990, c. 141.

Library References

Municipal Corporations Ⓒ294(7).
Westlaw Topic No. 268.
C.J.S. Municipal Corporations §§ 979, 981.

§ 8-19-6. Amount, negotiability and execution of bonds

Bonds herein provided for shall be issued in such amounts as may be necessary to provide sufficient funds to pay all costs of acquisition, construction, establishment, extension or equipment, including engineering, legal and other expenses, together with interest to a date six months subsequent to the estimated date of completion. Bonds issued under the provisions of this article are hereby declared to be negotiable instruments, and the same shall be executed by the proper legally constituted authorities of the municipality or county commission, and be sealed with the corporate seal of the municipality or certified by the county commission, and in case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. All signatures on the bonds or coupons and the corporate seal may be mechanically reproduced if authorized in the ordinance or order authorizing the issuance of the bonds.

Acts 1933, Ex. Sess., c. 26, § 5; Acts 1933, 2nd Ex. Sess., c. 49, § 5; Acts 1969, c. 86; Acts 1970, c. 7; Acts 1980, c. 33; Acts 1981, 1st Ex. Sess., c. 2; Acts 1984, c. 128; Acts 1990, c. 141.

Library References

Municipal Corporations Ⓒ927.
Westlaw Topic No. 268.
C.J.S. Municipal Corporations § 1699.

§ 8-19-7. Bonds payable solely from revenues; not to constitute municipal or county indebtedness

Bonds issued under the provisions of this article shall be payable solely from the revenues derived from such waterworks or electric power system, and such bonds shall not in any event constitute an indebtedness of such municipality or county within the meaning of any constitutional or statutory provision or

limitation, and it shall be plainly stated on the face of each bond that the same has been issued under the provisions of this article, and that it does not constitute an indebtedness of such municipality or county within constitutional or statutory provision or limitation. Subject to the provisions of subsection (b), section twelve of this article, the ordinance or order authorizing the issuance of the bonds may contain such covenants and restrictions upon the issuance of additional revenue bonds thereafter as may be considered necessary or advisable for the assurance of payment of the bonds thereby authorized and as may thereafter be issued.

Acts 1933, Ex. Sess., c. 26, § 6; Acts 1933, 2nd Ex. Sess., c. 49; Acts 1969, c. 86; Acts 1978, c. 72; Acts 1990, c. 141.

Library References

Municipal Corporations ¶950(15).
Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1708 to
1709.

§ 8-19-8. Lien of bondholders; deeds of trust; security agreements; priority of liens

Unless the governing body shall otherwise determine in the ordinance or order authorizing the issuance of bonds under this article, there shall be and there is hereby created and granted a statutory mortgage lien upon the waterworks or electric power system so acquired, constructed, established, equipped, extended or improved from the proceeds of bonds hereby authorized to be issued, which shall exist in favor of the holder of said bonds and each of them, and to and in favor of the holder of the coupons attached to said bonds, and such waterworks or electric power system shall remain subject to such statutory mortgage lien until payment in full of the principal of and interest upon said bonds.

Any municipality or county commission in acquiring an existing waterworks system or in improving an existing waterworks or electric power system may provide that financing therefor may be made by issuing revenue bonds and delivering the same at such prices as may be agreed upon within the limitations prescribed in section six of this article. Any revenue bonds so issued to provide financing for such existing waterworks or electric power system or for any improvements to an existing waterworks or electric power system may be secured by a mortgage or deed of trust upon and security interest in the property so acquired or improved or any other interest of the municipality or county commission in property related thereto as determined by the municipality or county commission in the ordinance or order authorizing the issuance of such revenue bonds; and in such event the holders thereof shall have, in addition to any other remedies and rights prescribed by this article, such remedies and rights as may now or hereafter exist in law in the case of mortgages or deeds of trust on real property and security interests in personal property. Such mortgage or deed of trust, upon its recordation, shall have priority over all other liens or encumbrances, however created or arising, on the property covered by such mortgage or deed of trust, to the same extent and for the same amount as if the municipality or county were obligated to pay the

full amount secured by such mortgage or deed of trust immediately upon the recordation of such mortgage or deed of trust and remained so obligated until the obligations secured are fully discharged.

Acts 1933, Ex. Sess., c. 26, § 7; Acts 1933, 2nd Ex. Sess., c. 49; Acts 1969, c. 86; Acts 1978, c. 72; Acts 1986, 1st Ex. Sess., c. 18; Acts 1990, c. 141.

Library References

Municipal Corporations ©950(15).
Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1708 to 1709.

§ 8-19-9. Covenants with bondholders

Any ordinance or order authorizing the issuance of bonds hereunder, or any trust indenture with any banking institution or trust company within or without the state for the security of said bonds, which any such municipality or county commission is hereby empowered and authorized to enter into and execute, may contain covenants with the holders of such bonds as to:

(a) The purpose or purposes to which the proceeds of sale of such bonds or the revenues derived from said waterworks or electric power system may be applied and the securing, use and disposition thereof, including, if deemed desirable, the appointment of a trustee or depository for any of such funds;

(b) The pledging of all or any part of the revenues derived from the ownership, control or operation of such waterworks or electric power system, including any part thereof heretofore or hereafter acquired, constructed, established, extended or equipped or derived from any other sources, to the payment of the principal of or interest thereon of bonds issued hereunder and for such reserve or other funds as may be considered necessary or desirable;

(c) The fixing, establishing and collecting of such rates or charges for the use of the services and facilities of the waterworks or electric power system, including the parts thereof heretofore or hereafter acquired, constructed, established, extended or equipped and the revision of same from time to time, as will always provide revenues at least sufficient to provide for all expenses of repair, maintenance and operation of such waterworks or electric power system, the payment of the principal of and interest upon all bonds or other obligations payable from the revenues of such waterworks or electric power system, and all reserve and other funds required by the terms of the ordinance or order authorizing the issuance of such bonds;

(d) The transfer from the general funds of the municipality or county commission to the account or accounts of the waterworks or electric power system of an amount equal to the cost of furnishing the municipality or county commission or any of its departments, boards or agencies or the county commission with the services and facilities of such waterworks or electric power system;

(e) Subject to the provisions of subsection (b), section twelve of this article, limitations or restrictions upon the issuance of additional bonds or other obligations payable from the revenues of such waterworks or electric power system, and the rank or priority, as to lien and source and security for payment

from the revenues of such waterworks or electric power system, between bonds payable from such revenues;

(f) The manner and terms upon which all bonds and other obligations issued hereunder may be declared immediately due and payable upon the happening of a default in the payment of the principal of or interest thereon, or in the performance of any covenant or agreement with bondholders, and the manner and terms upon which such defaults may be declared cured and the acceleration of the maturity of such bonds rescinded and repealed;

(g) Budgets for the annual repair, maintenance and operation of such waterworks or electric power system and restrictions and limitations upon expenditures for such purposes, and the manner of adoption, modification, repeal or amendment thereof, including the approval of such budgets by consulting engineers designated by holders of bonds issued hereunder;

(h) The amounts of insurance to be maintained upon such waterworks or electric power system, or any part thereof, and the use and disposition of the proceeds of any insurance; and

(i) The keeping of books of account, relating to such undertakings and the audit and inspection thereof, and the furnishing to the holders of bonds issued hereunder or their representatives, reports prepared, certified or approved by accountants designated or approved by the holders of bonds issued hereunder.

Any such ordinance, order or trust indenture may also contain such other additional covenants as shall be considered necessary or desirable for the security of the holders of bonds issued hereunder, notwithstanding that such other covenants are not expressly enumerated above, it being the intention hereof to grant to municipalities or county commissions plenary power and authority to make any and all covenants or agreements necessary in order to secure greater marketability for bonds issued hereunder as fully and to the same extent as such covenants or agreements could be made by a private corporation rendering similar services and facilities and to grant to municipalities and counties full and complete power and authority to enter into any contracts, covenants or agreements with holders of bonds issued hereunder not inconsistent with the constitution of this state.

Acts 1955, c. 133; Acts 1969, c. 86; Acts 1978, c. 72; Acts 1990, c. 141.

Library References

Municipal Corporations §919.

Westlaw Topic No. 268.

C.J.S. Municipal Corporations § 1661.

§ 8-19-10. Operating contract

Any such municipality or county commission may enter into contracts or agreements with any persons for (1) the repair, maintenance and operation and management of the facilities and properties of said waterworks or electric power system, or any part thereof, or (2) the collection and disbursement of the income and revenues therefor, or for both (1) and (2), for such period of time

and under such terms and conditions as shall be agreed upon between such municipality or county commission and such persons. Any such municipality or county commission shall have plenary power and authority to provide in the ordinance or order authorizing the issuance of bonds hereunder, or in any trust indenture securing such bonds, that such contracts or agreements shall be valid and binding upon the municipality and county commission as long as any of said bonds, or interest thereon, is outstanding and unpaid.

Acts 1955, c. 133; Acts 1969, c. 86; Acts 1978, c. 72; Acts 1990, c. 141.

Library References

Municipal Corporations Ⓒ232.
Westlaw Topic No. 268.
C.J.S. Municipal Corporations § 905.

§ 8-19-11. Rates or charges for water and electric power must be sufficient to pay bonds, etc.; disposition of surplus

Rates or charges for water or electric power fixed precedent to the issuance of bonds shall not be reduced until all of said bonds shall have been fully paid, and may, whenever necessary, be increased in amounts sufficient to provide for the payment of the principal of and interest upon such bonds, and to provide proper funds for the depreciation account and repair, maintenance and operation charges. If any surplus shall be accumulated in the repair, maintenance and operation fund which shall be in excess of the cost of repairing, maintaining and operating the waterworks or electric power system during the remainder of the fiscal year then current, and the cost of repairing, maintaining and operating the said waterworks or electric power system during the fiscal year then next ensuing, then any such excess may be transferred to either the depreciation account or to the bond and interest redemption account, and if any surplus shall be accumulated in the depreciation account over and above that which the municipality or county commission shall find may be necessary for the probable replacements which may be needed during the then present fiscal year, and the next ensuing fiscal year, such excess may be transferred to the bond and interest redemption account, and, if any surplus shall exist in the bond and interest redemption account, the same shall be applied insofar as possible in the purchase or retirement of outstanding revenue bonds payable from such account.

Acts 1933, Ex. Sess., c. 26, § 8; Acts 1969, c. 86; Acts 1978, c. 72; Acts 1990, c. 141.

Library References

Municipal Corporations Ⓒ950(15).
Westlaw Topic No. 268.
C.J.S. Municipal Corporations §§ 1708 to 1709.

§ 8-19-12. Service charges; sinking fund; amount of bonds; additional bonds; surplus

(a) Every municipality or county commission issuing bonds under the provisions of this article shall thereafter, so long as any of such bonds remain outstanding, repair, maintain and operate its waterworks or electric power

system as hereinafter provided and shall charge, collect and account for revenues therefrom as will be sufficient to pay all repair, maintenance and operation costs, provide a depreciation fund, retire the bonds and pay the interest requirements of the bonds as the same become due. The ordinance or order pursuant to which any such bonds are issued shall pledge the revenues derived from the waterworks or electric power system to the purposes aforesaid and shall definitely fix and determine the amount of revenues which shall be necessary and set apart in a special fund for the bond requirements. The amounts as and when so set apart into said special fund for the bond requirements shall be remitted to the West Virginia municipal bond commission to be retained and paid out by said commission consistent with the provisions of this article and the ordinance or order pursuant to which such bonds have been issued: Provided, That payment of principal of and interest on any bonds owned by the United States of America or any agency or department thereof may be made by the municipality or county commission directly to the United States of America or said agency or department thereof. The bonds hereby authorized shall be issued in such amounts as may be determined necessary to provide funds for the purpose for which they are authorized, and in determining the amount of bonds to be issued it shall be proper to include interest on the bonds for a period not beyond six months from the estimated date of completion.

(b) If the proceeds of the bonds, because of error or otherwise, shall be less than the cost of the property or undertaking for which authorized, additional bonds may be issued to provide the amount of such deficit and such additional bonds shall be considered to be of the same issue and shall be entitled to payment from the same fund without preference or priority over the bonds first authorized and issued.

(c) If the proceeds of the bonds shall exceed the cost of the property or undertaking, the surplus shall be converted into the fund thereon.

Acts 1933, Ex. Sess., c. 26, § 11; Acts 1969, c. 86; Acts 1978, c. 72; Acts 1986, c. 118; Acts 1990, c. 141.

Library References

Municipal Corporations ¶951.
Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1704 to
1705.

§ 8-19-12a. Deposit required for new customers; lien for delinquent service rates and charges; failure to cure delinquency; payment from deposit; reconnecting deposit; return of deposit; liens; civil actions; deferral of filing fees and costs in magistrate court action; limitations with respect to foreclosure

(a)(1) Whenever any rates and charges for water services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the property and the owner thereof, as well as the user of the services and facilities provided, shall be delinquent and the owner, user and

property shall be held liable at law until such time as all such rates and charges are fully paid. When a payment has become delinquent, the municipality may utilize any funds held as a security deposit to satisfy the delinquent payment. All new applicants for service shall indicate to the municipality or governing body whether they are an owner or tenant with respect to the service location.

(2) The municipality or governing body, but only one of them, may collect from all new applicants for service a deposit of \$50 or two twelfths of the average annual usage of the applicant's specific customer class, whichever is greater, to secure the payment of water service rates, fees and charges in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent and the user's service is disconnected or terminated, no reconnection or reinstatement of service may be made by the municipality or governing body until another deposit equal to \$50 or a sum equal to two twelfths of the average usage for the applicant's specific customer class, whichever is greater, is remitted to the municipality or governing body. After twelve months of prompt payment history, the municipality or governing body shall return the deposit to the customer or credit the customer's account with interest at a rate as the Public Service Commission may prescribe: *Provided*, That where the customer is a tenant, the municipality or governing body is not required to return the deposit until the time the tenant discontinues service with the municipality or governing body. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The municipality or governing body may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water services to a delinquent user of water facilities ten days after the water services become delinquent regardless of whether the municipality or governing body utilizes the security deposit to satisfy any delinquent payments: *Provided further*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the municipality or governing body to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(b) All rates or charges for water service whenever delinquent shall be liens of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes for the amount thereof upon the real property served, and the municipality shall have plenary power and authority from time to time to enforce such lien in a civil action to recover the money due for such services rendered plus court fees and costs and a reasonable attorney's fee: *Provided*, That an owner of real property may not be held liable for the delinquent rates or charges for services or facilities of a tenant, nor shall any lien attach to real property for the reason of delinquent rates or charges for services or facilities of a tenant of such real property, unless the owner has contracted directly with the municipality to purchase such services or facilities.

(c) Municipalities are hereby granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of the delinquent rates and charges. If the municipality collects the delinquent account, plus fees and costs, from its customer or other responsible party, the municipality shall pay to the magistrate court the filing fees or other fees and costs which were previously deferred.

(d) No municipality may foreclose upon the premises served by it for delinquent rates or charges for which a lien is authorized by this section except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county wherein the municipality lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that the municipality had exhausted all other remedies for the collection of debts with respect to such delinquencies prior to the bringing of such action. In no event shall foreclosure procedures be instituted by any municipality or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought.

Acts 1989, c. 133; Acts 1990, c. 140; Acts 1990, c. 141; Acts 2004, c. 185, eff. 90 days after March 12, 2004; Acts 2010, c. 201, eff. June 11, 2010.

Library References

Water Law ☞2233.
Westlaw Topic No. 405.

§ 8-19-13. Discontinuance of water or electric power service for nonpayment of rates or charges

Any such municipality or county commission shall also have plenary power and authority, and may covenant with the holders of any bonds issued hereunder, to shut off and discontinue the supplying of the water or electric power service of said waterworks or electric power system for the nonpayment of the rates or charges for said water or electric power service.

Acts 1955, c. 133; Acts 1969, c. 86; Acts 1978, c. 72; Acts 1990, c. 141.

Library References

Electricity ☞11.2(3).
Water Law ☞2230.

Westlaw Topic Nos. 145, 405.
C.J.S. Electricity § 55.

§ 8-19-14. Bonds for additions, betterments and improvements

Whenever any municipality or county commission shall now or hereafter own and operate a waterworks or electric power system, whether acquired, constructed, established, extended or equipped under the provisions of this article or not, and shall desire to construct additions, betterments or improvements thereto, it may issue revenue bonds under the provisions of this article to pay for the same, and the procedure therefor, including the fixing of rates or charges and the computation of the amount thereof, and the power and authority in connection therewith, shall be the same as in this article provided

for the issuance of bonds for the acquisition, construction, establishment, extension or equipment of a waterworks system or electric power system in a municipality or county which has not heretofore owned and operated a waterworks or electric power system: Provided, That nothing in this article shall be construed as authorizing any municipality or county commission to impair or commit a breach of the obligation of any valid lien or contract created or entered into by it, the intention being to authorize the pledging, setting aside and segregation of such revenues for the construction of such additions, betterments or improvements only where and to the extent consistent with outstanding obligations of such municipality or county commission, and in accordance with the provisions of this article.

Acts 1933, Ex. Sess., c. 26, § 10; Acts 1933, 2nd Ex. Sess., c. 49; Acts 1969, c. 86; Acts 1978, c. 72; Acts 1990, c. 141.

Library References

Municipal Corporations Ⓒ911.
Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1647 to 1649.

§ 8-19-15. System of accounts; audit

Any municipality or county commission operating a waterworks or electric power system under the provisions of this article shall set up and maintain a proper system of accounts in accordance with the requirements of the public service commission, showing the amount of revenues received from such waterworks or electric power system and the application of the same. At least once each year such municipality or county commission shall cause such accounts to be properly audited, and a report of such audit shall be open to the public for inspection at all reasonable times.

Acts 1939, c. 98, § 10; Acts 1969, c. 86; Acts 1978, c. 72; Acts 1990, c. 141.

Library References

Municipal Corporations Ⓒ885.
Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1628 to 1629.

§ 8-19-16. Protection and enforcement of rights of bondholders, etc.; receivership

Any holder of any bonds issued under the provisions of this article or of any coupons representing interest accrued thereon may by civil action, mandamus or other proper proceeding enforce the statutory mortgage lien created and granted in section eight of this article, protect and enforce any and all rights granted hereunder or under any such ordinance; order or trust indenture, and may enforce and compel performance of all duties required by the provisions of this article or by any such ordinance, order or trust indenture to be performed by the municipality or county commission, or by the governing body or any officer, including the making and collecting of reasonable and sufficient rates or charges for services rendered by the waterworks or electric power system. If there be default in the payment of the principal of or interest upon any of such bonds, or of both principal and interest, any court having jurisdiction shall

appoint a receiver to administer said waterworks or electric power system on behalf of the municipality or county commission, and the bondholders or trustee, or both, with power to charge and collect rates or charges sufficient to provide for the retirement of the bonds and pay the interest thereon, and for the payment of the repair, maintenance and operation expenses, and such receiver shall apply the revenues in conformity with the provisions of this article and the ordinance or order pursuant to which such bonds have been issued or any trust indenture, or both.

Acts 1933, Ex. Sess., c. 26, § 12; Acts 1969, c. 86; Acts 1978, c. 72; Acts 1990, c. 141.

Library References

Municipal Corporations Ⓒ955(1).
Westlaw Topic No. 268.

PART V—GRANTS, LOANS, ADVANCES AND AGREEMENTS; CUMULATIVE AUTHORITY

§ 8-19-17. Grants, loans, advances and agreements

As an alternative to, or in conjunction with, the issuance of revenue bonds authorized by this article, any municipality or county commission is hereby empowered and authorized to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, or otherwise enter into agreement, including, but not limited to, agreements of indemnity, assurance or guarantee with respect to, and for the purpose of financing part or all of, the cost of acquisition, construction, establishment, extension or equipment of waterworks or electric power systems and the construction of additions, betterments and improvements to existing waterworks systems or to existing electric power systems, and for the other purposes herein authorized, from or with any authorized agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, or the municipality's or county's financial obligations contained in such other agreements, which need not bear interest, may be repaid out of the proceeds of bonds authorized to be issued under the provisions of this article, the revenues of or proceeds from the said waterworks system or electric power system or grants to the municipality or county commission from any agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual or from any combination of such sources of payment, and may be secured in the manner provided in sections eight, nine and sixteen of this article to secure bonds issued under the provisions of this article, but shall not otherwise be subject to the requirements of sections eleven and twelve of this article, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any agency of the state, the United States of America or any federal or public agency or

department of the United States, or with any private agency, corporation or individual.

In no event shall any such loan or temporary advance or agreement be a general obligation of the municipality or county and such loans or temporary advances or agreements, including the interest thereon, shall be paid solely from the sources specified in this section.

Acts 1961, c. 105; Acts 1969, c. 86; Acts 1978, c. 72; Acts 1981, 1st Ex. Sess., c. 2; Acts 1986, c. 118; Acts 1986, 1st Ex. Sess., c. 18; Acts 1990, c. 141.

Library References

Municipal Corporations Ⓒ908.

Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1646, 1652.

§ 8-19-18. Additional and alternative method for constructing or improving and for financing waterworks or electric power system; cumulative authority

This article shall, without reference to any other statute or charter provision, be deemed full authority for the acquisition, construction, establishment, extension, equipment, additions, betterment, improvement, repair, maintenance and operation of or to a waterworks or electric power system or for the construction of any additions, betterments, improvements, repairs, maintenance or operation of or to an existing electric power system as herein provided and for the issuance and sale of the bonds or the alternative methods of financing by this article authorized, and shall be construed as an additional and alternative method therefor and for the financing thereof, and no petition, referendum or election or other or further proceeding with respect to any such undertaking or to the issuance or sale of bonds or the alternative methods of financing under the provisions of this article and no publication of any resolution, ordinance, order, notice or proceeding relating to any such undertaking or to the issuance or sale of such bonds or the alternative methods of financing shall be required, except as prescribed by this article, any provisions of other statutes of the state to the contrary notwithstanding: Provided, That all functions, powers and duties of the state division of health shall remain unaffected by this article.

This article shall be construed as cumulative authority for any undertaking herein authorized, and shall not be construed to repeal any existing laws with respect thereto.

Acts 1933, Ex. Sess., c. 26, § 13; Acts 1969, c. 86; Acts 1978, c. 72; Acts 1986, 1st Ex. Sess., c. 18; Acts 1990, c. 141.

Library References

Municipal Corporations Ⓒ271, 272.

Westlaw Topic No. 268.

PART VI—OPERATION BY BOARD; CONSTRUCTION

§ 8-19-19. Alternative procedure for acquisition, construction or improvement of waterworks or electric power system

As an alternative to the procedures hereinabove provided, any municipality or county commission is hereby empowered and authorized to acquire, construct, establish, extend, equip, repair, maintain and operate a waterworks or an electric power system or to construct, maintain and operate additions, betterments and improvements to an existing waterworks system or an existing electric power system, whether acquired, constructed, established, extended or equipped under the provisions of this article or not, and to collect the revenues therefrom for the services rendered thereby, through the supervision and control of a committee, by whatever name called, composed of all or a portion of the governing body, or of a board or commission appointed by such governing body, as may be provided by the governing body, and if such alternative is followed, said committee, board or commission shall have and be limited to all the powers, authority and duties granted to and imposed upon a board as provided in article sixteen of this chapter.

Acts 1961, c. 104; Acts 1969, c. 86; Acts 1978, c. 72; Acts 1990, c. 141.

Library References

Electricity ☞1.5.

Westlaw Topic Nos. 145, 405.

Water Law ☞1869.

C.J.S. Electricity §§ 13 to 21.

§ 8-19-20. Article to be liberally construed

This article is necessary for the public health, safety and welfare and shall be liberally construed to effectuate its purposes.

Acts 1933, Ex. Sess., c. 26, § 14; Acts 1969, c. 86; Acts 1990, c. 141.

§ 8-19-21. Specifications for water mains and water service pipes

Considering the importance of public fire protection, any state or local government, public service district, public or private utility which installs or constructs water mains, shall ensure that all new mains specifically intended to provide fire protection are not less than six inches in diameter. Effective the first day of July, two thousand seven, when any state or local government, public service district, public or private utility installs or constructs water mains along a platted roadway or a public highway, using a six inch or greater line, that is specifically designed to provide fire protection, the state or local government, public service district, public or private utility shall install fire hydrants at intervals of not more than two thousand feet, unless there are no dwellings or businesses located one thousand feet from such proposed hydrant: *Provided*, That the Legislature shall study the effect, cost and feasibility of the internal hydrant valve and report the findings of that study to the regular session of the Legislature in the year two thousand and eight. A permit or other written approval shall be obtained from the Department of Health and Human Resources for each hydrant or group of hydrants installed in compli-

ance with section nine, article one, chapter sixteen of the West Virginia Code as amended: *Provided, however,* That all newly constructed water distribution systems transferred to a public or private utility shall have mains at least six inches in diameter where fire flows are required by the public or private utility: *Provided further,* That the utility providing service has sufficient hydraulic capacity as determined by the Department of Health and Human Resources, Acts 1994, c. 31; Acts 2007, c. 187, eff. June 16, 2007.

Library References

Water Law ⇨2080.
Westlaw Topic No. 405.

§ 8-19-22. Identification requirement for fire hydrants that are inoperable or unavailable for use in emergency situations

(a) The owner or operator of a fire hydrant or any device having the appearance of a fire hydrant that is located in a place that an entity responsible for providing fire suppression services in a fire emergency would expect a fire hydrant to typically be located, shall mark the fire hydrant or device, as set out in subsection (b) of this section, if the owner or operator has actual knowledge that the fire hydrant or device is inoperable or is unavailable for use by an entity providing fire suppression services in a fire emergency.

(b) To mark the fire hydrant or device, the owner or operator of the fire hydrant or device shall:

(1) Paint the fire hydrant or device black if the fire hydrant or device is inoperable or unavailable for use; or

(2) Place a black tarp over the fire hydrant or device if the device is temporarily inoperable or temporarily unavailable for use in a fire emergency, for a period not to exceed fourteen days.

(c) For the purposes of this section, the word "inoperable" means a fire hydrant that does not produce water flow when activated.

Acts 2009, c. 163, eff. July 9, 2009.

IN THE MATTER OF TOWN OF GILBERT:

////

INCORPORATION:

On the 14th day of January, 1918, that being the first day of the present (regular) term of this court, Lee Ellis, Sr., H. G. Ferrell and Krastus Ellis, by Goodykoontz and Scherr, Esquires, their attorneys, appeared and presented in open court their petition praying the certificate of incorporation of the above named Town, and presented therewith the certificate of the vote of the resident voters of said territory, referred to in said petition, and described in the notice exhibited with said petition on said question and upon their motion the said petition was received and filed, as was likewise the certificate of vote, and the second day of this term, to-wit; the 15th day of January, 1918, was fixed for hearing, upon said application and for the consideration of said certificate; all of which was and is shown and provided for by an order made and entered by this court on said day and entered in Law Order Book of this court.

And on the 15th day of January, 1918, the petitioners again appeared, by their said attorneys, and said matter having been regularly set down for hearing on that day, the court proceeded to and did hear the matters arising upon the said application by petition and proceeded to a consideration of the said certificate; and it appearing that a map and survey of the territory to be embraced in said Town, together with the census, oaths of commissioners and oaths of poll clerks, were filed in open court on said January 14th, 1918, along with the said petition and certificate of vote, but that no order was entered showing the filing of the same; and the Court having seen and inspected the said several papers, including the said map, and having found that they and each of them are in all respects duly signed and sworn to as required by law, upon motion, the filing of each of said papers as aforesaid, is hereby confirmed, and the same are made a part of said petition to be read in connection therewith.

And it having been made to appear to the court upon satisfactory proof, and that is to say, upon the evidence of witnesses duly sworn, and testifying in open court upon said matters, and from the said map, affidavit of posting notices, notice, census, oaths of commissioners, oaths of poll clerks and certificates of vote, that the provisions and requirements of Chapter 47 of the Code of West Virginia, relating to the incorporation of towns and villages, have been complied with, and that no part of the boundary described and included in the said map, survey and notice is included within any incorporated town or village or city, and that said territory contains a resident population of more than 100 persons, and is not less than one-fourth of one mile in extent and not more than a reasonable amount of territory proportionate to the number of residents therein; and it further appearing that an election upon the question of incorporation of said town was

held in accordance with law on January 8th, 1918, and that a majority of all of the qualified voters residing within said territory was presented by petition, together with said certificate of vote, on the day specified in said notice; from all of which the court is of opinion to, and doth hereby grant the certificate of incorporation of said Town of Gilbert, as prayed for.

IT IS THEREFORE ORDERED AS FOLLOWS:

FIRST: That the territory shown and described by the said map and survey, and as hereinafter described be, and the same is hereby incorporated by the name of Town of Gilbert, and that the said Town is duly authorized, within said corporate limits, to exercise all of the corporate powers enumerated by Chapter 47 of the Code of West Virginia, from and after the date of the certificate of incorporation hereinafter provided for:

SECOND: That the Clerk of this court is hereby ordered and directed to issue a certificate of the incorporation of said Town in the form of substance as follows:

A certificate under oath of Lee Ellis, Sr., H. G. Ferrell and M. B. Hatfield having been filed in the Circuit Court of Mingo County, West Virginia, on the 14th day of January, 1918, showing that a majority of all the qualified voters residing in the boundary to-wit:

Beginning at a stake on the bank of Guyandotte River at the mouth of Herry's Branch thereof (Station 5036-- 50 as laid out by the C. & O. Railway company); thence S. 82. W. 600 feet to a white walnut; S. 18. W. 1990 feet; S. 18. 25' E. 1740 feet; S. 2. 40' E. 1000 feet; S. 78. 0' W. 1890 feet; N. 75. 30' W. 1475 feet; S. 36. 35' W. 1075 feet to a large boulder on Skillett Fork just above the mouth of Perry's Hollow; S. 16. 25' E. 7220 feet crossing Guyandotte River; N. 24. E. 4580 feet to a beech near the bank of Stafford Branch; N. 37. 40' W. 5995 feet to the beginning containing 712 acres, have been given in due form of law in favor of the incorporation of the Town of Gilbert, in the District of Stafford and County of Mingo, West Virginia, bounded as herein set forth, and it having been made to appear to the satisfaction of the court that all of the provisions of Chapter 47 of the Code of West Virginia have been complied with by the applicants for said incorporation, the said Town of Gilbert is duly authorized within the corporate limits aforesaid to exercise all corporate powers conferred by said Chapter from and after the date of this certificate.

Which said certificate, herein-above provided for to be made and issued by said Clerk, shall be duly signed by said Clerk as such .

THIRD: That from and after the date of said certificate the territory embraced within the boundary therein shall be an incorporated Town by the name specified in said certificate and certificate, to-wit: Town of Gilbert.

FOURTH: That Robert Allen, Frank Ryan and Walter Ellis, three legally qualified voters within the territory embraced withⁱⁿ said Town, and who are hereby appointed for the purpose, shall act as commissioners of Election at the first election to be held in said Town as provided by Chapter 47 of the Code; and in case they shall refuse to act, then the said election may be held, conducted, certified and returned by any three legally qualified voters of said Town appointed for that purpose by the voters present on the day of the holding of said election. And the said Commissioners hereby appointed shall give notice, and shall hold and conduct the said election, and certify and return the vote thereof, and the result thereof, as required by law.

And the Clerk of this court is ordered and directed to enter this order of record in the Law Order Book of this Court

IN THE COUNTY COURT OF MINGO COUNTY, WEST VIRGINIA

ORDER APPROVING ANNEXATION OF ADDITIONAL TERRITORY BY THE TOWN OF GILBERT, WEST VIRGINIA, AND CERTIFYING A CHANGE IN THE CORPORATE BOUNDARIES AND LIMITS OF SAID TOWN

A certificate of the Council of the Town of Gilbert was this day filed showing annexation of additional territory and a change in the corporate limits of said Town of Gilbert, in the manner required by law, and that by such change, the said corporate limits of said Town of Gilbert are hereby changed and extended as follows:

It is requested that the Corporate Limits, beginning and heading in a northerly direction, be extended along the mountain side of U. S. Highway No. 52 on the right, and along the Gilbert Creek ten (10) feet inside the No. 45 1/2 Right-of-way on the left, and then both boundaries north to the bar or upper end of the Grace Ellis property.

Said territory hereby annexed is more particularly shown and designated as being the area shaded in red upon those certain State Road Commission of West Virginia Map Sheets Revised April 1959, copies of which are on file and available for public inspection at the Town Hall of the Town of Gilbert.

All the corporate boundaries and limits of said Town of Gilbert, as heretofore existing and not affected by the change in boundary herein set forth, shall remain in full force and effect.

It is, therefore, ORDERED that the annexation of such additional territory and such change in said corporate limits be, and the same are hereby approved and confirmed, and the Clerk of this Court is directed to deliver to the said Council of the Town of Gilbert a certified copy of this order as soon as practicable after the rising of this Court.

I ORDERED AND CONFERRED on this 24th day of February, 1978.

[Signature]
PROSECUTOR

[Signature]
COMMISSIONER

[Signature]
COMMISSIONER

ATTEST:
[Signature]



TOWN OF GILBERT
PO BOX 188
GILBERT, WV 25621

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA

State of West Virginia,

County of Mingo, To-Wit:

*I, Vivian Livingood, do solemnly swear that I will support the
Constitution of the United States and The Constitution of the State of West Virginia, and
that I will faithfully discharge the duties of my office as the Mayor for the Town of
Gilbert to the best of my skill and judgment, so help me God.*

Vivian Livingood
Mayor Vivian Livingood

Taken, subscribed and sworn to before me the undersigned by

Vivian Livingood of Mingo County at Gilbert, West Virginia, on this the
23rd day of *June* 2009..

Michael Thornsbery
Judge Michael Thornsbery



TOWN OF GILBERT
PO BOX 188
GILBERT, WV 25621

OATH OF OFFICE AND CERTIFICATE
STATE OF WEST VIRGINIA

State of West Virginia,

County of Mingo, To-Wit:

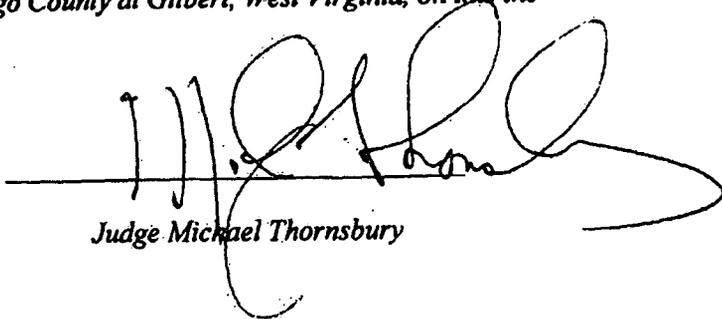
I, Michael Fox, do solemnly swear that I will support the
Constitution of the United States and The Constitution of the State of West Virginia, and
that I will faithfully discharge the duties of my office as the Recorder for the Town of
Gilbert to the best of my skill and judgment, so help me God.


Recorder Michael Fox

Taken, subscribed and sworn to before me the undersigned by Michael Fox

of Mingo County at Gilbert, West Virginia, on this the

23rd day of June 2009.


Judge Michael Thornsbury



TOWN OF GILBERT
PO BOX 188
GILBERT, WV 25621

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA

State of West Virginia,

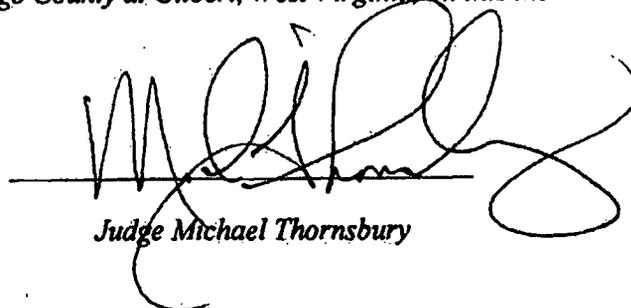
County of Mingo, To-Wit:

*I, Sharon Murphy, do solemnly swear that I will support the
Constitution of the United States and The Constitution of the State of West Virginia, and
that I will faithfully discharge the duties of my office as the Council for the Town of
Gilbert to the best of my skill and judgment, so help me God.*


Council Sharon Murphy

Taken, subscribed and sworn to before me the undersigned by

*Sharon Murphy of Mingo County at Gilbert, West Virginia, on this the
23rd day of June 2009..*


Judge Michael Thornsbury



TOWN OF GILBERT
PO BOX 188
GILBERT, WV 25621

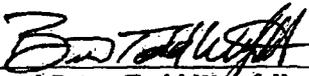
OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA

State of West Virginia,

County of Mingo, To-Wit:

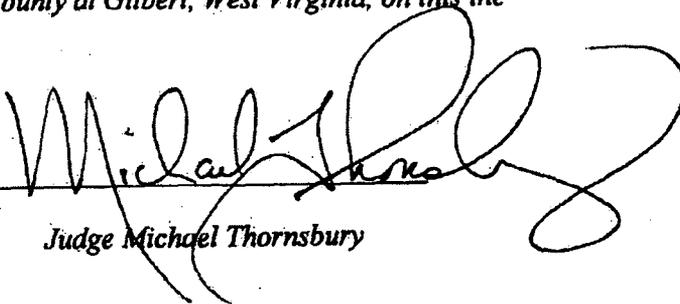
I, Brian Todd Westfall, do solemnly swear that I will support the
Constitution of the United States and The Constitution of the State of West Virginia, and
that I will faithfully discharge the duties of my office as the Council for the Town of
Gilbert to the best of my skill and judgment, so help me God.



Council Brian Todd Westfall

Taken, subscribed and sworn to before me the undersigned by

Brian Todd Westfall of Mingo County at Gilbert, West Virginia, on this the
23rd day of June 2009..



Judge Michael Thornsby



TOWN OF GILBERT
PO BOX 188
GILBERT, WV 25621

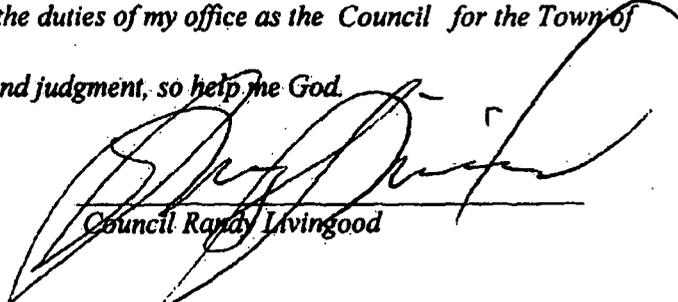
OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA

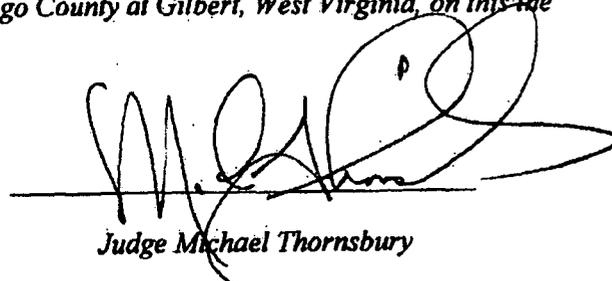
State of West Virginia,

County of Mingo, To-Wit:

I, RANDY LIVINGOOD, do solemnly swear that I will support the
Constitution of the United States and The Constitution of the State of West Virginia, and
that I will faithfully discharge the duties of my office as the Council for the Town of
Gilbert to the best of my skill and judgment, so help me God.


Council Randy Livingood

Taken, subscribed and sworn to before me the undersigned by
Randy Livingood of Mingo County at Gilbert, West Virginia, on this the
23rd day of June 2009..


Judge Michael Thornsbury

Town Of Gilbert

P.O. Box 188
Gilbert, WV 25621
304.664.9625
304.664.3752 (Fax)
www.thetownofgilbert.com



Vivian Livingood Mayor
Michael Fox, Recorder
Randy Livingood, Council Member
Sharon Murphy, Council Member
Penny Sammons, Council Member
Chris Turner, Council Member
Todd Westfall, Council Member

TOWN OF GILBERT
OATH OF OFFICE AND CERTIFICATE
STATE OF WEST VIRGINIA

State of West Virginia,

County of Mingo, To-Wit:

I, Jennifer Miller, do solemnly swear that I will support the

*Constitution of the United States and The Constitution of the State of West Virginia, and
that I will faithfully discharge the duties of my office as the Council person for the Town
of Gilbert to the best of my skill and judgment, so help me God.*

Jennifer S. Miller

*Taken, subscribed and sworn to before me the undersigned by the Mayor
for the Town of Gilbert, of Mingo County at Gilbert, West Virginia, on this the
19th day of Sept. 2011..*

Vivian Livingood

Mayor Vivian Livingood

Town Of Gilbert

P.O. Box 188
Gilbert, WV 25621
304.664.9625
304.664.3752 (Fax)
www.thetownofgilbert.com



Vivian Livingood Mayor
Michael Fox, Recorder
Randy Livingood, Council Member
Sharon Murphy, Council Member
Penny Sammons, Council Member
Chris Turner, Council Member
Todd Westfall, Council Member

TOWN OF GILBERT

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA

State of West Virginia,

County of Mingo. To-Wit:

I, Curtis Lester, do solemnly swear that I will support the

Constitution of the United States and The Constitution of the State of West Virginia, and

that I will faithfully discharge the duties of my office as the Council person for the Town

of Gilbert to the best of my skill and judgment, so help me God.

Taken, subscribed and sworn to before me the undersigned by the Mayor

for the Town of Gilbert, of Mingo County at Gilbert, West Virginia, on this the

6th day of Jan., 2011..

Mayor Vivian Livingood

"RESOLUTION ESTABLISHING RULES BY WHICH THE TIME AND PLACE OF ALL REGULARLY SCHEDULED MEETINGS AND THE TIME, PLACE AND PURPOSE OF ALL SPECIAL MEETINGS ARE TO BE MADE AVAILABLE, IN ADVANCE, TO THE PUBLIC AND NEWS MEDIA AND PROVIDING WHEN THIS RESOLUTION AND SUCH RULES SHALL TAKE EFFECT."

Be it Resolved and Ordered by Council of the Town of Gilbert, Mingo County, West Virginia:

Section 1. Statutory Mandate for These Rules. The rules established in and by this Resolution are mandated by and promulgated pursuant to Chapter 6, Article 9A, of the Code of West Virginia, 1931, as amended (herein called the "Act"), and other applicable provisions of law.

Section 2. Findings and Determinations. It is hereby found, determined and declared as follows:

(A) Section 3 of the Act requires each governing body, as defined in the Act, to promulgate rules by which the time and place of all regularly scheduled meetings and the time, place and purpose of all special meetings are made available, in advance, to the public and news media.

(B) The Council of the Town of Gilbert, Mingo County, West Virginia (herein called the "Council"), is a governing body within the meaning of the Act.

(C) Accordingly, it is hereby ordered that the rules set out in Section 3 hereof be promulgated and established as Rules of Procedure of the Council.

Section 3. Rules. The following are hereby promulgated and established as Rules of Procedure of the Council:

Rule No. 1. Notice of Regularly Scheduled Meetings. Immediately after adoption of this Resolution and in July of each year thereafter, the Council shall instruct the Recorder to, and the Recorder shall, post, and leave posted throughout the year to which it applies, at the regular meeting place where notices customarily are posted a notice setting forth the times and places of the Council's regularly scheduled meetings for the ensuing year. Such notice shall be of size and style sufficient to give notice and shall be of quality sufficient to withstand deterioration throughout the year to which it applies. Additional copies of the notice shall be delivered to the Recorder.

Also immediately after adoption of this Resolution and in July of each year thereafter, the Council shall instruct the Recorder to, and the Recorder shall, distribute to each of the newspapers, television stations, radio stations and other news media listed below a notice identical to that posted.

<u>News Media</u>	<u>Address</u>
Williamson Daily News	100 East 3rd Avenue Williamson, WV 25661
WBTH-AM	P. O. Box 261 Williamson, WV 25661
WXCC-FM	P. O. Box 261 Williamson, WV 25661
WCHS-TV	911 5th Avenue Huntington, WV 25701
WSAZ-TV	645 5th Avenue Huntington, WV 25701
WOWK-TV	P. O. Box 13 Huntington, WV 25706-0013

**[PLEASE REVIEW THE LIST ABOVE AND FORWARD
ANY ADDITIONS OR DELETIONS TO OUR ATTENTION.]**

The Gilbert Times	P.O. Box 1135 Gilbert, W.Va. 25621
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The Gilbert Times was added by council after reviewing the other news media above.

[The remainder of this page is intentionally left blank.]

A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed above, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail. In June of each year after the adoption of this Resolution, the Council shall review the above list and shall amend such list as needed, in the opinion of the Council, to reflect properly all the newspapers, television stations, radio stations and other news media that customarily cover news of the area served by the Council.

In the event of any modification in the time or place of a regularly scheduled meeting of the Council, notice of such modification shall be given to the public and news media by posting at the place and distributing to the news media in the manner set forth above, not less than three (3) days prior to the date of such regularly scheduled meeting, or, if such regularly scheduled meeting has been rescheduled for an earlier time, prior to the date of such rescheduled meeting, a notice setting forth such modification in the time or place of such regularly scheduled meeting. A copy of such notice shall be attached to and made a part of the minutes of the meeting for which such notice was given.

Notwithstanding the foregoing provisions, notice of the recess or adjournment of a regularly scheduled meeting and of the time and place for the continuation or reconvening thereof publicly given during such regularly scheduled meeting shall be adequate notice to the public and news media of the time and place thereof.

Provided, failure of the Recorder to comply exactly with the posting and distribution requirements hereof shall not invalidate the actions taken at the meeting for which such notice was posted and distributed if the Council shall determine that such posting and distribution were in substantial compliance herewith.

Rule No 2. Notice of Special Meeting. Not less than three (3) but not more than eight (8) days prior to the date set for any special meeting of the Council, the Council shall instruct the Recorder to, and the Recorder shall, post on the door of the regular meeting place of the Council, and at such other place, if any, where notices customarily are posted a notice setting forth the time, place and purpose or purposes of such special meeting. Business at such special meeting shall be limited to the purpose or purposes specified in said notice.

As soon as practical after the posting of said notice, but not less than three (3) days prior to the date set for such special meeting, the Recorder shall distribute to each of the newspapers, television stations, radio stations and other news media listed in Rule No. 1 hereof a notice identical to that posted. Amendments made to such list, as provided for in said Rule

No. 1, shall be incorporated by reference in this Rule No. 2. A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed in said Rule No. 1, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail.

A copy of such notice posted and distributed pursuant to this Rule No. 2 shall be attached to and made a part of the minutes of the meeting for which such notice was given.

Notwithstanding the foregoing provisions, notice of the recess or adjournment of any special meeting and of the time and place for the continuation or reconvening thereof publicly given during such special meeting shall be adequate notice to the public and news media of the time and place thereof, the purpose or purposes therefor remaining the same.

Provided, failure of the Recorder to comply exactly with the posting and distribution requirements hereof shall not invalidate the actions taken at the meeting for which such notice was posted and distributed if the Council shall determine that such posting and distribution were in substantial compliance herewith.

Rule No. 3. Emergency Meeting. A meeting as of the Council may be held without the notice to the public and news media required by Rule No. 1 and Rule No. 2 hereof only in the event of any emergency requiring immediate official action. The existence for such an emergency requiring immediate official action shall be determined by the Council and shall be attested to in a certificate by the Recorder describing such emergency and setting forth the reason or reasons immediate official action is required, which certificate shall be attached to and made a part of the minutes of such emergency meeting.

Section 4. Conflicting Provisions Repealed. All resolutions, orders and rules, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflicts, hereby repealed.

Section 5. Effective Time. This Resolution and the rules promulgated hereby shall take effect immediately upon the adoption hereof.

Introduced at Council Meeting: _____

Adopted by Council: March 15, 1994

Mayor

Tim Ralby

[SEAL]

Recorder

[Signature]

ABB04E1E

FIRST READING

Monday 2-21-94

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: January 3, 2012

FINAL

1/23/2012

CASE NO. 11-1353-W-CN

TOWN OF GILBERT

Application for a Certificate of Convenience and Necessity to construct and operate water lines for the Horsepen/Gilbert Creek/Browning Fork areas of Mingo County, and for the construction of one booster station, one 300,000 gallon storage tank and all other appurtenant items, and approval of the related financing.

RECOMMENDED DECISION

This Order grants the certificate.

On September 15, 2011, the Town of Gilbert (Utility) filed an application for a certificate of convenience and necessity to extend its water distribution system.

On September 16, 2011, the Commission ordered the Utility to publish notice of its filing.

On October 25, 2011, the Commission referred the matter requiring a decision on or before January 30, 2012.

On November 1, 2011, the Utility filed an affidavit of publication. The affidavit of publication demonstrated that the publication was deficient with a significant amount of the required language not published.

On December 12, 2011, the Utility filed a second affidavit of publication indicating that the Utility properly published notice of the filing on November 30, 2011. There have been no protests filed pursuant to the notice.

On December 12, 2011, Staff recommended that the Utility be granted a certificate.

FINDINGS OF FACT

1. On September 15, 2011, the Utility filed an application for a certificate of convenience and necessity to extend its water system to provide potable water to 439 customers in Mingo County in the communities of Horsepen, Lower Gilbert Creek, Browning Fork and the adjacent area. (Application).

2. The Utility has obtained 313 signed user agreements. (Staff filing of December 12, 2011).

3. The Utility currently operates a water distribution and production facility that serves 362 residential and small commercial customers. The Utility also serves the Justice Public Service District which serves an additional 240 residential and small commercial customers. (Id.).

4. The Utility operates a 200-gallon per minute water treatment plant, three storage tanks, one booster station and about 13.5 miles of water mains. (Id.).

5. The Utility's unaccounted-for water losses were less than 5% for the last two years. (Id.).

6. The Utility's existing water treatment plant will need to be modified slightly as a part of the project in order to provide the water for the project. The treatment plant uses the Guyandotte River for raw water. Existing production requires the operation of the plant between 9.5 and 12 hours per day. The project will add an additional 6.5 hours of plant running time, resulting in a plant that is operating at near capacity of between 16 to 18.5 hours per day. (Id.).

7. Given the plant operating times after the project is in place, Staff recommends that the Utility begin planning a treatment capacity upgrade in case there is additional growth in demand. (Id.).

8. The project includes the construction of 18.3 miles of mains, 15 fire hydrants, one water storage tank of 300,000-gallon capacity with telemetry, one water booster station, small improvements to the existing water treatment plant including a new pre-sedimentation tank, and the installation of approximately 439 new customer services. (Id.).

9. The project is estimated to cost \$6,629,000. (Id.).

10. The cost of engineering design services is approximately 11.2% of the construction cost which is within the fee range established by the American Society of Civil Engineers' Manual 45. (Id.).

11. The estimated project cost per customer is \$15,100. (Id.).

12. Fifty-seven percent of the funding is grant funding and the remaining debt equates to only \$6,482 per customer. (Id.).

13. Customer density is 24 customers per mile which is reasonable. (Id.).

14. Prospective customers for the project have water quality and quantity problems including undesirable minerals in existing well water which corrode pipes and stain clothing. The water has a strong sulfur smell and tastes bad. The wells in the area go dry at certain times of the year. The wells contain dangerous bacteriologic contamination. Public safety would be improved by the project, both from the fire protection and lower health risks. The project will positively impact the long-term economic viability of the area. (Staff filing of December 12, 2011).

15. The plans and specifications for the project are in general conformance with the Commission's Water Rules. (Id.).

16. The project has been approved by the West Virginia Bureau for Public Health. (Permit No. 18,873).

17. The project will increase the Utility's operation and maintenance expenses \$97,975. (Staff filing of December 12, 2011).

18. The proposed financing is an Appalachian Regional Commission grant in the amount of \$1,500,000; a West Virginia Infrastructure and Jobs Development Council grant in the amount of \$983,500; an Infrastructure and Jobs Development Council loan in the amount of \$983,500 at zero percent interest for 40 years; a United States Department of Agriculture Rural Development grant in the amount of \$1,300,000; a United States Department of Agriculture Rural Development loan in the amount of \$1,200,000 for 38 years at 3.625% interest; and a second United States Department of Agriculture Rural Development loan in the amount of \$662,000 for 38 years at 2.75% interest. (Id.).

19. The Utility has passed a municipal rate ordinance which should provide adequate revenue to support the project. Post project, the Utility should have \$23,616 annually available for capital additions and a debt service coverage of 127.26%. (Id.).

20. Staff recommends granting the certificate. (Id.).

CONCLUSIONS OF LAW

1. The public convenience and necessary require the proposed project.
2. The proposed financing is reasonable and should be approved.
3. The application for a certificate of convenience and necessity should be granted without hearing.

ORDER

IT IS, THEREFORE, ORDERED that the Town of Gilbert be, and hereby is, granted a certificate of convenience and necessity to construct the extension and improvements to its

water system as described in its application of September 15, 2011. The cost of the project shall not exceed \$6,629,000. Approval is contingent upon the Utility obtaining all necessary state and federal permits before construction. Upon receipt, the Utility shall file with the Commission all permits not yet obtained.

IT IS FURTHER ORDERED that the proposed financing, consisting of an Appalachian Regional Commission grant in the amount of \$1,500,000; a West Virginia Infrastructure and Jobs Development Council grant in the amount of \$983,500; a West Virginia Infrastructure and Jobs Development Council loan in the amount of \$983,500 for 40 years at zero percent interest; a United States Department of Agriculture Rural Development grant in the amount of \$1,300,000; a United States Department of Agriculture Rural Development loan in the amount of \$1,200,000 for 38 years at 3.625% interest; and a second United States Department of Agriculture Rural Development loan in the amount of \$662,000 for 38 years at 2.75% interest, be, and hereby is, approved.

IT IS FURTHER ORDERED that, if the scope or plans for the project change, or project costs or financing changes require a further rate increase beyond any discussed in this Order, the Utility must obtain prior Commission approval before commencing construction. Changes in project costs or financing do not require separate approval if those changes do not affect rates and the Utility submits an affidavit from a certified public accountant to this effect.

IT IS FURTHER ORDERED that the Utility provide the Commission with a copy of an engineer's certified bid tabulation for all contracts awarded on this project, as soon as they are available, but no later than ten days after the bid opening date.

IT IS FURTHER ORDERED that the Utility submit to the Commission a copy of the certificate of substantial completion issued for each construction contract associated with the project, as soon as they are available, but no later than ten days after the issuance of such documents.

IT IS FURTHER ORDERED that the Utility comply with all rules and regulations of the Division of Highways regarding the use of Division of Highways' rights-of-way.

IT IS FURTHER ORDERED that the matter be removed from the Commission's docket of open cases.

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

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this order is

mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served the exceptions.

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

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's order by filing an appropriate petition in writing with the Secretary. No such waiver will be effective until approved by order of the Commission.



Keith A. George
Administrative Law Judge

KAG:cdk
111353a.doc



**United States Department of Agriculture
Rural Development
West Virginia State Office**

July 14, 2008

The Honorable John W. White, Mayor
Town of Gilbert
P.O. Box 188
Gilbert, West Virginia 25621

Dear Mayor White:

This letter, with Attachments 1 through 11 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 on behalf of the Rural Utilities Service (RUS) by the State and Area staff of USDA, Rural Development. Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by USDA, Rural Development, by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

The docket may be completed on the basis of an RUS loan in the amount of \$1,200,000, an RUS grant in the amount of \$476,000, and other funding in the amount of \$3,167,000, for a total project cost of \$4,843,000. The other funding is planned in the form of a loan of \$838,000 and grant of 838,000 from the West Virginia Infrastructure and Jobs Development Council and a grant of \$1,491,000 from the Small Cities Block Grant Program.

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

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

- a. RUS Instruction 1780
- b. RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Standard Documents on Water and Waste Projects with RUS Financial Assistance"
- c. RUS Bulletin 1780-30, "Water Programs Audit Guide and Compliance Supplement"

75 High Street, Federal Building, Suite 320, Morgantown, WV 26505-7500
304.284.4860 • 1.800.295.8228 • 304.284-4893 • TTY: DD 304.284.4836 • Web: <http://www.rurdev.usda.gov>

Committed to the future of rural communities.

"USDA is an equal opportunity provider, employer and lender."

To file a complaint of discrimination write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, DC 20250-9410 or call (800) 95-3272 (voice) or (202)720-6382 (TDD).

d. RUS Bulletin 1780-31, "Water Programs Compliance Supplement for OMB Circular A-133 Audits"

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

- Attachment No. 1 – Project Construction Budget
- Attachment No. 2 – Water and Waste Processing Checklist (All Copies)
- Attachment No. 3 – RUS Supplemental General Conditions (Engineer Copy)
- Attachment No. 4 – Water Users Agreement (Applicant and Attorney Copies)
- Attachment No. 5 – Declination Statement (Applicant and Attorney Copies)
- Attachment No. 6 – Government Auditing Standards (Revision July 2007)
(Accountant Copy) – This may be accessed at www.gao.gov/govaud/ybk01.htm.
- Attachment No. 7 - Sample Credit Agreement (Applicant Copy)
- Attachment No. 8 – Form RD 1927-9, "Preliminary Title Opinion" (Attorney Copy)
- Attachment No. 9 - Form RD 442.22, "Opinion of Counsel Relative to Rights-of-Way" (Attorney Copy)
- Attachment No. 10 - Form RD 1927-10, "Final Title Opinion (Attorney Copy)
- Attachment No.11 - 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. RUS regulatory requirements (RUS Instruction 1780) now direct that any funds not disbursed within 60 months from the date of obligation will be de-obligated and returned to the Department of Treasury for further disposition to other RUS project applicants. In the event that USDA determines that your project is not progressing within the five (5) year timeline and that funds will be recaptured, you will be given appeal rights and due process to document reasons why you believe the decision to de-obligate your project funds is not justified.
2. Loan Repayment – The loan will be scheduled for repayment over a period of 40 years. The payments due the first 24 months will consist of interest only. Payments for the remaining 456 months will be equal amortized monthly installments. For planning purposes use a 3.625% interest rate and a monthly amortization factor of .00405, which provides for a monthly payment of \$4,860. You have the option of participating in the PREAUTHORIZED DEBIT (PAD) payment process. It will allow for your payment to be

electronically debited from your account on the day your payment is due. Your authority must establish and fund monthly a debt service reserve account, which equals 10% of your monthly payment each month until you accumulate the equivalent of one annual installment on your loan.

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

3. Security – The loan must be secured by a statutory lien of shared first priority, a pledge of the system’s revenues and other agreements between you and RUS as set forth in the bond ordinance which must be properly adopted and executed by the appropriate officials of your organization. Additional security requirements are contained in RUS Bulletin 1780-12 and RUS Bulletin 1780-27 which are mentioned later.
4. Users – This conditional commitment is based upon you providing evidence that you will have at least 717 bona fide users on the proposed system when it has been completed and is placed in operation. This evidence will consist of 229 signed user agreements and a signed certification from you that identifies and attests to the number of users actually connected to and using the Town’s existing water system, which is to be partially replaced by the new system, 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 Town 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 RUS 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.

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

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

RUS regulations (RD Instruction 1780) outline requirements for the submission of management reports and audits. Appropriate state statutes place certain audit requirements on your Town. “Government Auditing Standards (Revised July 2007)” and RUS Bulletins 1780-30 and 1780-31 (available on website) 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.

9. Facility Control – Prior to advertisement for construction bids, you must furnish satisfactory evidence that you have or can obtain adequate continuous and valid control over the lands and rights needed for the project. Such evidence must be in the following form:
- a. A right-of-way map showing clearly the location of all lands and rights needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.
 - b. A copy of deeds, contracts or options for any lands needed other than rights-of-way, along with a preliminary title opinion covering such lands. Form RD 1927-9, "Preliminary Title Opinion" may be used. In the case of your existing system or where the Town 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 Town'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 Town

has already acquired real property(s) (land or facilities), the Town's attorney will provide a separate final title opinion(s) covering such property(s) on the day of loan closing.

10. Permits – Copies of all permits needed for the project must be provided for review prior to advertisement for construction bids. Such permits will include but are not limited to the following:
 - West Virginia Department of Highways
 - Railroads
 - State Department of Health
 - Department of Environmental Protection
 - Public Land Corporation

11. Public Service Commission Approvals and Rates – You must determine that the Certificate of Convenience and Necessity which you now have from the Public Service Commission of West Virginia is adequate to cover the entire area to be served by the proposed system. If it is not adequate, a new certificate must be obtained and a copy provided for RUS. If it is determined the Town's present certificate is adequate, the Town must properly develop, adopt, and promulgate the required rates in accordance with the applicable provisions Article I, Chapter 24 of the Code of West Virginia, as amended, and to the satisfaction of your bond counsel. The rate ordinance as adopted must include, as a minimum, all the rate related items (everything except project costs section, the use analysis section, and the operation and maintenance expense breakdown section) contained in the attached project construction budget (Attachment No. 1). The draft rate ordinance must be provided for RUS review and concurrence prior to its adoption.

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

- c. Position Fidelity Bond(s) – All positions occupied by persons entrusted with the receipt and/or disbursement of funds must be bonded. As a good business practice you will probably wish to have each position bonded in an amount equal to the maximum amount of funds to be under the control of that position at any one time. During the construction phase of your project, this maximum amount will be much greater than normal; therefore, it is our recommendation that you temporarily increase your coverage to \$230,000 or 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 RUS once your project is in operation will be for each position to be bonded for an amount at least equal to one annual installment on your loan(s).

- d. National Flood Insurance – In addition to meeting the requirements for the type of assistance requested, the following requirements must be met for financial assistance for acquisition and/or construction in designated special flood or mudslide prone areas:
 - i. If flood insurance is available, you must purchase a flood insurance policy at the time of loan closing.
 - ii. Applicants whose buildings, machinery or equipment are to be located in a community which has been notified as having special flood or mudslide prone areas will not receive financial assistance where flood insurance is not available.
- e. Real Property Insurance – Prior to the acceptance of the facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all above-ground structures, to include machinery and equipment housed therein. This does not apply to water reservoirs, standpipes, elevated tanks or noncombustible materials used in treatment plants, clearwells, filters and the like.

13. Environmental Requirements –

- 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 are required for successful completion of the project and must be adhered to during project design and construction.

- 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.

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

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

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

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

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

Section 504 of the Rehabilitation Act of 1973 – Under section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving RD financial assistance.

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

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

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

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

16. Contract Documents, Final Plans and Specifications –

- a. The contract documents should consist of the following:
 - i. EJCDC Document No. C-521, 2002 Edition, “Suggested Form of Agreement between Owner and Contractor on the Basis of Stipulated Price” and EJCDC Document No. C-710, 2002 Edition, “Standard General Conditions of the Construction Contract – Funding Agency Edition” and Attachments. The EJCDC document is issued under copyright and cannot be provided by RUS.
 - ii. “RUS Supplemental General Conditions” (Attachment No.3).

RUS Bulletin 1780-26, “Guidance for the Use of EJCDC Standard Documents on Water and Waste Projects with RUS Financial Assistance (September 10, 2003 Version),” is available on our website for use 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 - \$200,000. This coverage must include indemnification of the Town and its engineer. EJCDC Document C-710, “Standard General Conditions of the Construction Contract” (Funding Agency Edition) and Exhibit G to RUS Bulletin 1780-26, “Supplementary Conditions” both suggest certain limits of liability for insurance coverage. Those limits should be considered as minimum

coverage. Those limits should be considered as minimum requirements only. It is recommended you consider increasing the given limits of liability after analyzing your specific needs.

- ii. Builder's Risk Insurance – On all structures and mechanical and electrical equipment in place or stored on the site to the full insurable value thereof.
 - iii. Workers' Compensation – In accordance with applicable State laws.
- c. The contract documents and final plans and specifications must be submitted to RUS for approval.
 - d. The project must be designed in compliance with Section 504 of the Rehabilitation Act of 1973.
17. Interim Financing – Interim financing will be used for the RUS loan if it is available at reasonable rates and terms. You must provide RUS with a copy of the tentative agreement reached in connection with interim financing. A copy of the proposed agreement should be provided for RUS review. A Sample Credit Agreement is attached for your use in meeting this requirement (Attachment No. 7).
18. Disbursement of Funds – The RUS funds will be advanced as they are needed in the amount(s) necessary to cover the RUS proportionate share of any disbursements required of your Town, 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:

Public Bodies

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

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

19. Other Project Funds – Prior to advertisement for construction bids, you must provide evidence showing the approval of any other project funds. This evidence should include a copy of the funding award. Prior to award of the contract(s) to the contractor(s), you must provide evidence that the other project funds are available for expenditure. This evidence should consist of at least a letter from the funding agency stating the funds are available for expenditure.

20. At a properly called meeting, you must adopt and properly execute the following forms, and minutes showing the adoption must be provided:
 - Form RD 1940-1 – “Request for Obligation of Funds”
 - RUS Bulletin 1780-12 – “Water or Waste System Grant Agreement”
 - RUS Bulletin 1780-27 – “Loan Resolution (Public Bodies)”
 - Form RD 400-1 – “Equal Opportunity Agreement”
 - Form RD 400-4 – “Assurance Agreement”
 - Form AD 1047 – “Certification Regarding Debarment – Primary”
 - Form AD 1049 – “Certification Regarding Drug-Free Workplace”
 - Form RD 1910-11 – “Applicant Certification, Federal Collection Policies”
 - RD Instruction 1940-Q, Exhibit A-1, “Certification for Contracts, Grants and Loans”
 - Standard Form LLL – “Disclosure of Lobbying Activities” (If Applicable)
 - Certification of Compliance
 - Form RD 1942-46, “Letter of Intent to Meet Conditions”

21. The enclosed Water and Waste Processing Checklist (Attachment No. 2) outlines the items needed to complete the loan 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 with a request for loan closing instructions to be issued.

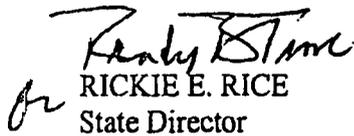
22. Upon receipt of the loan and grant docket, which contains all the items required above, RUS may authorize you to advertise the project for construction bids. Such advertisement must be in accordance with appropriate State statutes. Immediately after bid opening you must provide RUS with (a) a bid tabulation, (b) recommendations from you and your engineer as to the acceptability of the bids received, and (c) your recommendations for contract awards. If all parties then agree the construction bids received are acceptable, it is determined that adequate funds are available to cover the total facility costs, and that all the administrative conditions of loan approval have been satisfied, loan closing instructions will be issued. The closing instructions, a copy of which will be forwarded to you, will set forth any further requirements that must be met before the loan can be closed. When all parties agree that the closing requirements can be met, a mutually acceptable date for the loan closing will be scheduled.

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

In the event the project has not advanced to the point of loan closing within the twelve-month period and it is determined the Town still wishes to proceed, it will be necessary that the proposed budget be reviewed again in detail. If during that review, it is determined the budget is no longer current and/or adequate, RUS reserves the right to require that it be revised or replaced.

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

Sincerely yours,


RICKIE E. RICE
State Director

Enclosures

cc: Page 13.

cc: Rural Development Specialist
Beckley, WV

Griffith & Associates
950 Little Coal River Rd.
Alum Creek, WV 25003

Steptoe & Johnson
707 Virginia St. E., Suite 700
Charleston, WV 25301

E. L. Robinson
Consulting Engineers
5088 Washington St. West
Charleston, WV 25313

West Virginia Infrastructure and Jobs Development Council
300 Summers Street
980 One Valley Square
Charleston, WV 25301

West Virginia Development Office
1900 Kanawha Blvd., East
Capitol Complex, Bldg. 6, Rm. 553
Charleston, WV 25305

Attachment No.1 to Letter of Conditions
 For: Town of Gilbert
 Date: July 14, 2008

**PROJECT CONSTRUCTION BUDGET
 TOWN OF GILBERT/HORSEPEN EXTENSION PROJECT**

<u>PROJECT COST</u>	<u>SCBG</u>	<u>WVIJDC LOAN</u>	<u>WVIJDC GRANT</u>	<u>RUS GRANT</u>	<u>RUS LOAN</u>	<u>TOTAL</u>
CONSTRUCTION	\$ 1,058,100	\$ 615,000	\$ 615,000	\$ 253,300	\$ 919,600	\$ 3,461,000
CONST. CONTINGENCY	\$ 84,700	\$ 49,200	\$ 49,200	\$ 49,200	\$ 44,700	\$ 277,000
LAND & RIGHTS	\$ 24,500	\$ 14,200	\$ 14,200	\$ 14,200	\$ 12,900	\$ 80,000
LEGAL FEES	\$ 6,300	\$ 3,500	\$ 3,500	\$ 3,500	\$ 3,200	\$ 20,000
BOND COUNSEL	\$ 8,000	\$ 4,600	\$ 4,600	\$ 4,600	\$ 4,200	\$ 26,000
ACCOUNTING	\$ 3,000	\$ 1,800	\$ 1,800	\$ 1,800	\$ 1,600	\$ 10,000
ENGINEERING FEES	\$ 235,800	\$ 137,000	\$ 137,000	\$ 136,800	\$ 124,400	\$ 771,000
Basic - \$471,000					\$ 78,000	
Insp. - \$300,000						
INTEREST						\$ 78,000
ADMINISTRATION	\$ 50,000					\$ 50,000
PROJECT CONTG.	\$ 20,600	\$ 12,700	\$ 12,700	\$ 12,600	\$ 11,400	\$ 70,000
TOTAL	\$ 1,491,000	\$ 838,000	\$ 838,000	\$ 476,000	\$ 1,200,000	\$ 4,843,000

Rates

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

First	3,000	gallons @	\$8.60	per M gallons
Next	7,000	gallons @	\$6.65	per M gallons
Next	40,000	gallons @	\$4.50	per M gallons
All Over	50,000	gallons @	\$2.95	per M gallons

Minimum Charge

No minimum bill will be rendered for less than \$21.50 per month which is equivalent to 2,500 gallons or

5/8 Inch Meter	\$ 21.50	per month
3/4 Inch Meter	\$ 32.25	per month
1 Inch Meter	\$ 53.75	per month
1 1/2 Inch Meter	\$ 107.50	per month
2 Inch Meter	\$ 172.00	per month
3 Inch Meter	\$ 322.50	per month
4 Inch Meter	\$ 537.50	per month
6 Inch Meter	\$ 1,075.00	per month
8 Inch Meter	\$ 1,720.00	per month

Resale Rate

Rate by contract

Private Fire Protection Service

Where connections, hydrants, sprinklers, etc. on private property are maintained by consumer:

RATE	
2" Connection	\$ 5.80 per month
3" Connection	\$ 13.20 per month
4" Connection	\$ 23.15 per month
6" Connection	\$ 58.70 per month
8" Connection	\$ 96.30 per month
10" Connection	\$ 170.80 per month
12" Connection	\$ 239.30 per month

Public Fire Protection

Where connections, hydrants, sprinklers, etc on private property are maintained by utility

RATE

For each public fire hydrant \$300.00 per year

Tap Fee

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

A tap fee of \$100.00 will be charged to customers applying for service before construction is completed adjacent to the customers premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee of \$300.00 or the actual cost of the connection (solely determined by the Town), whichever is greater, will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

Delayed Payment Penalty

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

Leak Adjustment Increment

\$2.95 per 1000 gallons is to be used when a bill reflects unusual consumption which can be attributed to leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical usage.

Returned Check Charge

A service charge of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by their bank for any reason.

Water Disconnect-Reconnect-Administrative Fees

Whenever water service has been disconnected for any reason, a disconnection fee of \$25.00 shall be charged; or in the event of delinquent water bill is collected in the field, an administrative fee of \$25.00 shall be charged. Whenever water service which has been previously disconnected for any reason is reconnected, a reconnection fee of \$25.00 shall be charged.

Minimum Fee Per Tank To Cover The Increased Costs Of Selling Water In Bulk

Bulk water means water sold in tanks, tankers, or other containers or any water not sold through regular supply lines.

The price of water shall be the same price per thousand as water sold through service lines or a \$21.50 fee per each sale, whichever is greater.

A "sale" is defined as each time water is dispensed into a container, tank or tanker.

The price per thousand shall be computed as the first three thousand gallons in the regular tariff or prorata thereof for each bulk sale.

An employee, official or agent of the Town of Gilbert must be present to operate the water hydrant or valve from which the water to be sold is to be dispensed.

The buyer of the water shall sign a proper invoice with the quantity purchased, date and purchaser's name filled in.

The above shall not apply to the State of West Virginia nor to any subdivision or any part of subdivision of the State of West Virginia.

Use and Income Analysis - See Attached

Cash Flow Analysis - See Attached

Attachment No. 1 to Letter of Conditions
 For: Town of Gilbert
 Date: July 14, 2008

USE AND INCOME ANALYSIS
 EXISTING SYSTEM/SLABTOWN/HORSEPEN PROFORMA

Blocking	Cust.	M/Gal Sold	Rate	Revenue	First 3,000	Next 7,000	Next 40,000	Over 50,000	TOTAL REVENUE
5/8" Meter*	1,854	2,419.70	\$ 21.50	\$ 39,861					
3/4" Meter			\$ 32.25						
1" Meter			\$ 53.75						
1 1/2" Meter			\$ 107.50						
2" Meter			\$ 172.00						
3" Meter			\$ 322.50						
4" Meter			\$ 537.50						
6" Meter			\$ 1,075.00						
8" Meter			\$ 1,720.00						
2,501 - 3,000	350	977			977				
3,001 - 10,000**	6,134	24,688.80			18,402	6,286.80			
10,001 - 50,000	226	4,719.20			678	1,582	2,459.20		
> 50,000	27	2,170.90			81	189	1,080	820.9	
Annual Total	8,591	34,975.60			20138	8057.8	3,539.20	820.9	
Proposed Rates					\$ 8.60	\$ 6.65	\$ 4.50	\$ 2.95	
Annual Revenues				\$ 39,861.00	\$ 173,187	\$ 53,584	\$ 15,926.40	\$ 2,421.66	\$ 284,980
Correction Factor									0.9800000
Proforma Annual Revenue									\$ 279,281
Sale For Resale									
	Cust.	Gals/Sold	Rate	Revenue					
Justice PSD	12	11,742.5	\$ 1.50	\$ 17,614					
Correction Factor				1.00000					
Proforma Annual Revenue				\$ 17,614					
Total Proforma Annual Revenue									\$ 296,894

* Minimum Billing based on 2,500 Gal.

** Includes 229 (80% of 286 potential) projected customers on Horsepen @ 3,800 gal./mo.

Attachment No. 1 to Letter of Conditions

For: Town of Gilbert

Date: July 14, 2008

CASH FLOW ANALYSIS

OPERATING INCOME			
Metered Sales	\$	279,280	
Sale For Resale	\$	17,614	
Forfeited Discounts	\$	5,025	
Other Income	\$	218	
TOTAL OPERATING INCOME		<u>\$ 302,137</u>	
NON OPERATING INCOME			
Interest income			
TOTAL NON OPERATING INCOME		<u>\$ 244</u>	
TOTAL INCOME		<u>\$ 302,381</u>	
EXPENSES			
O & M	\$	164,246	
Taxes	\$	12,180	
TOTAL EXPENSES		<u>\$ 176,426</u>	
INCOME AVAILABLE FOR D/S (A)		<u>\$ 125,955</u>	
DEBT SERVICE			
USDA Slabtown (Closing Pending)	\$	24,648	
Proposed Bond P & I (B)			
USDA (Horsepen)	\$	58,320	
WVIJDC (Horsepen)	\$	22,053	
TOTAL DEBT SERVICE		<u>\$ 105,021</u>	
DEBT SERVICE RESERVE			
Debt Service Reserve*	\$	10,502	
Renewal & Replacement Reserve	\$	7,560	
TOTAL DEBT SERVICE RESERVE		<u>\$ 18,062</u>	
SURPLUS (DEFICIT)		<u>\$ 2,872</u>	
DEBT COVERAGE (A/B)		<table border="1"><tr><td>119.93%</td></tr></table>	119.93%
119.93%			

Attachment No. 2 to Letter of Conditions
 For: Town of Gilbert
 Date: July 14, 2008

**UNITED STATES DEPARTMENT OF AGRICULTURE
 RURAL UTILITIES SERVICE
 Water and Waste Processing Checklist**

<u>Form Number</u>	<u>Document or Action</u>	<u>Number Needed</u>	<u>Procedure Reference</u>	<u>Provided By</u>	<u>Target Date</u>	<u>Date Received</u>	<u>File Position</u>
SF 424.2	Application for Federal Assistance	3	1780.31(b)	Applicant		HAVE	3
	DUNS Number	1		Applicant			3
	CAIVRS Number	1		RUS			CPAP Form
	Public Notice of Intent to File App./ Env. Notice	3	1780.19(a) 1794	Applicant		HAVE	3
Bulletin 1780-22	Applicant Eligibility Certification/ Other Credit Certification	1	1780.33(d)	Applicant		HAVE	3
	Bond Ordn. or Resol. On Outstanding Debts	1	1780.33(e)	Applicant/ Attorney		HAVE	5
	Audit for last year of operation	1	1780.33(e)	Applicant/ Accountant		HAVE	1
	Staff Review Financial Statements	1	S.I. 1780.2	RUS		HAVE	1
EJCDC No. 1910-1-FA	Agreement between Owner & Engineer	3	1780.39(b)	Applicant/ Engineer		HAVE	6
Bulletin 1780-7 or other approved	Legal Services Agreement with Local Attorney	3	1780.39 (b)(2)	Applicant/ Attorney			5
	Site Visit		S.I. 1780-2	RUS			3

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
	Processing Conference	1	1780.39(a)	RUS			3
	Environmental Report	2	1794	Applicant		HAVE	3
	Environmental Assessment	2	1794	RUS/ Engineer		HAVE	3
	FONSI/ Evidence of Publication	1	Exhibit 1 RUS 1794 News Ad	RUS/ Applicant		HAVE	3
Bulletins 1780-2 1780-3	Preliminary Engineering Report	2	1780.33(c)	Engineer		HAVE	6
	Staff Engineer PER Review	1	1780.33(c)	RUS		HAVE	3
	Bill Analysis for existing system(s)	2	1780.33(c)	Applicant/ Engineer		HAVE	8
	Projected Bill Analysis for New Users	2	1780.33(c)	Applicant/ Engineer		HAVE	8
	Statement reporting the <u>total</u> number of <u>potential</u> users		1780.33(c)	Applicant/ Engineer		HAVE	8
	Copy of Existing Rate Tariff	2	1780.33	Applicant		HAVE	8
	Applicant's IRS Tax Number(TIN)	1	1780.33(g)	Applicant		HAVE	3
	Agency Det- ermination on the Availability of "Other Credit" with Docu- mentation	1	1780.7(d)	RUS		HAVE	3
	Documentation on Service Area	1	1780.11	RUS			3

<u>Form Number</u>	<u>Document or Action</u>	<u>Number Needed</u>	<u>Procedure Reference</u>	<u>Provided By</u>	<u>Target Date</u>	<u>Date Received</u>	<u>File Position</u>
Bulletin 1780-1	Project Selection Criteria	2	1780.17	RUS		HAVE	1
	Letter of Conditions	7	1780.41 (a)(5)	RUS		HAVE	3
AD 1049	Certification Regarding Drug-Free Workplace	1	1780.33(h)	Applicant			5
	Minutes Adopting Drug-Free Workplace Program	1	LOC	Applicant			5
Exhibit A / A-1	Certifications Regarding Lobbying	2	1780.33(h)	Applicant			2
CPAP Form	Project Information	2	1780.41(a)	RUS		HAVE	1
CPAP Form	Underwriting Information	2	1780.41(a)	RUS		HAVE	2
RD 1940-1	Request for Obligation of Funds	2	1780.41(a)	RUS/ Applicant			2
Bulletin 1780-12	Association Water or Sewer System Grant Agreement	2	1780.45(c)	RUS/ Applicant			2
RD 1942-46	Letter of Intent to Meet Conditions	2	1780.41 (a)(6)	Applicant			3
AD 1047	Certification Regarding Debarment (Primary)	1	1780.33(h)	Applicant			5
	Relationships/ Associations with Agency Employees	1	1780.1(f)	RUS			3

<u>Form Number</u>	<u>Document or Action</u>	<u>Number Needed</u>	<u>Procedure Reference</u>	<u>Provided By</u>	<u>Target Date</u>	<u>Date Received</u>	<u>File Position</u>
RD 1910-11	Applicant Certification, Federal Collect- ion Policies	1	1780.33(h)	Applicant			3
Bulletin 1780-27	Loan Resolution	1	1780.45 (a)(2)	Applicant			5
RD 400-1	Equal Opportunity Agreement	1	1901-E	Applicant			6
RD 400-4	Assurance Agreement	1	1901-E	Applicant			3
	Legal Services Agreement with Bond Counsel	1	1780.39 (b)(3)	Applicant/ Bond Counsel			5
	Agreement for Accounting Services	1	1780.39 (b)(2)	Applicant/ Accountant		HAVE	5
	Water Users Agreement (Copy)	1	1780.39 (c)(3)	Applicant			5
	Evidence of Users:						
	1. Map of Users with each identified by number	1	LOC	Applicant			Separate File
	2. List of Signed Users Numbered to Map	1	LOC	Applicant			5
	3. List of Declination Statements Numbered to Map	1	LOC	Applicant			5
	4. Evidence of Tap Fees Being Paid	1	LOC	Applicant			5

<u>Form Number</u>	<u>Document or Action</u>	<u>Number Needed</u>	<u>Procedure Reference</u>	<u>Provided By</u>	<u>Target Date</u>	<u>Date Received</u>	<u>File Position</u>
	5. Having Users Agreements and Declination Statements Available		LOC	Applicant			
	6. Certification Relative to Existing Users	1	LOC	Applicant			5
	Verification of Users	1	1780.44(b)	RUS			3
	Accountant's Certification	1	LOC	Applicant/ Accountant			3
	RUS Review of Accounting Records	1	S.I. 1780-4 (1)(ii)	RUS			3
	Copy of PSC Rule 42 Exhibit	1	State	Attorney/ Accountant			3
Lender Agreement/ Bulletin 1780-10/ 1780-10a	Interim Financing Documenta- tion	1	1780.39(d)	Applicant/ RUS			1
	DOH Permit	1	1780.15(d)	Applicant			6
	Railroad Permit	1	1780.15(d)	Applicant			6
	Public Land Corp. Permit	1	1780.15(d)	Applicant			6
	Dept. of Health Approval	1	1780.15(d)	Engineer			6
	Dept. of Environmental Protection Permit	1	1780.15(d)	Engineer			6

<u>Form Number</u>	<u>Document or Action</u>	<u>Number Needed</u>	<u>Procedure Reference</u>	<u>Provided By</u>	<u>Target Date</u>	<u>Date Received</u>	<u>File Position</u>
	Contract Documents, Plans & Specifications	2	1780.61(a)	Engineer			Separate File
	Agency Determination on Procurement	1	1780.70(d)	RUS			6
	Preliminary Bond Transcript Documents w/o Defeasance Provisions	2	1780.83	Bond Counsel			5
	Right-of-Way Map	1	1780.44(g)	Engineer			Separate File
	Deeds and/or Options		1780.44.(g)	Applicant/ Attorney			5
RD 1927-9	Preliminary Title Opinion	1	1780.44 (g)(2)	Applicant/ Attorney			5
	Narrative Opinion from Attorney	1	1780.44(g)	Attorney			5
	Waiver of Title Defects Letter	1	1780.44(g)	RUS			5
RD 442-22	Opinion of Counsel Relative to R/Ways		1780.44 (g)(1)	Attorney			5
	Review of Outstanding Judgment	1	1780.7(g)	RUS/ Attorney			3
	Operation and Maintenance Agreement	1	1780.39 (b)(4)	Applicant			5
	Evidence of "Other Funds"	1	1780.44(f)	Applicant			2

<u>Form Number</u>	<u>Document or Action</u>	<u>Number Needed</u>	<u>Procedure Reference</u>	<u>Provided By</u>	<u>Target Date</u>	<u>Date Received</u>	<u>File Position</u>
SF 3881	Electronic Funds Transfer Payment Enrollment Form	1	31 CFR 208	Applicant/ Financial Institution			2
	Positive Program to Encourage Connections when Completed	1	1780.39 (c)(5)	Applicant			5
	PSC Approval	1	1780.15(b)	Applicant/ Attorney			6
	Certifications on VA and ERP	1		Applicant			5
	Bid Tabulation	1	1780.61(b)	Engineer			6
	OGC Closing Instructions	1	1780.44(h)	RUS			5
	S/O Closing Instructions	1	1780.44(h)	RUS			5
RD 1927-10	Final Title Opinion	1	1780.44 (g)(2)	Applicant/ Attorney			5
	Bond Transcript Documents w/o Defeasance Provisions	3	1780.83	Bond Counsel			Separate File
RD 400-8	Compliance Review	1	1780.44(c)	RUS			5
	Liability Insurance	1	1780.39(g)	Applicant			7
	Workers' Compensation Certificate	1	1780.39(g)	Applicant			7
	Flood Insurance Policy	1	1780.39(g)	Applicant			7
440-24	Fidelity Bond	1	1780.39(g)	Applicant			7

<u>Form Number</u>	<u>Document or Action</u>	<u>Number Needed</u>	<u>Procedure Reference</u>	<u>Provided By</u>	<u>Target Date</u>	<u>Date Received</u>	<u>File Position</u>
1924-16	Record of Pre-Construction Conference	1	1780.76(a)	RUS/ Engineer			6
AD 1048	Certification Regarding Debarment (Contractor)	1 each	1780.33(h)	All Appropriate Vendors			5
	OGC Final Opinion	1	1780.45(g)	RUS			5



**United States Department of Agriculture
Rural Development
West Virginia State Office**

June 28, 2012

Mrs. Vivian Livingood, Mayor
Town of Gilbert
P.O. Box 188
Gilbert, West Virginia 25621

SUBJECT: Town of Gilbert
A. Horsepen Water Project
(RD Loan - \$1,200,000, RD Grant - \$470,000, ARC Grant - \$1,500,000)
B. Browning Fork Water Project
(RD Loan - 662,000, RD Grant - \$824,000)
Closing Instructions

Dear Mayor Livingood:

The preliminary closing for the subject loans and grants will be held on July 25, 2012, at 10:00 am at the Gilbert Town Hall. The loans and grants must be handled and closed in accordance with your letter of conditions dated July 14, 2008 (Horsepen) and April 9, 2009 (Browning Fork). All of the requirements of those letters must be met and in addition, the loans and grants must be closed in accordance with RD Instruction 1942-A and RUS Instruction 1780. The following instructions and comments are offered:

1. RUS will sign and date the RUS Bulletin 1780-12 "Water and Waste System Grant Agreements".
2. Form AD 1048, "Certification Regarding Debarment – Lower Tier Covered Transactions," should be provided on contractors.
3. Form RD 1927-10, "Final Title Opinion," effective the date of loan closing (January 27, 2012) must be provided for all property owned by the PSD.
4. Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way," must be provided showing no exceptions dated for July 27, 2012.
4. A narrative from your attorney dated July 27, 2012 concerning all permits, certifications, or other items necessary to show all legal requirements can be met. This narrative should identify the condemnation proceedings and how they will be handled now that right of entry has been obtained. This should include a certification that all requirements of the

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Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD).

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and WV State Code Chapter 54 have been met with all acquisitions.

5. The certification on the Loan Resolutions will need to be completed at closing.
6. **A. Horsepen Water Project** - The loan for \$1,200,000 was obligated at the intermediate interest rate of 3.625%; however, effective July 1; 2012 this rate is at 2.75% and Bond Counsel will be notified with a copy of this letter. **The monthly payment will be \$4,248.00.**
B. Browning Fork Water Project – The loan for \$662,000 was obligated at the poverty interest rate of 2.75%; however, effective July 1, 2012 this rate is 2.125% and Bond Counsel will be notified with a copy of this letter. **The monthly payment will be \$2,119.00.**
7. On July 25, 2012, the date of the preliminary closing, the applicant must provide evidence of all required insurance and position fidelity bond coverage in compliance with Item 11 of the letter of conditions dated July 14, 2008 and April 9, 2009.
8. A compliance review will need to be conducted by the RUS prior to the start of construction.
9. All professional services agreements must be executed prior to loan closing.

If you have any questions regarding the above, please do not hesitate to contact me at (304) 776-5298 ext. 116.

Sincerely,

Tracey Rowan
Area IV Director

cc: USDA State Director
Samme Gee
Randall Lewis
Rick Roberts
Glen Rutledge
Michael Griffith



United States Department of Agriculture
Rural Development
West Virginia State Office

June 28, 2012

Mrs. Vivian Livingood, Mayor
Town of Gilbert
P.O. Box 188
Gilbert, West Virginia 25621

SUBJECT: Town of Gilbert - Horsepen Water Project and Browning Fork Water Project
Construction Contracts Concurrence

Dear Mayor Livingood:

The bidding documentation for the referenced project has been reviewed and USDA Rural Development hereby concurs with the Town of Gilbert in the award of the following contracts:

Contract 1	McCoy Construction Company	\$2,627,994.90
Contract 2	Mike Enyart and Sons, Inc.	\$1,064,962.90
Contract 3	McCoy Construction Company	\$1,071,437.80
Contract 4	Welding, Inc.	\$ 687,000.00

A preconstruction conference will be held at 11:30 am on July 31, 2012 at the Gilbert Town Hall located in Gilbert, WV. By copy of this letter to E.L. Robinson, we are requesting they arrange for the contractor, the job superintendent, and themselves to be present at the conference. Additionally, a representative from the West Virginia Department of Highways District Office, along with the representatives from the utility companies that could be involved with the project, should also be invited by the engineer to attend the preconstruction conference.

On the day of the preconstruction conference, the engineer must have available five (5) sets of contract documents for the contract to be distributed as follows: **USDA RD - two (2) small sets**; Borrower - one (1) set; Contractor - one (1) set; and the Project Engineer - one (1) set. Additional copies may be provided as required by other interested parties.

The documents should include the following items:

1. A reproduced copy of the contractor's bid.
2. The contract agreement, completely filled in, signed by the contractor and dated July 27, 2012.

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3. Performance and payment bonds in the amount of 100 percent of the contract amount and dated July 27, 2012. The payment bonds must be notarized so that they may be recorded at the local county courthouse.
4. Certificate of Insurance evidencing that payment into Workers' Compensation Fund is current.
5. Certificate of Insurance evidencing contractors' general public liability and property damage coverage in the amounts listed in the specifications and containing the provisions preventing the cancellation without 15 days prior written notice to the owner. Coverage must be shown for blasting if it will be done on the project.
6. Certificate of Insurance evidencing contractual liability coverage so that the provisions of Paragraph 24 of the General Conditions will be met. The contractors may provide an owner's protective liability policy if they so choose.
7. Certificate of Insurance evidencing builder's risk insurance coverage on a 100 percent basis of the insurable portion of the project for the benefit of the owner and contractor as their interest may appear.
8. Form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions."
9. RD Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans."

The engineer should assemble items 1-9 and send one (1) copy to USDA-Rural Development, ATTN: Harry Taylor, 75 High Street, Suite 320, Morgantown, WV 26505-7500 by July 24, 2012.

A copy of the final project budget will be forwarded at a later date.

If you should have any questions, please contact our office at 304-776-5298 ext. 116 at your earliest convenience.

Sincerely,

Tracey Rowan
Community Programs Specialist

Attachment

cc: State Director
USDA-Rural Development
ATTN: Harry Taylor
Morgantown, WV

Rick Roberts and Randall Lewis
E.L. Robinson.
5088 Washington Street, West
Charleston, WV

Samme Gee, Bond Counsel
Jackson and Kelly
CP.O. Box 553
Charleston, WV 25326

Glen Rutledge, Attorney
P.O. Box 340
Williamson, WV 25339

Michael Griffith, CPA
950 Coal River Road
Alum Creek, WV 25003

LOAN RESOLUTION
(Public Bodies)A RESOLUTION OF THE Town CouncilOF THE Gilbert, Town ofAUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING
PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS
Water System Extension (Horsepen)

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO

WHEREAS, it is necessary for the Gilbert, Town of
(Public Body)

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

ONE MILLION TWO HUNDRED THOUSAND AND XX / 100 DOLLARS (\$1,200,000.00)pursuant to the provisions of Chapter 8 Article 19, West Virginia Code ; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

- 11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
- 12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
- 13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
- 14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities, and replacement of short lived assets.
- 15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
- 16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
- 17. To accept a grant in an amount not to exceed \$ 476,000.00

under the terms offered by the Government; that Mayor

and Recorder of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

Yeas 4 Nays 0 Absent 0

IN WITNESS WHEREOF, the Town Council of the

Gilbert, Town of has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this 29 day of July, 2008

Gilbert, Town of

(SEAL)

By John White
John White.
Title Mayor

Attest: William Perry
William Perry
Title Recorder

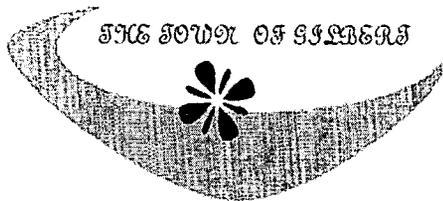
CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as Mayor of the Town of Gilbert
hereby certify that the Town Council of such Association is
composed of 7 members, of whom 4 constituting a quorum were present at a meeting thereof
duty called and held on the 29 day of July, 2008; and that the foregoing resolution was
adopted at such meeting by the vote shown above. I further certify that as of July 27, 2012, the date
of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has
not been rescinded or amended in any way.

Dated, this 25 day of July, 2012



Title Mayor



PO Box 188
Gilbert, WV 25621

Phone: 304-664-9625
Fax: 304-664-3752
E-mail: thetownofgilbert@verizon.net

GILBERT TOWN COUNCIL MEETING
JULY 29, 2008
6:35 PM- 8:50 P.M.

The Gilbert Town Council held its regular meeting on July 29, 2008 at 6:35. Present were the following: Recorder Eddie Perry, Council persons Vivian Livingood, Penny Sammons, Sharon Murphy and Michael Fox. Also present: Randy Livingood, Todd Hamrick, James Deel, Gary Facemyer, Marion Kennedy, Phillip Murphy, Rick Staton and Vivian Carter.

Prayer was led by Vivian Carter.

The first item discussed was the water project with EL Robinson representative Gary Facemyer. He updated council on the newly installed water tank and it is up and painted. It will take about two weeks to finish the final coat of paint and move on to tank number two. Mr. Facemyer discussed that we will need to do a change order on the tank which will be in the sum of \$2,000. This entailed replacing some original pipe inlet lines. Vivian Livingood made the motion for the change order of \$2,000. Michael Fox seconded the motion which was unanimously approved. Gary then asked council to approve a drawdown for the following: \$114,525. for the contractor and \$4,850. for EL Robinson. He further stated that at the present time the contractor was finishing up an old project elsewhere and will be back to work on the storage tank within the next two weeks. A motion to do the drawdown was made by Vivian Livingood with Penny Sammons seconding the motion. Motion carried.

The necessary documentation was signed by Recorder Eddie Perry.



PAGE 2:

The next item which Mr. Facemayer discussed was the bids on the tank Telemetry which we only received two bids. CI Thornburg with a bid of \$37,790.00 and Patriot with a bid of \$36,326.00. According to Mr. Facemayer we will have enough money to be able to accept the bid from Patriot with \$656.00 left in our account. A motion to accept Patriot to install the tank telemetry was made by Penny Sammons with Vivian Livingood seconding the motion. Motion carried.

Mr. Facemayer then informed us that he was still working on the railroad easements. And that the Public Service Commission hearing concerning the new water rates will be held on the 30th of this month at 10:00 am.

Tracy Rowan asked that the necessary documents be signed by the proper authorities for the Horsepen, Gilbert Creek Project. So that we can begin on the water project. The documents include the following: Certification Regarding Debarment, suspension, and other responsibility matters, Letter of intent to meet conditions, Certification of Compliance, Certification for Contracts, Grants for Contracts and Loan, Equal opportunity Agreement, Certification regarding Drug-Free Workplace Requirements Alternative I – For Grantees other than Individuals, Disclosure of Lobby Activities, Equal Opportunity Agreement, Assurance Agreement, Loan Resolution, Water System Grant Agreement, Applicant Certification Federal Collection Policies for Consumer or Commercial Debts, and the Request for Obligation of Funds. Vivian Livingood made the motion for all the necessary paperwork by signed so that we can begin this water project with Sharon Murphy seconding the motion. Motion carried.

GRANTS

A motion for the resolution for the Needy Families - \$2,000.00, Beech Creek Park - \$1,000.00 and the Wharncliffe Park - \$1,000.00 was made by Sharon Murphy with Michael Fox seconding the motion. Motion carried.

WATER

James Deel of the Gilbert Water Works then addressed the council about the water plant. He stated that his water loss was 15% and that his recent water

samples had come back great and that the plant did need chemicals at this time.

POLICE

Clerk Vivian Carter informed council that Brett Browning had returned as Chief of Police but was unable to be here due to his girlfriend being in the hospital.

Todd Hamrick then addressed the council about the wrecked cruiser. Michael Fox made the motion to have Gilbert Body Shop to inspect the damage and if the payment received by State Farm was sufficient to fix the car then we are to proceed with the repairs but if they are more we are to address the council about this at the next meeting. Vivian Livingood seconded. Motion carried.

Marion Kennedy was introduced to the council asking to be considered for the position of police officer. Council asked Mr. Kennedy several questions concerning his background in law enforcement. And then asked that they discuss this in executive session.

FIRE DEPT.

Todd Hamrick then addressed the council to allow the Gilbert Vol. Fire Dept. to have a tag day. Council then stated that it was not their intention to stop the fire dept. from having road stops. Council then asked Mr. Hamrick when he was planning on having a road stop and he asked for Sept. 6, 2008. Vivian Livingood made the motion to allow the GVFD to have a road stop on 9/6/08 with Penny Sammons seconding the motion. Motion carried.

FINANCIAL STATEMENT

Penny Sammons made the motion to accept the financial statements with Sharon Murphy seconding the motion. Motion carried.

MINUTES OF THE PREVIOUS MEETING

Vivian Livingood made the motion to accept the minutes of the previous meeting. Sharon Murphy seconded the motion. Motion carried.

3

Council then went into executive session at 7:15 with Michael Fox making the motion and Vivian Livingood seconding the motion

Council reconvened at 8:25.

Vivian Carter brought up the renewal insurance policy – Council asked that we check our options before agreeing upon it. This will be discussed at a later time.

Having no further business council meeting closed at 8:50 p.m. With Vivian Livingood making the motion and Michael Fox seconding the motion.
Motion Carried.

3

3



WEST VIRGINIA

Infrastructure & Jobs Development Council

Gov. Earl Ray Tomblin
Chairman

Kenneth Lowe, Jr.
Public Member

David "Bones" McComas
Public Member

Ron Justice
Public Member

Louis R. Spatafore
Public Member

Joseph Freeland
Public Member

James W. Ellars, P.E.
Executive Director

Barbara J. Pauley
Administrative Secretary

August 5, 2011

The Honorable Vivian Livingood
Mayor, Town of Gilbert
P.O. Box 188
Gilbert, WV 25621

Re: Town of Gilbert (Horsepen/Gilbert Creek/Browning Fork)
Water Project 2011W-1269 – Binding Commitment
(Combination of Projects 2004W-825 and 2000W-546)
ACTION REQUIRED BY AUGUST 31, 2011

Dear Mayor Livingood:

The West Virginia Infrastructure and Jobs Development Council (Infrastructure Council) provides this binding offer of an Infrastructure Fund loan of approximately \$983,500 (Loan) and an Infrastructure Fund grant of approximately \$983,500 (Grant) to the Town of Gilbert (Town) for the above referenced water project (Project). The Loan and Grant will be subject to the terms set forth on Schedule A attached hereto and incorporated herein by reference. The final Loan and Grant amounts will be established after the Town has received acceptable bids for the Project. The Infrastructure Council will set aside a portion of the Infrastructure Fund to make the Loan and Grant upon the Town's compliance with the program requirements.

If the Town has any questions regarding this commitment, please contact Jim Ellars at 304-414-6501 (X106).

Sincerely,

Kenneth Lowe, Jr.

cc: Bob Decrease, P.E., BPH (via e-mail)
Samme Gee, Esq., Jackson (via e-mail)
Rick Roberts, E.L. Robinson Engineering Co. (via e-mail)
Jim Boggs, Region II P&D (via e-mail)

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

TOWN OF GILBERT

By: _____

Its: _____

Date: _____

IC-1
(08/11)

LOAN AGREEMENT

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

THE TOWN OF GILBERT
(2011W-1269)

(Governmental Agency)

W I T N E S S E T H:

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

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

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

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

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

Amended Application for a Construction Loan also with attachments and exhibits (together, as further revised and supplemented, the "Application"), which Application is incorporated herein by this reference; and

WHEREAS, having reviewed the Application and made all findings required by the Act and having available sufficient funds therefor, the Council has authorized the Authority to lend the Governmental Agency the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Governmental Agency with money in the Infrastructure Fund, subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Council's loan program (the "Program") as hereinafter set forth.

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

ARTICLE I

Definitions

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

1.2 "Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Bonds, acting in its administrative capacity pursuant to Section 10 of the Act and upon authorization from the Council.

1.3 "Consulting Engineers" means the professional engineer, licensed by the State, designated in the Application and any qualified successor thereto; provided, however, when a Loan is made for a Project financed, in part, by the Office of Abandoned Mine Lands, "Consulting Engineers" shall mean the West Virginia Department of Environmental Protection, or any successor thereto.

1.4 "Infrastructure Fund" means the West Virginia Infrastructure Fund established in accordance with Section 9 of the Act.

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

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

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

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

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

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

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

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

ARTICLE II

The Project and the System

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

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

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Governmental Agency, subject to any mortgage lien or

other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property or any interest therein is approved by the Authority and Council.

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

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

2.6 The Governmental Agency agrees that it will permit the Authority and the Council and their agents and representatives to have access to the records of the Governmental Agency pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof or if the Project is an improvement to an existing system at any reasonable time following commencement of construction.

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

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Council and the Authority and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent

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

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

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

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

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

2.13 The Governmental Agency shall serve the additional customers at the location(s) as set forth in Schedule X. The Governmental Agency shall not reduce the amount of additional customers served by the project without the prior written approval of the WDA Board. Following completion of the Project the Governmental Agency shall certify to the Authority the number of customers added to the System.

2.14 The Governmental Agency shall perform an annual maintenance audit which maintenance audit shall be submitted to the WDA and the Public Service Commission of West Virginia.

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

(e) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") and the Council necessary for the construction of the Project and operation of the System, with all requisite appeal periods having expired without successful appeal, and the Authority and the Council shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority and the Council, to such effect;

(f) The Governmental Agency shall have obtained any and all approvals for the issuance of the Local Bonds required by State law, including compliance with Chapter 21, Article 1D of the Code of West Virginia, 1931, as amended, and the Authority and the Council shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

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

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

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

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

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

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

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Council for loans from the Infrastructure Fund to finance projects and that the obligation of the Authority to make any such loan is subject to the Council's authorization and the Governmental Agency's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing. The Governmental Agency specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Infrastructure Fund to purchase all the Local Bonds and that, prior to execution of this Loan Agreement, the Authority may commit to and purchase the revenue bonds of other governmental agencies for which it has sufficient funds available.

ARTICLE IV

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

4.1 The Governmental Agency shall, as one of the conditions of the Authority to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official action of the Governmental Agency in accordance with the Local Statute, which shall, as adopted or enacted, contain provisions and covenants in substantially the form as follows, unless the specific provision or covenant is modified or waived by the Council:

(a) That the gross revenues of the System shall always be used for purposes of the System. Such gross revenues shall be used monthly, in the order of priority listed below:

- (i) to pay Operating Expenses of the System;
- (ii) to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document and beginning on the date set forth in Schedule X, to provide debt service on the Local Bonds by depositing in a sinking fund one-third (1/3)

of the interest payment next coming due on the Local Bonds and one-third (1/3) of the principal payment next coming due on the Local Bonds and, beginning three (3) months prior to the first date of payment of principal of the Local Bonds, if the reserve account for the Local Bonds (the "Reserve Account") was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof (which, with an approving opinion of bond counsel to the Governmental Agency, may be with a letter of credit or surety) in an amount equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

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

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

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

(b) Covenants substantially as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

month. When required by the Authority, the Local Entity shall make monthly payments to the Commission by electronic transfer;

(xviii) That, unless it qualifies for an exception to the provisions of Section 148 of the Internal Revenue Code of 1986, as amended, which exception shall be set forth in an opinion of bond counsel, the Governmental Agency will furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Internal Revenue Code of 1986, as amended, a certificate with respect to its rebate calculations and, at any time, any additional information requested by the Authority;

(xix) That the Governmental Agency shall take any and all action, or shall refrain from taking any action regarding the use of the proceeds of the Local Bonds, as shall be deemed necessary by the Authority to maintain the exclusion from gross income for federal income tax purposes of interest on the State's general obligation bonds or any bonds secured by the Local Bonds;

(xx) That the Governmental Agency shall have obtained the certificate of the Consulting Engineer in the form attached hereto as Exhibit A, to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority and the Council, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the Council is sufficient to pay the costs of acquisition and construction of the Project and all permits required by federal and State laws for construction of the Project have been obtained;

(xxi) That the Governmental Agency shall, to the full extent permitted by applicable law and the rules and regulations of the PSC, terminate the services of any water facility owned by it to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore the services of the water facility until all delinquent charges for the services of the System have been fully paid or, if the water facility is not owned by the Governmental Agency, then the Governmental Agency shall enter into a termination agreement with the water provider;

(xxii) That the Governmental Agency shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the Local Bonds (as that term is defined in the Internal Revenue Code of 1986, as amended) from time to time as the Authority may request;

(xxiii) That the Governmental Agency shall submit all proposed change orders to the Council for written approval. The Governmental Agency shall obtain the written approval of the Council before expending any proceeds of the Local Bonds held in "contingency" as set forth in the final Schedule B attached to the certificate of the Consulting Engineer. The Governmental Agency shall obtain the written approval of the Council before making any changes to the final Schedule B and also before expending any proceeds of the Local Bonds available due to bid/construction/project underruns;

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

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

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

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

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

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

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

4.6 The Governmental Agency agrees to expend the net proceeds of the Local Bonds for the Project within 3 years of the issuance of the bonds which are the source of money used to purchase the Local Bonds, unless otherwise agreed to by the Council.

ARTICLE V

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

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

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the required sums set forth in the Local Act and this Loan Agreement, the Governmental Agency hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges (or where applicable, immediately file with the PSC for a rate increase) and take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and this Loan Agreement.

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

5.4 The Governmental Agency hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Governmental Agency, the Authority may exercise any or all of the rights and powers granted under the Act and State law, including, without limitation, the right to an appointment of a receiver.

ARTICLE VI

Other Agreements of the Governmental Agency

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

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

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

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

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

ARTICLE VII

Miscellaneous

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

7.2 Schedules X and Y shall be attached to this Loan Agreement by the Authority as soon as practicable after the Date of Loan Closing is established and shall be approved by an official action of the Governmental Agency supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority and the Council.

7.3 The Authority shall take all actions required by the Council in making and enforcing this Loan Agreement.

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

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

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

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

7.8 The Authority acknowledges that certain terms and requirements in this Loan Agreement may not be applicable when the Project is financed in part by the West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands and under that circumstance those terms and requirements are specifically waived or modified as agreed to by the Authority and set forth in the Local Act.

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

7.10 This Loan Agreement shall terminate upon the earlier of:

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

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be executed by their respective duly authorized officers as of the date executed below by the Authority.

THE TOWN OF GILBERT

(SEAL)

Attest:

Shan Murphy
Its: Recorder

By: Timon Luinard
Its: Mayor
Date: July 27, 2012

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

(SEAL)

Attest:

Sheila A. Miller
Its: Authorized Officer

By: [Signature]
Its: Executive Director
Date: July 27, 2012

{C2372272.1}

EXHIBIT A

FORM OF CERTIFICATE OF CONSULTING ENGINEER

(Issuer)

(Name of Bonds)

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

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

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

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by [DEP/BPH/PSC] and any change orders approved by the Issuer, the Council and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least ___ years if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in the Schedule B attached hereto as Exhibit A and my firm¹ has ascertained that all _____

¹If another responsible party, such as the Issuer's attorney, reviews the insurance and payment bonds, then insert the following: [and in reliance upon the opinion of _____,

successful bidders have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) all contractors to be awarded contracts for the construction of the Project have submitted affidavits indicating such contractor has a drug free workplace plan pursuant to Chapter 21, Article 1D of the West Virginia Code of 1931, as amended; (vi) the bid documents relating to the Project reflect the Project as approved by the [DEP/BPH/PSC] and the bid forms provided to the bidders contain all critical operational components of the Project; (vii) the successful bids include prices for every item on such bid forms; (viii) the uniform bid procedures were followed; (ix) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (x) as of the effective date thereof, ²the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement; (xi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project set forth in the Schedule B attached hereto and approved by the Council; and (xii) attached hereto as Exhibit A is the final amended "Schedule B - Final Total Cost of Project, Sources of Funds and Costs of Financing" for the Project.

4. The Project will serve _____ new customers in the _____ area.

WITNESS my signature and seal on this _____ day of _____, ____.

[SEAL]

By: _____
West Virginia License No. _____

Esq.] and delete "my firm has ascertained that".

²If the Rule 42 Exhibit and/or rate structure was prepared by an accountant, then insert the following: "In reliance upon the certificate of _____ of even date herewith," at the beginning of (ix).

EXHIBIT B

OPINION OF BOND COUNSEL FOR GOVERNMENTAL AGENCY

[To Be Dated as of Date of Loan Closing]

West Virginia Infrastructure and
Jobs Development Council
180 Association Drive
Charleston, West Virginia 25301

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

Ladies and Gentlemen:

We are bond counsel to _____ (the
“Governmental Agency”), a _____.

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

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

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

to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

1. The Loan Agreement has been duly authorized by and executed on behalf of the Governmental Agency and is a valid and binding special obligation of the Governmental Agency, enforceable in accordance with the terms thereof.

2. The Loan Agreement inures to the benefit of the Authority and the Council and cannot be amended so as to affect adversely the rights of the Authority or the Council or diminish the obligations of the Governmental Agency without the consent of the Authority and the Council.

3. The Governmental Agency is a duly organized and validly existing _____, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt or enact the Local Act and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Act and all other necessary orders and resolutions have been legally and effectively adopted or enacted by the Governmental Agency and constitute valid and binding obligations of the Governmental Agency, enforceable against the Governmental Agency in accordance with their terms. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds have been duly authorized, issued, executed and delivered by the Governmental Agency to the Authority and are valid, legally enforceable and binding special obligations of the Governmental Agency, payable from the net or gross revenues of the System set forth in the Local Act and secured by a first lien on and pledge of the net or gross revenues of the System, all in accordance with the terms of the Local Bonds and the Local Act.

6. The Local Bonds are, by statute, exempt _____, and under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Local Bonds is excludable from the gross income of the recipients thereof for federal income tax purposes.

No opinion is given herein as to the effect upon enforceability of the Local Bonds of bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights or in the exercise of judicial discretion in appropriate cases.

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

Very truly yours,

EXHIBIT C

MONTHLY FINANCIAL REPORT

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

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

Name of Person Completing Form

Address

Telephone

INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

- Item 1 You will need a copy of the current fiscal year budget adopted by the Governmental Agency to complete Items 1 and 2. In Item 1, provide the amount of actual **Gross Revenues** for the current month and the total amount year-to-date in the respective columns. Divide the budgeted annual Gross Revenues by 12. For example, if Gross Revenues of \$1,200 are anticipated to be received for the year, each month the base would be increased by \$100 ($\$1,200/12$). This is the incremental amount for the Budget Year-to-Date column.
- Item 2 Provide the amount of actual **Operating Expenses** for the current month and the total amount year-to-date in the respective columns. Any administrative fee should be included in the Operating Expenses. Divide the budgeted annual Operating Expenses by 12. For example, if Operating Expenses of \$900 are anticipated to be incurred for the year, each month the base would be increased by \$75 ($\$900/12$). This is the incremental amount for the Budget Year-to-Date column.
- Item 3 Provide the **Bond Payments (principal, interest and reserve account)** for all the outstanding bonds of the Governmental Agency according to the source of funding. For example, Clean Water State Revolving Fund loan from Department of Environmental Protection, Drinking Water Treatment Revolving Fund loan from Bureau for Public Health, Infrastructure Fund loan from Infrastructure and Jobs Development Council, or a loan from the Water Development Authority, etc.
- Item 4 Provide the amount deposited into the **Renewal and Replacement Fund** each month. This amount is equal to 2.5% of Gross Revenues minus the total reserve account payments included in Item 3. If Gross Revenues are \$1,200, then \$30 (2.5% of \$1,200), LESS the amount of all reserve account payments in Item 3 should be deposited into the Renewal and Replacement Fund. The money in the Renewal and Replacement Fund should be kept separate and apart from all other funds of the Governmental Agency.

The Governmental Agency must complete the Monthly Financial Report and forward it to the Water Development Authority by the 10th day of each month, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project.

EXHIBIT D

MONTHLY PAYMENT FORM

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

Re: [Name of bond issue]

Ladies and Gentlemen:

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

Sinking Fund:

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

Witness my signature this ____ day of _____.

[Name of Governmental Agency]

By: _____
Authorized Officer

Enclosure: copy of check(s)

SCHEDULE X

DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds	\$983,500
Purchase Price of Local Bonds	\$983,500

The Local Bonds shall bear no interest. Commencing March 1, 2014, principal on the Local Bonds is payable quarterly. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

The Governmental Agency shall authorize the Commission to electronically debit its monthly payments. The Commission will make quarterly payments to the Authority at such address as is given to the Commission in writing by the Authority.

The Local Bonds are fully registered in the name of the Authority as to interests and principal and the Local Bonds shall grant the Authority a first lien on the gross or net revenues of the Governmental Agency's system as provided in the Local Act.

The Governmental Agency may prepay the Local Bonds in full at any time at the price of par but only with the Council's written consent. The Governmental Agency shall request approval from the Authority and Council in writing of any proposed debt which will be issued by the Governmental Agency on a parity with the Local Bonds which request must be filed at least 60 days prior to the intended date of issuance.

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

- (1) The Town of Gilbert Water Revenue Bonds, Series 2009 A (United States Department of Agriculture), dated August 3, 2009, issued in the original principal amount of \$472,000;
- (2) The Town of Gilbert Water Revenue Bonds, Series 2012 A (United States Department of Agriculture), issued simultaneously herewith, issued in the original principal amount of \$662,000; and
- (3) The Town of Gilbert Water Revenue Bonds, Series 2012 B (United States Department of Agriculture), issued simultaneously herewith in the original aggregate principal amount of \$1,200,000.

Number of New Users: 354

Location: Horsepin, Gilbert Creek and Browning Fork areas

SCHEDULE Y DEBT SERVICE SCHEDULE

Bond Debt Service			
Town of Gilbert			
IF			
\$983,500			
0% Interest Rate			
40 Years from Closing Date			
	Dated Date	7/27/2012	
	Delivery Date	7/27/2012	
Period Ending	Principal	Interest	Debt Service
3/1/2014	6,387		6,387
6/1/2014	6,387		6,387
9/1/2014	6,387		6,387
12/1/2014	6,387		6,387
3/1/2015	6,387		6,387
6/1/2015	6,387		6,387
9/1/2015	6,387		6,387
12/1/2015	6,387		6,387
3/1/2016	6,387		6,387
6/1/2016	6,387		6,387
9/1/2016	6,387		6,387
12/1/2016	6,387		6,387
3/1/2017	6,387		6,387
6/1/2017	6,387		6,387
9/1/2017	6,387		6,387
12/1/2017	6,387		6,387
3/1/2018	6,387		6,387
6/1/2018	6,387		6,387
9/1/2018	6,387		6,387
12/1/2018	6,387		6,387
3/1/2019	6,387		6,387
6/1/2019	6,387		6,387
9/1/2019	6,387		6,387
12/1/2019	6,387		6,387
3/1/2020	6,387		6,387
6/1/2020	6,387		6,387
9/1/2020	6,387		6,387
12/1/2020	6,387		6,387
3/1/2021	6,387		6,387
6/1/2021	6,387		6,387
9/1/2021	6,387		6,387
12/1/2021	6,387		6,387
3/1/2022	6,387		6,387
6/1/2022	6,387		6,387
9/1/2022	6,387		6,387
12/1/2022	6,387		6,387
3/1/2023	6,387		6,387
6/1/2023	6,387		6,387
9/1/2023	6,387		6,387
12/1/2023	6,387		6,387
3/1/2024	6,387		6,387
6/1/2024	6,387		6,387
9/1/2024	6,387		6,387

Bond Debt Service			
Town of Gilbert			
IF			
\$983,500			
0% Interest Rate			
40 Years from Closing Date			
Period Ending	Principal	Interest	Debt Service
12/1/2024	6,387		6,387
3/1/2025	6,387		6,387
6/1/2025	6,387		6,387
9/1/2025	6,387		6,387
12/1/2025	6,387		6,387
3/1/2026	6,387		6,387
6/1/2026	6,387		6,387
9/1/2026	6,387		6,387
12/1/2026	6,387		6,387
3/1/2027	6,387		6,387
6/1/2027	6,387		6,387
9/1/2027	6,387		6,387
12/1/2027	6,386		6,386
3/1/2028	6,386		6,386
6/1/2028	6,386		6,386
9/1/2028	6,386		6,386
12/1/2028	6,386		6,386
3/1/2029	6,386		6,386
6/1/2029	6,386		6,386
9/1/2029	6,386		6,386
12/1/2029	6,386		6,386
3/1/2030	6,386		6,386
6/1/2030	6,386		6,386
9/1/2030	6,386		6,386
12/1/2030	6,386		6,386
3/1/2031	6,386		6,386
6/1/2031	6,386		6,386
9/1/2031	6,386		6,386
12/1/2031	6,386		6,386
3/1/2032	6,386		6,386
6/1/2032	6,386		6,386
9/1/2032	6,386		6,386
12/1/2032	6,386		6,386
3/1/2033	6,386		6,386
6/1/2033	6,386		6,386
9/1/2033	6,386		6,386
12/1/2033	6,386		6,386
3/1/2034	6,386		6,386
6/1/2034	6,386		6,386
9/1/2034	6,386		6,386
12/1/2034	6,386		6,386
3/1/2035	6,386		6,386
6/1/2035	6,386		6,386
9/1/2035	6,386		6,386
12/1/2035	6,386		6,386
3/1/2036	6,386		6,386
6/1/2036	6,386		6,386

Bond Debt Service			
Town of Gilbert			
IF			
\$983,500			
0% Interest Rate			
40 Years from Closing Date			
Period Ending	Principal	Interest	Debt Service
9/1/2036	6,386		6,386
12/1/2036	6,386		6,386
3/1/2037	6,386		6,386
6/1/2037	6,386		6,386
9/1/2037	6,386		6,386
12/1/2037	6,386		6,386
3/1/2038	6,386		6,386
6/1/2038	6,386		6,386
9/1/2038	6,386		6,386
12/1/2038	6,386		6,386
3/1/2039	6,386		6,386
6/1/2039	6,386		6,386
9/1/2039	6,386		6,386
12/1/2039	6,386		6,386
3/1/2040	6,386		6,386
6/1/2040	6,386		6,386
9/1/2040	6,386		6,386
12/1/2040	6,386		6,386
3/1/2041	6,386		6,386
6/1/2041	6,386		6,386
9/1/2041	6,386		6,386
12/1/2041	6,386		6,386
3/1/2042	6,386		6,386
6/1/2042	6,386		6,386
9/1/2042	6,386		6,386
12/1/2042	6,386		6,386
3/1/2043	6,386		6,386
6/1/2043	6,386		6,386
9/1/2043	6,386		6,386
12/1/2043	6,386		6,386
3/1/2044	6,386		6,386
6/1/2044	6,386		6,386
9/1/2044	6,386		6,386
12/1/2044	6,386		6,386
3/1/2045	6,386		6,386
6/1/2045	6,386		6,386
9/1/2045	6,386		6,386
12/1/2045	6,386		6,386
3/1/2046	6,386		6,386
6/1/2046	6,386		6,386
9/1/2046	6,386		6,386
12/1/2046	6,386		6,386
3/1/2047	6,386		6,386
6/1/2047	6,386		6,386
9/1/2047	6,386		6,386
12/1/2047	6,386		6,386
3/1/2048	6,386		6,386

SCHEDULE Z

(None)

TOWN OF GILBERT, WEST VIRGINIA

AN ORDINANCE AMENDING, ESTABLISHING AND FIXING RATES, FEES, AND CHARGES THE TOWN WILL CHARGE ITS CITIZENS AND ITS CUSTOMERS LOCATED OUTSIDE OF ITS CORPORATE LIMITS, FOR THE PROVISION OF POTABLE WATER.

WHEREAS, the Town Council of the Town of Gilbert deems it advisable and necessary that its present sewer rates and charges for service provided to customers of its water system be increased in order that the Town may meet its going-level expenses; and to provide for necessary upgrades to its system in order to meet State and Federal regulatory requirements, and

WHEREAS, the Town Council of the Town of Gilbert finds that the following rates are just and equitable for the service provided to its water customers through the use of its water collection and treatment system and that such rates will be sufficient to meet its going-level expenses and for the upgrading, maintenance and operation of its water collection and treatment system.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GILBERT as follows:

The following schedule of rates, fees and charges are hereby fixed and determined as the rates, fees and charges to be charged to customers of the water system of the Town of Gilbert throughout the entire territory served;

(AMENDED ____ DAY OF _____, 2011)

RATE SCHEDULE I

(EFF: 45 DAYS FROM PASSAGE OF ORDINANCE)

(C) **APPLICABILITY**

Applicable within the entire territory served.

AVAILABILITY

Available for residential, commercial, industrial and sale for resale water service.

(C,1) **RATES**

First	2,000 gallons used per month	\$10.50 per 1,000 gallons
Next	2,000 gallons used per month	\$ 8.50 per 1,000 gallons
Next	6,000 gallons used per month	\$5.75 per 1,000 gallons
All Over	10,000 gallons used per month	\$4.50 per 1,000 gallons

whichever is greater, will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

DELAYED PAYMENT PENALTY

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

(C) WATER DISCONNECT-RECONNECT-ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of water bills, including checks returned for insufficient funds, a disconnection fee of \$25.00 shall be charged; or in the event the delinquent water bill is collected by the Town in the field, an administrative fee of \$25.00 shall be charged. A \$25.00 reconnection fee will be assessed for each occurrence where water service to sewer customers is restored, after water service has been terminated for non-payment of water bills, including checks for insufficient funds.

(C,1) INCREMENTAL COSTS

Not to exceed \$3.85 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical usage. The Town shall establish a non-discriminatory policy regarding this provision for leak adjustments.

RETURNED CHECK CHARGE

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

(N) EFT, ACH, CREDIT CARD AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, ACH, Credit Card or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment. Use of this payment method is voluntary.

(C) SECURITY DEPOSIT

As of the date of passage, the applicable provision of WV Code 8-19-12a(2) - "The municipality or governing body, but only one of them, may collect from all new applicants for service a deposit of \$50 or two-twelfths of the annual usage of the applicant's specific customer class, whichever is greater, to secure the payment of water service rates, fees and charges, in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent and the user's service is disconnected or terminated, no re-connection or reinstatement of service may be made by the municipality or governing body until another deposit equal to \$50 or a sum equal to two twelfths of the average usage for the applicant's specific customer class, whichever is greater, is remitted to the municipality or governing body. After twelve months of prompt payment history, the municipality

		EQUIVALENT GALLONS
5/8 Inch meter	\$ 21.00 per month	2,000
3/4 Inch meter	\$ 31.50 per month	3,250
1 Inch meter	\$ 52.50 per month	6,555
1 1/4 Inch meter	\$ 76.65 per month	10,753
1 1/2 Inch meter	\$ 105.00 per month	15,238
2 Inch meter	\$ 168.00 per month	29,524
3 Inch meter	\$ 315.00 per month	62,857
4 Inch meter	\$ 525.00 per month	110,476
6 Inch meter	\$1,050.00 per month	229,524
8 Inch meter	\$1,680.00 per month	372,381

(f) UNMETERED RATE \$ 45.00 per month

Residential

In the event the water supply (residential) is unmetered or otherwise unmeasurable by the Town, the unmetered rate shall be charged. (Based on 4,500 gallons used per month).

Non-Residential

In the event the water supply (non-residential) is unmetered or otherwise unmeasurable by the Town, the unmetered rate shall be charged, based on the Town Engineer's estimate for each specific customer.

SALES FOR RESALE

All water for resale will be billed in accordance with the approved rate of \$2.75 per 1,000 gallons used per month.

SERVICE CONNECTION CHARGE \$350.00

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

A tap fee of \$100.00 will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee of \$350.00, or the *actual cost* of the connection (*solely determined by the City*), whichever is greater, will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

DELAYED PAYMENT PENALTY

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

WATER DISCONNECT-RECONNECT-ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of water bills, including checks returned for insufficient funds, a disconnection fee of \$25.00 shall be charged; or in the event the delinquent water bill is collected by the Town in the field, an administrative fee of \$25.00 shall be charged. A \$25.00 reconnection fee will be assessed for each occurrence where water service to sewer customers is restored, after water service has been terminated for non-payment of water bills, including checks for insufficient funds.

INCREMENTAL COSTS

Not to exceed \$3.85 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical usage. The Town shall establish a non-discriminatory policy regarding this provision for leak adjustments.

RETURNED CHECK CHARGE

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

EFT, ACH, CREDIT CARD AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, ACH, Credit Card or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment. Use of this payment method is voluntary.

SECURITY DEPOSIT

As of the date of passage, the applicable provision of WV Code 8-19-12a(a)(2):

"The municipality or governing body, but only one of them, may collect from all new applicants for service a deposit of \$50 or two-twelfths of the annual usage of the applicant's specific customer class, whichever is greater, to secure the payment of water service rates, fees and charges, in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent and the user's service is disconnected or terminated, no re-connection or reinstatement of service may be made by the municipality or governing body until another deposit equal to \$50 or a sum equal to two twelfths of the average usage for the applicant's specific customer class, whichever is greater, is remitted to the municipality or governing body. After twelve months of prompt payment history, the municipality or governing body shall return the deposit to the customer or credit the customer's account with interest at a rate as the Public Service Commission may prescribe. *Provided*, That where the customer is a tenant, the municipality or governing body is not required to return the deposit until the time the tenant discontinues service with the municipality or governing body. Whenever any rates, fees, rentals or charges for services or facilities

furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The municipality or governing body may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water services to the delinquent user of water facilities ten days after the water services become delinquent regardless of whether the municipality or governing body utilizes the security deposit to satisfy any delinquent payments. *Provided further, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the municipality or governing body to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.*"

As of the date of passage, the applicable provision of the PSC Water Rules, Rule 4.2.a.1:

".....for a municipal water system only, the deposit shall not be more than either fifty dollars (\$50) or two-twelfths of the average annual usage of the applicant's specific customer class, whichever is greater.....".

This tariff in accordance with the above cited statutory language and PSC water rates produce a security deposit of \$90.00 for residential customers.

(N) MUNICIPAL EXCISE TAX SURCHARGE

The municipality listed below, having imposed public utility tax computed on the basis of two percent of the revenue from water sales by then Town of Gilbert water utility located within the corporate limits of such municipalities, shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The water utility is required to collect the utility tax pursuant to West Virginia Code 8-13-5a.

Customers receiving water service within the corporate limits of the specified municipality shall pay a surcharge base on the following surcharge rates:

<u>Municipality</u>	<u>Utility Excise Tax</u>
Gilbert	2% Local Tax Rate

APPLICABILITY

Applicable in all areas served by the Town of Gilbert.

AVAILABILITY OF SERVICE

Available for public and private fire protection service.

PRIVATE RATES

Where connections, sprinklers, etc., on property are maintained by customer:

2 inch service line with hydrants, sprinklers, and/or connections per month	\$ 6.25
3 inch service line with hydrants, sprinklers, and/or connections per month	\$ 12.50
4 inch service line with hydrants, sprinklers, and/or connections per month	\$ 22.92
6 inch service line with hydrants, sprinklers, and/or connections per month	\$ 58.33
8 inch service line with hydrants, sprinklers, and/or connections per month	\$100.00
10 inch service line with hydrants, sprinklers, and/or connections per month	\$166.67
12 inch service line with hydrants, sprinklers, and/or connections per month	\$229.17

PUBLIC RATES

An annual fee of \$50.00 per fire hydrant is assessed upon the Town of Gilbert and/or other municipal corporations where hydrants are located.

PERIODIC BILLING

The schedule of rates and charges above may be applied on a bi-monthly, quarterly, or semi-annual basis, provided no lower charges apply.

SECTION 3. STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the City Clerk shall publish a copy of this Ordinance once a week for 2 successive weeks within a period of 14 consecutive days, with at least 6 full days intervening between each publication, in a newspaper published and of general circulation in Town of Gilbert, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council on the 19 day of Sept, 2011, at 6:30 p.m., which date is not less than 10 days subsequent to the date of the first publication of the Ordinance and notice, and present protests. At such hearing all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper on the premises.

The proposed Ordinance may be inspected at City Hall for the Town of Gilbert which address is Main Street 9021 133, Gilbert, West Virginia 26032

The above Ordinance has been introduced at a meeting of Council held Aug 15, 2011.

Passed on First Reading: August 15, 2011

Passed on Second Reading
Following Public Hearing Sept. 19, 2011

Effective as of 45 days, 2011.

s/s Matt [Signature]
City Clerk

I, Angie Alexander, Regional Business Manager of Williamson Daily, a newspaper published in Mingo County, West Virginia, do hereby certify that the annexed notice was published in said paper for 2 successive time(s) on the following date(s):

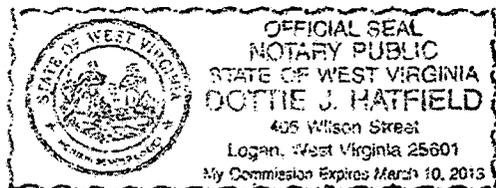
November 8th & 9th, 2011

Given under my hand this 16th, day of November, 2011

Angie Alexander
Regional Business Manager

State of West Virginia
County of Logan, to-wit:

Subscribed and sworn before me this 16th, day of November, 2011



Dottie J. Hatfield

NOTARY PUBLIC

Cost of Publication: \$ 1,641.01

COPY OF PUBLICATION

SEE ATTACHED

I, Angie Alexander, Regional Business Manager of Williamson Dailey, a newspaper published in Mingo County, West Virginia, do hereby certify that the annexed notice was published in said paper for 1 successive time(s) on the following date(s):

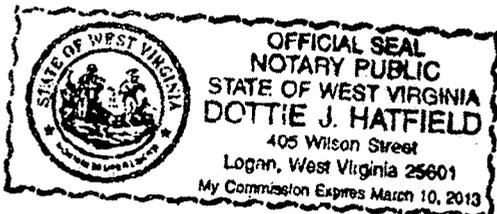
November 30th, 2011

Given under my hand this 5th, day of December, 2011

Angie Alexander
Regional Business Manager

State of West Virginia
County of Logan, to-wit:

Subscribed and sworn before me this 5th, day of December, 2011



Dottie J. Hatfield
NOTARY PUBLIC

Cost of Publication: \$ 935.25

COPY OF PUBLICATION

SEE ATTACHED

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA CHARLESTON
 Entered by the Public Service Commission of West Virginia, in the City of Charleston on the 16th day of September 2011.

CASE NO. 11-1353-W-CN

TOWN OF GILBERT

Application for a Certificate of Convenience and Necessity to construct and operate water lines for the Horseshoe/Gilbert Creek/Browning Fork areas of Mingo County, and for the construction of one booster station, one 300,000 gallon storage tank and all other appurtenant items, and approval of the financing related thereto.

NOTICE OF FILING

On September 15, 2011 the Town of Gilbert (town) filed a verified application for a Certificate of Convenience and Necessity to construct and operate water lines for the Horseshoe/Gilbert Creek/Browning Fork areas of Mingo County, and for the construction of one booster station, one 300,000 gallon storage tank and all other appurtenant items, and approval of the financing related thereto.

The application is on file with and available for public inspection at the Public Service Commission, 201 Brooks Street, in Charleston, West Virginia.

The Town estimates that construction will cost approximately \$5,194,500.00. It is proposed that the construction will be financed as follows:

- a. Appalachian Regional Commission Grant of \$1,500,000.00
- b. West Virginia Infrastructure Grant of \$983,500.00
- c. West Virginia Infrastructure Fund Loan of \$983,500.00 at 0% interest for 40 years
- d. USDA Rural Development Grant of \$476,000.00
- e. USDA Rural Development Loan of \$1,200,000.00 at 1.625% interest for 38 years
- f. USDA Rural Development Grant of \$824,000.00 (Browning Fork Project)
- g. USDA Rural Development Loan of \$662,000.00 at 2.75% interest for 38 years

The Town anticipates charging the following increased water rates for its customers, and is in the process of being enacted by Town Council following the municipal ordinance procedures:

PROJECT RATES

(EFF: UPON SUBSTANTIAL PROJECT COMPLETION OR COMMENCEMENT OF PROJECT DEBT SERVICE)

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

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

RATES

First	2,000 gallons used per month	\$12.50 per 1,000 gallons
Next	2,000 gallons used per month	\$10.00 per 1,000 gallons
Next	6,000 gallons used per month	\$6.85 per 1,000 gallons
All Over	10,000 gallons used per month	\$5.25 per 1,000 gallons

MINIMUM CHARGES

No minimum bill will be rendered for less than the following amounts based on meter size

			EQUIVALENT GALLONS
5/8	inch meter	\$ 21.00 per month	2,000
3/4	inch meter	\$ 31.50 per month	3,250
1	inch meter	\$ 32.50 per month	6,553
1 1/4	inch meter	\$ 76.65 per month	10,753
1 1/2	inch meter	\$ 105.00 per month	15,232
2	inch meter	\$ 168.00 per month	
3	inch meter	\$ 315.00 per month	
4	inch meter	\$ 525.00 per month	
6	inch meter	\$1,050.00 per month	
8	inch meter	\$1,580.00 per month	

2 inch service line with hydrants, sprinklers, and/or connections	\$ 6.25 per
3 inch service line with hydrants, sprinklers, and/or connections	\$ 12.50 per
4 inch service line with hydrants, sprinklers, and/or connections	\$ 22.92 per
6 inch service line with hydrants, sprinklers, and/or connections	\$ 58.33 per
8 inch service line with hydrants, sprinklers, and/or connections	\$100.00 per
10 inch service line with hydrants, sprinklers, and/or connections	\$166.67 per
12 inch service line with hydrants, sprinklers, and/or connections	\$229.17 per

PUBLIC RATES

An annual fee of \$50.00 per fire hydrant is assessed upon the Town of and/or other municipal corporations where hydrants are located.

PERIODIC BILLING

The schedule of rates and charges above may be applied on a bi-monthly, quarterly, or semi-annual basis, provided no lower charges apply.

These rates represent the following non-project and related increases that will become effective pursuant to municipal ordinance enacted coincidental with the project related increases.

NON-PROJECT RATES

(EFF: 45 DAYS FROM PASSAGE OF ORDINANCE)

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for residential, commercial, industrial and sale for resale water service.

RATES

First	2,000 gallons used per month	\$10.50 per 1,000 gallons
Next	2,000 gallons used per month	\$ 8.50 per 1,000 gallons
Next	6,000 gallons used per month	\$5.75 per 1,000 gallons
All Over	10,000 gallons used per month	\$4.50 per 1,000 gallons

MINIMUM CHARGES

No minimum bill will be rendered for less than the following amounts based on meter size:

			EQUIVALENT GALLONS
5/8	inch meter	\$ 21.00 per month	2,000
3/4	inch meter	\$ 31.50 per month	3,253
1	inch meter	\$ 32.50 per month	6,522
1 1/4	inch meter	\$ 76.65 per month	10,922
1 1/2	inch meter	\$ 105.00 per month	17,322
2	inch meter	\$ 168.00 per month	31,522
3	inch meter	\$ 315.00 per month	63,889
4	inch meter	\$ 525.00 per month	110,556
6	inch meter	\$1,050.00 per month	227,222
8	inch meter	\$1,580.00 per month	367,222

UNMETERED RATE

\$ 40.88 per month

Residential

In the event the water supply (residential) is unmetered or otherwise unmeasurable by the Town, the unmetered rate shall be charged. (Based on 4,500 gallons used per month)

Non-Residential

In the event the water supply (non-residential) is unmetered or otherwise unmeasurable by the Town, the unmetered rate shall be charged, based on the Town Engineer's estimate for each specific customer.

SALES FOR RESALE

All water for resale will be billed in accordance with the approved rate of \$7.75 per 1,000 gallons used per month.

SERVICE CONNECTION CHARGE

\$350.00

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

A tap fee of \$100.00 will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises associated with a certificate proceeding.

WV
 B
 WV
 WI
 PA

		\$ 525.00 per month	110,476
4	In meter	\$1,050.00 per month	229,524
6	In meter	\$1,680.00 per month	372,381
8	UNMETERED RATE	\$ 45.00 per month	

Residential

In the event the water supply (residential) is unmetered or otherwise unmeasurable by the Town, the unmetered rate shall be charged. (Based on 4,500 gallons used per month).

Non-Residential

In the event the water supply (non-residential) is unmetered or otherwise unmeasurable by the Town, the unmetered rate shall be charged, based on the town Engineer's estimate for each specific customer.

SALES FOR RESALE

All water for resale will be billed in accordance with the approved rate of \$2.75 per 1,000 gallons used per month.

SERVICE CONNECTION CHARGE \$350.00

The following charge is to be made whenever the Utility installs a new tap to serve an application. A tap fee of \$100.00 will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee of \$350, or the actual cost of the connection (solely determined by the City, whichever is greater, will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

DELAYED PAYMENT PENALTY

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

WATER DISCONNECT-RECONNECT-ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of water bills, including checks returned for insufficient funds, a disconnection fee of \$25 shall be charged; or in the event the delinquent water bill is collected by the Town in the field an administrative fee of \$25 shall be charged. A \$25 reconnection fee will be assessed for each occurrence where water service to sewer customers is restored, after water service has been terminated for non-payment of water bills, including checks for insufficient funds.

INCREMENTAL COST

Not to exceed \$3.85 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical usage. The Town shall establish a non-discriminatory policy regarding this provision for leak adjustments.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the Town of a maximum of \$25 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

EFT, ACH, CREDIT CARD AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, ACH, Credit Card or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment. Use of this payment method is voluntary.

MUNICIPAL EXCISE TAX SURCHARGE

The municipality listed below, having imposed public utility tax computed on the basis of two percent of the revenue from water sales by their Town of Gilbert water utility located within the corporate limits of such municipalities, shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The water utility is required to collect the utility tax pursuant to W. Va. Code 88-13-5a.

Customers receiving water service within the corporate limits of the specified municipality shall pay a surcharge base on the following surcharge rates:

Municipality
Gilbert

Utility Excise Tax
2% Local Tax Rate

DELAYED PAYMENT PENALTY

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

WATER DISCONNECT-RECONNECT-ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of water bills, including checks returned for insufficient funds, a disconnection fee of \$25 shall be charged; or in the event the delinquent water bill is collected by the Town in the field, an administrative fee of \$25 shall be charged. A \$25 reconnection fee will be assessed for each occurrence where water service to sewer customers is restored, after water service has been terminated for non-payment of water bills, including checks for insufficient funds.

INCREMENTAL COST

Not to exceed \$3.85 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical usage. The Town shall establish a non-discriminatory policy regarding this provision for

RETURNED CHECK CHARGE

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

EFT, ACH, CREDIT CARD AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, ACH, Credit Card or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment. Use of this payment method is voluntary.

SECURITY DEPOSIT

As of the date of passage, the applicable provision of W. Va. Code 88-13-12a(2) The municipality or governing body, but only one of them, may collect from all new applicants for service a deposit of \$50 or two-twelfths of the annual usage of the applicant's specific customer class, whichever is greater, to secure the payment of water service rates, fees and charges, in the event they become delinquent as provided in this section. In any case where a deposit is required to pay service rates, fees and charges which were delinquent and the user's service is disconnected or terminated, no reconnection or reinstatement of service may be made by the municipality or governing body until another deposit equal to \$50 or a sum equal to two-twelfths of the average usage for the applicant's specific customer class, whichever is greater, is remitted to the municipality or governing body. After twelve months of prompt payment history, the municipality or governing body shall return the deposit to the customer or credit the customer's account with interest at a rate as the Public Service Commission may prescribe.

Provided, That where the customer is a tenant, the municipality or governing body is not required to return the deposit until the time the tenant discontinues service with the municipality or governing body. Whenever any rates, fees, penalties or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The municipality or governing body may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water services to the delinquent user of water facilities ten days after the water services become delinquent regardless of whether the municipality or governing body utilizes the security deposit to satisfy any delinquent payments. Provided further, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the municipality or governing body to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

As of the date of passage, the applicable provision of the PSC Water Rules, Rule 4.2a for a municipal water system only, the deposit shall not be more than either fifty dollars (\$50) or two-twelfths of the average annual usage of the applicant's specific customer class, whichever is greater.

This tariff in accordance with the above cited statutory language and PSC water rules produce a security deposit of \$76.00 for residential customers.

MUNICIPAL EXCISE TAX SURCHARGE

The municipality listed below, having imposed public utility tax computed on the basis of two percent of the revenue from water sales by their Town of Gilbert water utility located within the corporate limits of such municipalities, shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The water utility is required to collect the utility tax pursuant to W. Va. Code 88-13-5a.

Customers receiving water service within the corporate limits of the specified municipality shall pay a surcharge base on the following surcharge rates:

APPLICABILITY	Municipality Gilbert	Utility Excise Tax 2% Local Tax Rate
AVAILABILITY OF SERVICE	Applicable in all areas served by the Town of Gilbert.	
PRIVATE RATES	Available for public and private fire protection service.	

	\$ 525.00 per month	110,476
4	\$1,050.00 per month	229,524
6	\$1,680.00 per month	372,381
8	\$ 45.00 per month	

Residential

In the event the water supply (residential) is unmetered or otherwise unmeasurable by the Town, the unmetered rate shall be charged. (Based on 4,500 gallons used per month).

Non-Residential

In the event the water supply (non-residential) is unmetered or otherwise unmeasurable by the Town, the unmetered rate shall be charged, based on the town Engineer's estimate for each specific customer.

SALES FOR RESALE

All water for resale will be billed in accordance with the approved rate of \$2.75 per 1,000 gallons used per month.

SERVICE CONNECTION CHARGE \$350.00

The following charge is to be made whenever the Utility installs a new tap to serve an application. A tap fee of \$100.00 will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee of \$350, or the actual cost of the connection (solely determined by the City, whichever is greater, will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

DELAYED PAYMENT PENALTY

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

WATER DISCONNECT-RECONNECT-ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of water bills, including checks returned for insufficient funds, a disconnection fee of \$25 shall be charged; or in the event the delinquent water bill is collected by the Town in the field an administrative fee of \$25 shall be charged. A \$25 reconnection fee will be assessed for each occurrence where water service to sewer customers is restored, after water service has been terminated for non-payment of water bills, including checks for insufficient funds.

INCREMENTAL COST

Not to exceed \$3.85 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical usage. The Town shall establish a non-discriminatory policy regarding this provision for leak adjustments.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the Town of a maximum of \$25 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

EFT, ACH, CREDIT CARD AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, ACH, Credit Card or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment. Use of this payment method is voluntary.

SECURITY DEPOSIT

MUNICIPAL EXCISE TAX SURCHARGE

The municipality listed below, having imposed public utility tax computed on the basis of one percent of the revenue from water sales by their Town of Gilbert water utility located within the corporate limits of such municipalities, shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The water utility is required to collect the utility tax pursuant to W. Va. Code §8-13-5a.

Customers receiving water service within the corporate limits of the specified municipality shall pay a surcharge base on the following surcharge rates:

Municipality
Gilbert

Utility Excise Tax
2% Local Tax Rate

DELAYED PAYMENT PENALTY

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

WATER DISCONNECT-RECONNECT-ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of water bills, including checks returned for insufficient funds, a disconnection fee of \$25.00 shall be charged; or in the event the delinquent water bill is collected by the Town in the field, an administrative fee of \$25.00 shall be charged. A \$25.00 reconnection fee shall be assessed for each occurrence where water service to sewer customers is restored, after water service has been terminated for non-payment of water bills, including checks for insufficient funds.

INCREMENTAL COSTS

Not to exceed \$3.85 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical usage. The Town shall establish a non-discriminatory policy regarding this provision for

RETURNED CHECK CHARGE

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

EFT, ACH, CREDIT CARD AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, ACH, Credit Card or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment. Use of this payment method is voluntary.

SECURITY DEPOSIT

At the date of passage, the applicable provision of W. Va. Code §8-19-13a(2)(c) The municipality or governing body, but only one of them, may collect from all new applicants for service a deposit of \$50 or two-twelfths of the annual usage of the applicant's specific customer class, whichever is greater, to assure the payment of water service rates, fees and charges. In the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates, fees and charges, which were delinquent and the user's service is disconnected or terminated, no re-connection or reinstatement of service may be made by the municipality or governing body until another deposit equal to \$50 or a sum equal to two-twelfths of the average usage for the applicant's specific customer class, whichever is greater, is remitted to the municipality or governing body. After twelve months of prompt payment history, the municipality or governing body shall return the deposit to the customer or credit the customer's account with interest at a rate as the Public Service Commission may prescribe. *Provided*, That where the customer is a tenant, the municipality or governing body is not required to return the deposit until the time the tenant discontinues service with the municipality or governing body. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The municipality or governing body may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water services to the delinquent user of water facilities ten days after the water services become delinquent regardless of whether the municipality or governing body utilizes the security deposit to satisfy any delinquent payments. *Provided further*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the municipality or governing body to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

As of the date of passage, the applicable provision of the PSC Water Rules, Rule 4.2.a.1. . . . for a municipal water system only, the deposit shall not be more than either fifty dollars (\$50) or two-twelfths of the average annual usage of the applicant's specific customer class, whichever is greater.

This tariff in accordance with the above cited statutory language and PSC water rates produce a security deposit of \$76.00 for residential customers.

MUNICIPAL EXCISE TAX SURCHARGE

The municipality listed below, having imposed public utility tax computed on the basis of two percent of the revenue from water sales by their Town of Gilbert water utility located within the corporate limits of such municipalities, shall be billed as a "surcharge" to the customers receiving service within said corporate limits. The water utility is required to collect the utility tax pursuant to W. Va. Code §8-13-5a.

Customers receiving water service within the corporate limits of the specified municipality shall pay a surcharge base on the following surcharge rates:

APPLICABILITY	Municipality Gilbert	Utility Excise Tax 2% Local Tax Rate
AVAILABILITY OF SERVICE	Applicable in all areas served by the Town of Gilbert.	
PRIVATE RATES	Available for public and private fire protection services.	

EFT, ACH, CREDIT CARD AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, ACH, Credit Card or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment. Use of this payment method is voluntary.

MUNICIPAL EXCISE TAX SURCHARGE

The municipality listed below, having imposed public utility tax computed on the basis of two percent of the revenue from water sales by then Town of Gilbert water utility located within the corporate limits of such municipalities, shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The water utility is required to collect the utility tax pursuant to W. Va. Code §8-13-5a.

Customers receiving water service within the corporate limits of the specified municipality shall pay a surcharge base on the following surcharge rates:

<u>Municipality</u> Gilbert	<u>Utility Excise Tax</u> 2% Local Tax Rate
--------------------------------	--

APPLICABILITY

Applicable in all areas served by the Town of Gilbert.

AVAILABILITY OF SERVICE

Available for public and private fire protection service.

PRIVATE RATES

Where connections, sprinklers, etc., on property are maintained by customer:

THIS TARIFF IN ACCORDANCE WITH THE ABOVE CITED STATUTORY LANGUAGE AND PSC WATER RATES PRODUCE A SECURITY DEPOSIT OF \$90 FOR RESIDENTIAL CUSTOMERS.

MUNICIPAL EXCISE TAX SURCHARGE

The municipality listed below, having imposed public utility tax computed on the basis of two percent of the revenue from water sales by then Town of Gilbert water utility located within the corporate limits of such municipalities, shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The water utility is required to collect the utility tax pursuant to W. Va. Code §8-13-5a.

Customers receiving water service within the corporate limits of the specified municipality shall pay a surcharge base on the following surcharge rates:

<u>Municipality</u> Gilbert	<u>Utility Excise Tax</u> 2% Local Tax Rate
--------------------------------	--

APPLICABILITY

Applicable in all areas served by the Town of Gilbert.

AVAILABILITY OF SERVICE

Available for public and private fire protection service.

PRIVATE RATES

Where connections, sprinklers, etc., on property are maintained by customer:

This notice contained within the rates of the Public Service Commission shall be deemed to require any agents or employees of the municipality or governing body to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

As of the date of passage, the applicable provision of the PSC Water Rules, Rule 4.241, ".....for a municipal water system only, the deposit shall not be more than either fifty dollars (\$50) or two-twelfths of the average annual usage of the applicant's specific customer class, whichever is greater....."

This tariff in accordance with the above cited statutory language and PSC water rates produce a security deposit of \$70.00 for residential customers.

MUNICIPAL EXCISE TAX SURCHARGE

The municipality listed below, having imposed public utility tax computed on the basis of two percent of the revenue from water sales by then Town of Gilbert water utility located within the corporate limits of such municipalities, shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The water utility is required to collect the utility tax pursuant to W. Va. Code §8-13-5a.

Customers receiving water service within the corporate limits of the specified municipality shall pay a surcharge base on the following surcharge rates:

<u>Municipality</u> Gilbert	<u>Utility Excise Tax</u> 2% Local Tax Rate
--------------------------------	--

Applicable in all areas served by the Town of Gilbert.

AVAILABILITY OF SERVICE

Available for public and private fire protection service.

PRIVATE RATES

Where connections, sprinklers, etc., on property are maintained by customer:

2 inch service line with hydrants, sprinklers, and/or connections	\$ 6.25 per month
3 inch service line with hydrants, sprinklers, and/or connections	\$ 12.50 per month
4 inch service line with hydrants, sprinklers, and/or connections	\$ 22.02 per month
6 inch service line with hydrants, sprinklers, and/or connections	\$ 38.53 per month
8 inch service line with hydrants, sprinklers, and/or connections	\$100.00 per month
10 inch service line with hydrants, sprinklers, and/or connections	\$166.67 per month
12 inch service line with hydrants, sprinklers, and/or connections	\$229.17 per month

PUBLIC RATES

An annual fee of \$50.00 per fire hydrant is assessed upon the Town of Gilbert and/or other municipal corporations where hydrants are located.

PERIODIC BILLING

The schedule of rates and charges above may be applied on a bi-monthly, quarterly, or semi-annual basis, provided no lower charges apply.

These rates represent the following project-related increases that will become effective pursuant to municipal ordinance.

All Classes Except Retail

	(\$) INCREASE	(%) INCREASE	
Residential	\$7.11	18.4%	4,100 gallons average
Retail	\$0.00	0%	N/A

These rates represent the following non-project-related increases that will become effective pursuant to municipal ordinance enacted coincidental with the project-related rate increases.

All Classes Except Retail

	(\$) INCREASE	(%) INCREASE	
Residential	\$9.04	20.81%	4,100 gallons average
Retail	\$51.79	19.3%	1,681,500 gallons average

Retail customers of the Town of Gilbert include Mingo County Public Service District.

The proposed increased project rates and charges will produce approximately \$24,513.00 annually in additional revenue from test year customers, an increase of 13.4% from last year customers. The rate increase not related to the project will produce approximately \$27,283 annually in additional revenue from test year customers, an increase of 24.3%. These increases are in the process of being enacted by City Council following municipal ordinance procedure and can be challenged only through a proper petition as set forth in W. Va. Code §24-2-9b.

The increases shown are based on averages of all customers indicated class individual customers may receive increases that are greater or less than average.

Anyone desiring to protest or intervene in the Certificate proceeding, should file a written protest or request to intervene within thirty (30) days following the date of this publication unless otherwise modified by Commission order. Failure to timely protest or request to intervene can affect your right to protest aspects of the certificate case or to participate in future proceedings. All protests or requests to intervene should briefly state the reason for the protest or request to intervene. Requests to intervene must comply with the rules on intervention set forth in the Commission's Rules of Practice and Procedure. All protests and requests to intervene should be addressed to Sandra Squire, Executive Secretary, P. O. Box 512, Charleston, West Virginia 25323.

In the absence of substantial protest received within thirty (30) days of this publication, the Commission may waive formal hearing and grant the application based on the Commission's review of the evidence submitted with the application.

TOWN OF GILBERT

I, Angie Alexander, Regional Business Manager of Gilbert Times, newspaper published in Mingo County, West Virginia, do hereby certify that the annexed notice was published in said paper for 2 successive time(s) on the following date(s):

September 28th. & October 5th, 2011

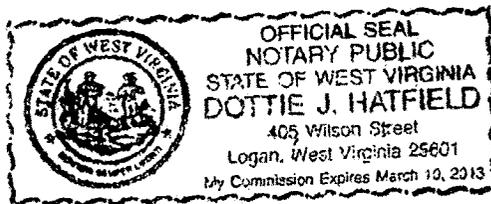
Given under my hand this 5th day of October, 2011

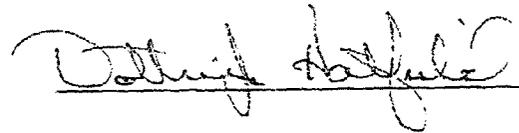


Regional Business Manager

State of West Virginia
County of Logan, to-wit:

Subscribed and sworn before me this 5th day of October, 2011





NOTARY PUBLIC

Cost of Publication: \$ 346.00

COPY OF PUBLICATION

SEE ATTACHED

PUBLIC NOTICE OF CHANGE IN RATES BY MUNICIPALITIES

NOTICE is hereby given that the TOWN OF GILBERT has adopted by ordinance, on 9/19 2011, a tariff containing an increase in rates, tolls and charges for furnishing water service to 422 customers at Gilbert and vicinity, in Mingo County, West Virginia, and one resale customer, Justice Public Service District.

The proposed increased Rate Schedule I rates and charges will become effective 45 days from the effective date of the ordinance, the proposed Rate Schedule II Rates will become effective upon substantial completion of the project or commencement of project debt service whichever first occurs, unless otherwise ordered by the Public Service Commission, and will produce approximately \$37,289 annually in additional revenue from last year customers, an increase of 24.1%. The average monthly bill for the various classes of customers will be changed as follows:

RATE SCHEDULE I
(EFFECTIVE 45 DAYS FROM PASSAGE OF ORDINANCE)

<u>ALL CLASSES EXCEPT RESELL</u>	<u>PROPOSED RATES</u>	<u>PRESENT RATES</u>	<u>\$ INCREASE</u>	<u>PERCENTAGE DIFFERENCE</u>
Min. Bill (2,000 Gals)	\$ 21.00	\$ 16.10	\$ 4.90	30.4%
4,000 Gals	\$ 38.00	\$ 29.10	\$ 8.90	30.6%
4,100 Gals (Avg.)	\$ 38.58	\$ 29.54	\$ 9.04	30.6%
4,500 Gals	\$ 40.88	\$ 31.30	\$ 9.58	30.6%
10,000 Gals	\$ 72.50	\$ 55.50	\$ 17.00	30.6%

<u>RESELL</u>	<u>PROPOSED RATES</u>	<u>PRESENT RATES</u>	<u>DIFFERENCE</u>	<u>PERCENTAGE DIFFERENCE</u>
1,681,500 Gals (Avg.)*	\$4,624.13	\$3,968.34	\$655.79	16.5%

* Mingo County PSD (AKA Justice PSD)

RATE SCHEDULE II
(EFFECTIVE UPON SUBSTANTIAL COMPLETION OF THE PROJECT OR COMMENCEMENT OF PROJECT DEBT SERVICE WHICHEVER FIRST OCCURS)

The proposed increased Project rates and charges will become effective upon substantial project completion or commencement of Project debt service, unless otherwise ordered by the Public Service Commission, and will produce approximately \$24,313 annually in additional revenue from test year customers, an increase of 13.4%. The average monthly bill for the various classes of customers will be changed as follows:

<u>ALL CLASSES EXCEPT RESELL</u>	<u>PROJECT RATES</u>	<u>RATE SCHEDULE I RATES</u>	<u>DIFFERENCE</u>	<u>PERCENTAGE DIFFERENCE</u>
Min. Bill (2,000 Gals)	\$ 25.00	\$ 21.00	\$ 4.00	19.0%
4,000 Gals	\$ 45.00	\$ 38.00	\$ 7.00	18.4%
4,100 Gals (Avg.)	\$ 45.69	\$ 38.58	\$ 7.11	18.4%
4,500 Gals	\$ 48.43	\$ 40.88	\$ 7.55	18.5%
10,000 Gals	\$ 86.10	\$ 72.50	\$ 13.60	18.8%

<u>RESELL</u>	<u>PROJECT RATES</u>	<u>RATE SCHEDULE I RATES</u>	<u>DIFFERENCE</u>	<u>PERCENTAGE DIFFERENCE</u>
1,681,500 Gals (Avg.)*	\$4,624.13	\$4,624.13	\$0.00	0%

* Mingo County PSD (AKA Justice PSD)

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing. The Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates or charges, by:

- (1) Any customer aggrieved by the changed rates or charges who presents to the Commission a petition signed by not less than twenty-five percent of the customers served by such municipally operated public utility; or
- (2) Any customer who is served by a municipally operated public utility and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries. Said petition shall be accompanied by evidence of discrimination; or
- (3) Any customer or group of customers who are affected by said change in rates who reside within the municipal boundaries and who present a petition to the Commission alleging discrimination between customers within and without the municipal boundaries.

All petitions should be addressed to:

**Public Service Commission of West Virginia
Executive Secretary
201 Brooks Street, P.O. Box 812
Charleston, West Virginia 25323**

A complete copy of the proposed rates, as well as a representative of the utility to provide any information requested concerning it, is available to all customers, prospective customers, or their agents at the offices of the Town:

**Town of Gilbert
City Building
Gilbert, West Virginia 25621**

A copy of the proposed rates is available for public inspection at the office of:

**Public Service Commission of West Virginia
Executive Secretary
201 Brooks Street
Charleston, West Virginia 25323**

GI. \$96,131 64.7%

PIF \$212,564 86.8%

I, Angie Alexander, Regional Business Manager of Gilbert Times, a newspaper published in Mingo County, West Virginia, do hereby certify that the annexed notice was published in said paper for 2 successive time(s) on the following date(s):

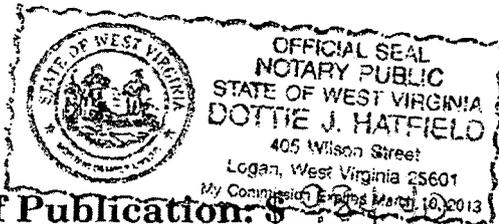
November 9th & 16th 2011

Given under my hand this 16th day of November, 2011


Regional Business Manager

State of West Virginia
County of Logan, to-wit:

Subscribed and sworn before me this 16th day of November, 2011




NOTARY PUBLIC

Cost of Publication: \$

COPY OF PUBLICATION

SEE ATTACHED

TOWN OF GILBERT, WEST VIRGINIA

AN ORDINANCE AMENDING, ESTABLISHING AND FIXING RATES, FEES, AND CHARGES THE TOWN WILL CHARGE ITS CITIZENS AND ITS CUSTOMERS LOCATED OUTSIDE OF ITS CORPORATE LIMITS, FOR THE PROVISION OF POTABLE WATER.

WHEREAS, the Town Council of the Town of Gilbert deems it advisable and necessary that its present sewer rates and charges for service provided to customers of its water system be increased in order that the Town may meet its going-level expenses; and to provide for necessary upgrades to its system in order to meet State and Federal regulatory requirements, and WHEREAS, the Town Council of the Town of Gilbert finds that the following rates are just and equitable for the service provided to its water customers through the use of its water collection and treatment system and that such rates will be sufficient to meet its going-level expenses and for the upgrading, maintenance and operation of its water collection and treatment system.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GILBERT as follows:

The following schedule of rates, fees and charges are hereby fixed and determined as the rates, fees and charges to be charged to customers of the water system of the Town of Gilbert throughout the entire territory served:

(AMENDED _____ DAY OF _____, 2011)
(RATE SCHEDULE 1)
(EFFECT: 45 DAYS FROM PASSAGE OF ORDINANCE)

(C) APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for residential, commercial, industrial and sale for resale water service

(C.1) RATES

First	2,000 gallons used per month	\$10.50 per 1,000 gallons
Next	2,000 gallons used per month	\$8.50 per 1,000 gallons
Next	6,000 gallons used per month	\$5.75 per 1,000 gallons
All over	10,000 gallons used per month	\$4.50 per 1,000 gallons

(C.1) MINIMUM CHARGES

No minimum bill will be rented for less than the following amounts based on meter size

	EQUIVALENT GALLONS		
5/8	Inch meter	\$ 21.00 per month	2,000
3/4	Inch meter	\$ 31.50 per month	3,235
1	Inch meter	\$ 52.50 per month	6,522
1 1/4	Inch meter	\$ 76.65 per month	10,922
1 1/2	Inch meter	\$ 105.00 per month	17,222
2	Inch meter	\$ 168.00 per month	31,222
3	Inch meter	\$ 315.00 per month	63,889
4	Inch meter	\$ 525.00 per month	110,556
6	Inch meter	\$1,050.00 per month	227,222
8	Inch meter	\$1,680.00 per month	367,222

(N) UNMETERED RATE

Residential In the event the water supply (residential) is unmetered or otherwise unmeasurable by the Town, the unmetered rate shall be charged. (Based on 4,500 gallons used per month).

Non-Residential

In the event the water supply (non-residential) is unmetered or otherwise unmeasurable by the Town, the unmetered rate shall be charged, based on the Town Engineer's estimate for each specific customer.

(1) SALES FOR RESALE

All water for resale will be billed in accordance within the approved rate of \$2.75 per 1,000 gallons used per month.

(C.1) SERVICE CONNECTION CHARGE \$350.00

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

A tap fee of \$100.00 will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee of \$350.00, or the actual cost of the connection (solely determined by the City), whichever is greater, will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

DELAYED PAYMENT PENALTY

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

(C) **WATER DISCONNECT-RECONNECT-ADMINISTRATIVE FEES**

Whenever water service has been disconnected for non-payment of water bills, including checks returned for insufficient funds, a disconnection fee of \$25.00 shall be charged, or in the event the delinquent water bill is collected by the Town in the field, an administrative fee of \$25.00 shall be charged. A \$25.00 reconnection fee will be assessed for each occurrence where water service to sewer customers is restored, after water service has been terminated for non-payment of water bills, including checks for insufficient funds.

(C.1) **INCREMENTAL COSTS**

Not to exceed \$3.85 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical usage. The Town shall establish a non-discriminatory policy regarding this provision for leak adjustments.

RETURNED CHECK CHARGE

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

(N) **EFT, ACH, CREDIT CARD AND DROP BOX PAYMENTS**

A service charge will be imposed on EFT, ACH, Credit Card or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment. Use of this payment method is voluntary.

(C) **SECURITY DEPOSIT**

As of the date of passage, the applicable provision of W.Va. Code 8-19-12a (a)(2):

"The municipality or governing body, but only one of them, may collect from all new applicants for service a deposit of \$50 or two-twelfths of the annual usage of the applicant's specific customer class, whichever is greater, to secure the payment of water service rates, fees and charges, in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent and the user's service is disconnected or terminated, no re-connection or reinstatement of service may be made by the municipality or governing body until another deposit equal to \$50 or a sum equal to two twelfths of the average usage for the applicant's specific customer class, whichever is greater, is remitted to the municipality or governing body. After twelve months of prompt payment history, the municipality or governing body shall return the deposit to the customer or credit the customer's account with interest at a rate as the Public Service Commission may prescribe. *Provided*, That where the customer is a tenant, the municipality or governing body is not required to return the deposit until the time the tenant discontinues service with the municipality or governing body. Whenever any rates, fees, rentals, or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The municipality governing body may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water services to the delinquent user of water facilities ten days after the water services become delinquent regardless of whether the municipality or governing body utilizes the security deposit to satisfy any delinquent payments. *Provided further*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the municipality or governing body to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill."

As of the date of passage, the applicable provision of the PSC Water Rules, Rule 4.2.a.1:

"... for a municipal water system only, the deposit shall not be more than either fifty dollars (\$50) or two-twelfths of the average annual usage of the applicant's specific customer class, whichever is greater..."

This tariff in accordance with the above cited statutory language and PSC water rates produce a security deposit of \$76.00 for residential customers.

(N) **MUNICIPAL EXCISE TAX SURCHARGE**

The municipality listed below, having imposed public utility tax computed on the basis of two percent of the revenue from water sales by the Town of Gilbert water utility located within the corporate limits of such municipalities, shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The water utility is required to collect the utility tax pursuant to West Virginia Code 8-13-5a.

Customers receiving water service within the corporate limits of the specified municipality shall pay a surcharge based on the following surcharge rates:

Municipality	Utility Excise Tax
Gilbert	2% Local Tax Rate

(N) **APPLICABILITY**

Applicable in all areas served by the Town of Gilbert.

AVAILABILITY OF SERVICE

Available for public and private fire protection service.

PRIVATE RATES

Where connections, sprinklers, etc., on property are maintained by customer:

2 inch service line with hydrants, sprinklers, and/or connections	\$ 6.25 per month	3 inch service line with hydrants, sprinklers, and/or connections	\$ 12.50 per month
4 inch service line with hydrants, sprinklers, and/or connections	\$ 22.95 per month	6 inch service line with hydrants, sprinklers, and/or connections	\$ 58.33 per month
8 inch service line with hydrants, sprinklers, and/or connections	\$100.00 per month	10 inch service line with hydrants, sprinklers, and/or connections	\$166.67 per month
12 inch service line with hydrants, sprinklers, and/or connections	\$229.17 per month		

PUBLIC RATES

An annual fee of \$50.00 per fire hydrant is assessed upon the Town of Gilbert and/or other municipal corporations where hydrants are located.

PERIODIC BILLING

The schedule of rates and charges above may be applied on a bi-monthly, quarterly, or semi-annual basis, provided no lower charges apply.

**RATE SCHEDULE II
(EFT: UPON SUBSTANTIAL PROJECT COMPLETION OR
COMMENCEMENT OF PROJECT DEBT SERVICE)**

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for residential, commercial, industrial and sale for resale water service

(1) **RATES**

First	2,000 gallons used per month	\$12.50 per 1,000 gallons
Next	2,000 gallons used per month	\$10.00 per 1,000 gallons
Next	6,000 gallons used per month	\$6.85 per 1,000 gallons
All over	10,000 gallons used per month	\$5.25 per 1,000 gallons

MINIMUM CHARGES

No minimum bill will be rented for less than the following amounts based on meter size

< 1/2	Inch meter	\$ 21.00 per month
		\$ 31.50 per month

EQUIVALENT GALLONS
2,000
3,250

1	Inch meter	\$ 52.50 per month	6,255
1 1/4	Inch meter	\$ 76.65 per month	10,753
1 1/2	Inch meter	\$ 105.00 per month	15,238
2	Inch meter	\$ 168.00 per month	29,524
3	Inch meter	\$ 315.00 per month	62,857
4	Inch meter	\$ 525.00 per month	110,476
6	Inch meter	\$1,050.00 per month	229,524
8	Inch meter	\$1,680.00 per month	372,381

(1) **UNMETERED RATE** \$ 45.00 per month

Residential

In the event the water supply (residential) is unmetered or otherwise unmeasurable by the Town, the unmetered rate shall be charged. (Based on 4,500 gallons used per month).

Non-Residential

In the event the water supply (non-residential) is unmetered or otherwise unmeasurable by the Town, the unmetered rate shall be charged, based on the Town Engineer's estimate for each specific customer.

SALES FOR RESALE

All water for resale will be billed in accordance within the approved rate of \$2.75 per 1,000 gallons used per month.

SERVICE CONNECTION CHARGE

\$350.00

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

A tap fee of \$100.00 will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee of \$350.00, or the actual cost of the connection (solely determined by the City), whichever is greater, will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

DELAYED PAYMENT PENALTY

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

WATER DISCONNECT-RECONNECT-ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of water bills, including checks returned for insufficient funds, a disconnection fee of \$25.00 shall be charged, or in the event the delinquent water bill is collected by the Town in the field, an administrative fee of \$25.00 shall be charged. A \$25.00 reconnection fee will be assessed for each occurrence where water service to sewer customers is restored, after water service has been terminated for non-payment of water bills, including checks for insufficient funds.

INCREMENTAL COSTS

Not to exceed \$3.85 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical usage. The Town shall establish a non-discriminatory policy regarding this provision for leak adjustments.

RETURNED CHECK CHARGE

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

(N) **EFT, ACH, CREDIT CARD AND DROP BOX PAYMENTS**

A service charge will be imposed on EFT, ACH, Credit Card or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment. Use of this payment method is voluntary.

(C) **SECURITY DEPOSIT**

As of the date of passage, the applicable provision of W.Va. Code 8-19-12a (a)(2):

"The municipality or governing body, but only one of them, may collect from all new applicants for service a deposit of \$50 or two-twelfths of the annual usage of the applicant's specific customer class, whichever is greater, to secure the payment of water service rates, fees and charges, in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent and the user's service is disconnected or terminated, no re-connection or reinstatement of service may be made by the municipality or governing body until another deposit equal to \$50 or a sum equal to two twelfths of the average usage for the applicant's specific customer class, whichever is greater, is remitted to the municipality or governing body. After twelve months of prompt payment history, the municipality or governing body shall return the deposit to the customer or credit the customer's account with interest at a rate as the Public Service Commission may prescribe. *Provided*, That where the customer is a tenant, the municipality or governing body is not required to return the deposit until the time the tenant discontinues service with the municipality or governing body. Whenever any rates, fees, rentals, or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The municipality governing body may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water services to the delinquent user of water facilities ten days after the water services become delinquent regardless of whether the municipality or governing body utilizes the security deposit to satisfy any delinquent payments. *Provided further*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the municipality or governing body to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill."

As of the date of passage, the applicable provision of the PSC Water Rules, Rule 4.2 a.1:

"... for a municipal water system only, the deposit shall not be more than either fifty dollars (\$50) or two-twelfths of the average annual usage of the applicant's specific customer class, whichever is greater...."

This tariff in accordance with the above cited statutory language and PSC water rates produce a security deposit of \$76.00 for residential customers.

(N) **MUNICIPAL EXCISE TAX SURCHARGE**

The municipality listed below, having imposed public utility tax computed on the basis of two percent of the revenue from water sales by the Town of Olbert water utility located within the corporate limits of such municipalities, shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The water utility is required to collect the utility tax pursuant to West Virginia Code 8-13-5a.

Customers receiving water service within the corporate limits of the specified municipality shall pay a surcharge based on the following surcharge rates:

Municipality:	Utility Excise Tax
Olbert	2% Local Tax Rate

(N) **AVAILABILITY**

Available in all areas served by the Town of Olbert.

AVAILABILITY OF SERVICE

Available for public and private fire protection service.

PRIVATE RATES

Where connections, sprinklers, etc., on property are maintained by customer:

2 inch service line with hydrants, sprinklers, and/or connections	\$ 6.25 per month	3 inch service line with hydrants, sprinklers, and/or connections	\$ 12.50 per month
4 inch service line with hydrants, sprinklers, and/or connections	\$ 22.95 per month	6 inch service line with hydrants, sprinklers, and/or connections	\$ 58.33 per month
8 inch service line with hydrants, sprinklers, and/or connections	\$100.00 per month	10 inch service line with hydrants, sprinklers, and/or connections	\$166.67 per month

been terminated for non-payment of water bills, including checks for insufficient funds. A \$25.00 reconnection fee will be assessed for each occurrence where water service to sewer customers is restored, after water service has been terminated for non-payment of water bills, including checks for insufficient funds.

INCREMENTAL COSTS

Not to exceed \$3.85 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical usage. The Town shall establish a non-discriminatory policy regarding this provision for leak adjustments.

RETURNED CHECK CHARGE

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

(N) **EFT, ACH, CREDIT CARD AND DROP BOX PAYMENTS**

A service charge will be imposed on EFT, ACH, Credit Card or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment. Use of this payment method is voluntary.

(C) **SECURITY DEPOSIT**

As of the date of passage, the applicable provision of W.Va. Code 8-19-12a (a)(2):

"The municipality or governing body, but only one of them, may collect from all new applicants for service a deposit of \$50 or two-twelfths of the annual usage of the applicant's specific customer class, whichever is greater, to secure the payment of water service rates, fees and charges, in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent and the user's service is disconnected or terminated, no re-connection or reinstatement of service may be made by the municipality or governing body until another deposit equal to \$50 or a sum equal to two twelfths of the average usage for the applicant's specific customer class, whichever is greater, is remitted to the municipality or governing body. After twelve months of prompt payment history, the municipality or governing body shall return the deposit to the customer or credit the customer's account with interest at a rate as the Public Service Commission may prescribe. *Provided*, That where the customer is a tenant, the municipality or governing body is not required to return the deposit until the time the tenant discontinues service with the municipality or governing body. Whenever any rates, fees, rentals, or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The municipality governing body may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water services to the delinquent user of water facilities ten days after the water services become delinquent regardless of whether the municipality or governing body utilizes the security deposit to satisfy any delinquent payments. *Provided further*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the municipality or governing body to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill."

As of the date of passage, the applicable provision of the PSC Water Rules, Rule 4.2.a.1:

"... for a municipal water system only, the deposit shall not be more than either fifty dollars (\$50) or two-twelfths of the average annual usage of the applicant's specific customer class, whichever is greater..."

This tariff in accordance with the above cited statutory language and PSC water rates produce a security deposit of \$76.00 for residential customers

(N) **MUNICIPAL EXCISE TAX SURCHARGE**

The municipality listed below, having imposed public utility tax computed on the basis of two percent of the revenue from water sales by the Town of Gilbert water utility located within the corporate limits of such municipalities, shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The water utility is required to collect the utility tax pursuant to West Virginia Code 8-13-5a.

Customers receiving water service within the corporate limits of the specified municipality shall pay a surcharge based on the following surcharge rates:

Municipality	Utility Excise Tax
Gilbert	2% Local Tax Rate

(N) **APPLICABILITY**

Applicable in all areas served by the Town of Gilbert.

AVAILABILITY OF SERVICE

Available for public and private fire protection service.

PRIVATE RATES

Where connections, sprinklers, etc., on property are maintained by customer:

2 inch service line with hydrants, sprinklers, and/or connections	\$ 6.25 per month	3 inch service line with hydrants, sprinklers, and/or connections	\$ 12.50 per month
4 inch service line with hydrants, sprinklers, and/or connections	\$ 22.95 per month	6 inch service line with hydrants, sprinklers, and/or connections	\$ 58.33 per month
8 inch service line with hydrants, sprinklers, and/or connections	\$100.00 per month	10 inch service line with hydrants, sprinklers, and/or connections	\$166.67 per month
12 inch service line with hydrants, sprinklers, and/or connections	\$229.17 per month		

PUBLIC RATES

An annual fee of \$50.00 per fire hydrant is assessed upon the Town of Gilbert and/or other municipal corporations where hydrants are located.

PERIODIC BILLING

The schedule of rates and charges above may be applied on a bi-monthly, quarterly, or semi-annual basis, provided no lower charges apply.

SECTION 3. STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the City Clerk shall publish a copy of this Ordinance once a week for 2 successive weeks within a period of 14 consecutive days, with at least 5 full days intervening between each publication, in a newspaper published and of general circulation in Town of Gilbert, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council on the ___ day of ___, 2011 at ___ p.m., which date is not less than 10 days subsequent to the date of the first publication of the Ordinance and notice, and present protests. At such hearing all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper on the premises.

the proposed Ordinance may be inspected at City Hall for the Town of Gilbert which address is _____, Gilbert, West Virginia _____.

The above Ordinance has been introduced at a meeting of Council held August 22, 2011.

**THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 B
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 C
(WEST VIRGINIA INFRASTRUCTURE FUND)**

2.9

BOND ORDINANCE

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ORDINANCE

THE TOWN OF GILBERT

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATERWORKS SYSTEM OF THE TOWN OF GILBERT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$2,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2012 B (UNITED STATES DEPARTMENT OF AGRICULTURE) AND NOT MORE THAN \$1,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2012 C (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO THE SERIES 2012 C BONDS AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE TOWN OF GILBERT:

ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

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

Section 1.02. Definitions. The following terms shall have the following meanings in this Bond Legislation unless the context expressly requires otherwise.

“Act” means Chapter 8, Article 19 and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended and in effect on the date of enactment of this Bond Legislation.

“Authority” means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2012 C Bonds, or any other agency, board or department of the State of West Virginia that succeeds to the functions of the Authority, acting in its administrative capacity and upon authorization from the Council, under the Act.

“Bond Legislation,” “Ordinance” or “Bond Ordinance” means this Bond Ordinance in its present form and all ordinances, orders and resolutions supplemental hereto or amendatory hereof.

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

“Bonds” means, collectively, the Series 2012 B Bonds, the Series 2012 C Bonds, the Prior Bonds and any Parity Bonds hereafter issued within the terms, restrictions and conditions contained in this Bond Legislation.

“Closing Date” means the date upon which there is an exchange of the Series 2012 B Bonds for all or a portion of the proceeds of the Series 2012 B Bonds.

“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 that succeeds to the functions of the Commission.

“Consulting Engineers” means E. L. Robinson Engineering Co., Charleston, West Virginia, or any engineer or firm of engineers, licensed by the State, which shall at any time hereafter be procured by the Issuer as Consulting Engineers for the System in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended.

“Cost of Project” or “Costs” means those costs described in Section 1.04 E. hereof to be a part of the cost of the acquisition and construction of the Project.

“Council” means the West Virginia Infrastructure and Jobs Development Council or any other agency of the State of West Virginia that succeeds to the functions of the Council through its direction to the West Virginia Water Development Authority.

“Depository Bank” means the bank or banks designated as such in the Supplemental Resolution and any successors and assigns, which shall be a member of FDIC.

“Event of Default” means any event or occurrence specified in Section 9.01 hereof.

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

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

“Governing Body” means the Council of the Issuer or any other governing body of the Issuer that succeeds to the functions of the Council as presently constituted.

“Government” means the United States of America, United States Department of Agriculture, Rural Utilities Service, which is expected to be the original purchaser of the Series 2012 B Bonds.

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

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

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

“Issuer” means The Town of Gilbert, a municipal corporation and political subdivision of the State in Mingo County, West Virginia, and, when appropriate, also means the Governing Body thereof and any department, board, organization or institution thereof in control of the management and operation of the System, as hereinafter defined.

“Letter of Conditions” means, collectively, the Letter of Conditions from the Government dated July 14, 2008, and all amendments thereto.

“Loan Agreement” means the Loan Agreement heretofore entered, or to be entered, into between the Issuer and the Authority, on behalf of the Council, providing for the purchase of the Series 2012 C Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

“Mayor” means the Mayor of the Issuer.

“Net Proceeds” means the face amount of the Series 2012 C Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in any Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2012 C Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

“Operating Expenses” means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses (other than those capitalized as part of the Costs); fees and expenses of fiscal agents, depository banks, registrars, paying agents and trustees (other than those capitalized as part of the Costs); payments to pension or retirement funds; taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided that, “Operating

Expenses” does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds; charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets; and amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

“Outstanding” when used with reference to Bonds, as of any particular date, describes all such Bonds theretofore and thereupon being authenticated and delivered except (i) any such Bond canceled by the Registrar, at or prior to said date; (ii) any such Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity of any such Bond, shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any such Bond deemed to have been paid as provided in Article X hereof; and (iv) for purposes of consents, notices or other action by a specified percentage of Registered Owners, any such Bond registered to the Issuer.

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

“Prior Ordinance” means the Ordinance authorizing the issuance of the Prior Bonds.

“Prior Bonds” means the Series 2009 A Bonds.

“Project” means the acquisition and construction of certain additions, betterments and improvements to the System, a description of which is attached hereto as Exhibit A and incorporated herein by reference.

“PSC” means the Public Service Commission of West Virginia or any successor to the functions thereof.

“PSC Order” means, collectively, the final order or orders of the PSC, granting the Issuer a certificate of convenience and necessity to construct the Project and approving the financing for the Project and the rates of the System.

“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; the Tennessee Valley Authority; or the Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligation 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 Federal Deposit Insurance Corporation ("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 owner of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The West Virginia “consolidated fund” managed by the West Virginia Board of Treasury Investments pursuant to Chapter 12, Article 6C of the Code of West Virginia, 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 Investor Service, Inc., or Standard and Poor’s Corporation.

“Recorder” means the Recorder of the Issuer.

“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.

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

“Renewal and Replacement Fund” means the Renewal and Replacement Fund created by the Prior Ordinance and continued by Section 5.01 hereof.

“Reserve Accounts” means, collectively, the respective Reserve Accounts created for the Series 2012 B Bonds, the Series 2012 C Bonds and the Prior Bonds.

“Reserve Requirements” means, collectively, the respective reserve requirements of the Series 2012 B Bonds, the Series 2012 C Bonds and the Prior Bonds.

“Revenue Fund” means the Revenue Fund created by the Prior Ordinance and continued by Section 5.01 hereof.

“Series 2009 A Bonds” means the Issuer’s Water Revenue Bonds, Series 2009 A (United States Department of Agriculture) dated August 3, 2009, and issued in the original aggregate principal amount of \$472,000.

“Series 2012 A Bonds” means the Issuer’s Water Revenue Bonds, Series 2012 A (United States Department of Agriculture), issued simultaneously with the Series 2012 B Bonds and the Series 2012 C Bonds, and issued in the original aggregate principal amount of \$662,000.

“Series 2012 A Ordinance” means the Ordinance enacted by the Issuer authorizing the Series 2012 A Bonds.

“Series 2012 Bonds” means, collectively, the Series 2012 B Bonds and the Series 2012 C Bonds.

“Series 2012 B and C Bonds Construction Trust Fund” means the Series 2012 B and C Bonds Construction Trust Fund created by Section 5.01 hereof.

“Series 2012 B Bonds” means the Water Revenue Bonds, Series 2012 B (United States Department of Agriculture), of the Issuer, authorized by this Ordinance.

“Series 2012 B Bonds Reserve Account” means the Series 2012 B Bonds Reserve Account created by Section 5.02 hereof.

“Series 2012 B Bonds Reserve Requirement” means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2012 B Bonds in the then current or any succeeding Fiscal Year.

“Series 2012 B Bonds Sinking Fund” means the Series 2012 B Bonds Sinking Fund created by Section 5.03 A (1) hereof.

“Series 2012 C Bonds” means the Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund), of the Issuer, authorized by this Ordinance.

“Series 2012 C Bonds Reserve Account” means the Series 2012 C Bonds Reserve Account created by Section 5.02 hereof.

“Series 2012 C Bonds Reserve Requirement” means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2012 C Bonds in the then current or any succeeding Fiscal Year.

“Series 2012 C Bonds Sinking Fund” means the Series 2012 C Bonds Sinking Fund created by Section 5.03 A (1) hereof.

“Sinking Funds” means, collectively, the Sinking Fund created for the Series 2012 B Bonds, the Series 2012 C Bonds and the Prior Bonds.

“State” means the State of West Virginia.

“Supplemental Resolution” means any resolution, ordinance or order of the Issuer supplementing or amending this Bond Legislation and when preceded by the

article “the,” refers specifically to the Supplemental Resolution authorizing the sale of the Series 2012 Bonds; provided that, any matter intended by this Bond Legislation to be included in the Supplemental Resolution with respect to the Series 2012 Bonds and not so included may be included in another Supplemental Resolution.

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

“System” means the complete existing waterworks system of the Issuer, and shall include the Project and any extensions, additions, betterments and improvements thereto hereafter acquired or constructed for the 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.

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

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

Additional terms and phrases are defined in this Bond Legislation as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with generally accepted accounting principles.

The terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof” and any similar terms refer to this Bond Legislation; and the term “hereafter” means after the date of the enactment of this Bond Legislation.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Bond Legislation so numbered.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2012 Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Findings. It is hereby found, determined and declared as follows:

A. The Issuer is a municipal corporation and political subdivision of the State in Mingo County of said State. The Issuer presently owns and operates a municipal waterworks system. However, the Issuer deems it necessary and desirable for the health, welfare and safety of the inhabitants of the Issuer that there be acquired and constructed the Project in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have been approved by the Government, the Authority and the Council and are on file with the Issuer.

B. 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 Government and the Authority.

C. The estimated maximum cost of acquisition and construction of the Project is \$4,843,000, of which approximately \$1,200,000 will be obtained from proceeds of the Series 2012 B Bonds, approximately \$838,000 will be obtained from proceeds of the Series 2012 C Bonds, approximately \$476,000 will be obtained from a grant from the Government, \$838,000 will be obtained from a grant from the Council and approximately \$1,491,000 will be obtained from a Small Cities Block Grant.

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 to make payments into all funds and accounts and other payments provided for in this Bond Legislation.

E. It is deemed necessary for the Issuer to issue the Series 2012 B Bonds in the aggregate principal amount of not more than \$2,000,000 and the Series 2012

C Bonds in the aggregate principal of not more than \$1,500,000, to permanently finance a portion of the costs of acquisition and construction of the Project. Such costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest on the Series 2012 Bonds prior to and during acquisition or construction of the Project and for a period not to exceed six months after completion of acquisition or construction of the Project; amounts which may be deposited in the Series 2012 Bonds Reserve Account or the Series 2012 C Bonds Reserve Account, if any; engineering, fiscal and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expenses, commitment fees, discount, initial fees for the service of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2012 Bonds, and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided that, reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2012 Bonds or the repayment of the indebtedness incurred by the Issuer for such purposes shall be deemed part of the Cost of the Project.

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

G. There are outstanding obligations of the Issuer which will rank on a parity with the Series 2012 B Bonds as to liens, pledge and source of and security for payment, being the (i) Water Revenue Bonds, Series 2009 A (United States Department of Agriculture) dated August 3, 2009, and issued in the original aggregate principal amount of \$472,000 (the "Series 2009 A Bonds") and (ii) Water Revenue Bonds, Series 2012 A (United States Department of Agriculture) to issued simultaneously with the Series 2012 B Bonds, and issued in the original aggregate principal amount of \$662,000 (the "Series 2012 A Bonds"). The Series 2012 Bonds shall be issued on a parity with the Prior Bonds and the Series 2012 A Bonds, with respect to liens, pledge and source of and security for payment and in all other respects. Prior to the issuance of the Series 2012 Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; and (ii) the written consent of the Registered Owners of the Prior Bonds to the issuance of the Series 2012 Bonds on a parity with the Prior Bonds and the Series 2012 A Bonds. Other than the Prior Bonds and the Series 2012 A Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by the revenues or assets of the System.

H. It is in the best interests of the Issuer that the Series 2012 B Bonds be sold to the Government pursuant to the terms and provisions of the Letter of Conditions and its Series 2012 C Bonds be sold to the Authority pursuant to the terms and provisions of the Loan Agreement in form satisfactory to the Issuer, the Authority and the Council, approved hereby if not previously approved by the Issuer.

I. The Issuer has complied with all requirements of West Virginia law, the Letter of Conditions and the Loan Agreement, relating to authorization of the acquisition and construction of the Project, the operation of the System and the issuance of the Series 2012 Bonds, or will have so complied prior to the issuance of any thereof, including, among other things, the approval of the Project and the financing thereof by the Infrastructure Council and the obtaining of a certificate of convenience and necessity from the PSC, the time for rehearing and appeal of which will have expired or will have been waived prior to the issuance of the Series 2012 B Bonds.

J. The Project has been approved by the Council as required under Chapter 31, Article 16A of the West Virginia Code of 1931, as amended.

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 \$6,500,000, in accordance with the plans and specifications prepared by the Consulting Engineers, approved by the Government, the Authority, the Council and the Issuer and heretofore filed in the office of the Governing Body. The proceeds of the Series 2012 Bonds shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, which are in an amount and otherwise compatible with the plan of financing submitted to the Government, the Authority and the Council.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 2012 Bonds, funding the Series 2012 Bonds Reserve Account, paying the costs of the Project not otherwise provided for and paying certain costs of issuance and related costs, or any of such purposes, as shall be specified in the Supplemental Resolution, there shall be and hereby are authorized to be issued negotiable Series 2012 B Bonds and Series 2012 C Bonds of the Issuer. The Series 2012 B Bonds shall be issued as a single bond, designated as “Water Revenue Bonds, Series 2012 B (United States Department of Agriculture),” in the aggregate principal amount of not more than \$2,000,000, and the Series 2012 C Bonds shall be issued as a single bond, designated as “Water Revenue Bonds, Series 2012 C (West Virginia Water Development Authority),” in the aggregate principal amount of not more than \$1,500,000, and each shall have such terms as set forth hereinafter and in the Supplemental Resolution.

Section 3.02. Terms of Bonds. A. The Series 2012 B Bonds shall be issued in such principal amounts; shall bear interest at such rate or rates, not exceeding the then legal maximum rate, payable monthly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in the Supplemental Resolution or as specifically provided in the Series 2012 B Bonds.

B. The Series 2012 C Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum rate, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in the Supplemental Resolution or as specifically provided in the Loan Agreement. The Series 2012 C Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest, if any, on the Series 2012 C Bonds shall be paid by check or draft of the Paying Agent or its agent, mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 2012 B Bonds shall initially be issued in the form of a single bond, fully registered to the Government, with a record of advances attached, representing the aggregate principal amount of the Series 2012 B Bonds. The Series 2012 C Bonds shall initially be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 2012 C Bonds, all as provided in the Supplemental Resolution. The Series 2012 Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable corresponding to the dates of payment of principal installments of said Bonds; provided, that neither the Government nor the Authority shall be obligated to pay any expenses of such exchange.

The Series 2012 B Bonds shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, shall be payable as provided in the Series 2012 B Bond form hereinafter set forth, and shall have such other terms not inconsistent with this Bond Legislation, as shall be set forth in the Supplemental Resolution and such Series 2012 B Bond form.

Section 3.03. Execution of Bonds. The Series 2012 Bonds shall be executed in the name of the Issuer by the Mayor and attested by the Recorder, and the seal of the Issuer shall be affixed thereto or imprinted thereon. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the Issuer by such person as, at the actual time of the execution of such Bonds, shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Negotiability, Transfer and Registration. The Series 2012 Bonds shall be and have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, but the Bonds, and the right to principal and interest on the Bonds, may only be transferred by transfer of the registration thereof upon the books of the Bond Registrar, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the 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 2012 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.

No registration of transfer of the Series 2012 Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on the Bonds.

The Issuer shall be the Bond Registrar for the Series 2012 B Bonds and will keep, or cause to be kept by its agent, at its office, books for the registration and transfer of the Series 2012 B Bonds and, upon presentation for such purpose, the Bond Registrar shall, under such reasonable regulations as it may prescribe, register the Series 2012 B Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Bonds as hereinbefore provided. The Issuer shall appoint a bank as the Bond Registrar for the Series 2012 C Bonds in the Supplemental Resolution which shall keep and maintain books for the registration and transfer of the Series 2012 C Bonds. No Series 2012 C Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Series 2012 C Bonds shall be conclusive evidence that such Series 2012 C Bonds has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 2012 C Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Series 2012 C Bonds issued hereunder.

The Bond Registrar shall accept the Series 2012 B Bonds for registration or transfer only if ownership thereof is to be registered in the name of the Government, the Authority 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 2012 B 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 2012 B 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, 1520 Market Street, St. Louis, Missouri 63103, or such other address as shall be stated in writing to the Issuer by the United States of America. The Series 2012 C Bonds shall initially be fully registered as to both principal and interest in the name of the Authority.

Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2012 Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Registered Owner's furnishing proof of its ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur. All Bonds so surrendered shall be canceled and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.06. Bonds not to be Indebtedness of the Issuer. The Series 2012 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Gross Revenues derived from the operation of the System as herein provided. No Registered Owner of the Series 2012 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2012 Bonds or any interest thereon.

Section 3.07. Bonds Secured by Pledge of Gross Revenues. The payment of the debt service of the Series 2012 Bonds shall be secured by a first lien on the Gross Revenues on a parity with the lien on the Gross Revenues in favor of the Registered Owners of the Prior Bonds and the Series 2012 A Bonds. Such Gross Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 2012 Bonds and the Prior Bonds and the Series 2012 A Bonds and to make the payments into all funds and accounts established by this Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 3.08. Delivery of Bonds. A. The Issuer shall execute and deliver the Series 2012 B Bonds to the Government as soon as the Government will accept such delivery.

B. The Issuer shall execute and deliver the Series 2012 C Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2012 C Bonds to the original purchasers upon receipt of the documents set forth below:

(1) If other than the Authority, a list of the names in which the Series 2012 C Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;

(2) A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2012 C Bonds to the original purchaser;

(3) An executed and certified copy of the Bond Legislation;

(4) An executed copy of the Loan Agreement; and

(5) The unqualified approving opinion of bond counsel on the Series 2012 C Bonds.

Section 3.09. Form of Bonds. The text of the Series 2012 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Bond Legislation or any subsequent resolution or ordinance adopted or enacted prior to the issuance thereof:

(FORM OF SERIES 2012 B BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE TOWN OF GILBERT
WATER REVENUE BOND, SERIES 2012 B
(UNITED STATES DEPARTMENT OF AGRICULTURE)

No. BR-1

\$_____

FOR VALUE RECEIVED, on this ___ day of _____, 2012, THE TOWN OF GILBERT, a municipal corporation and political subdivision of the State of West Virginia in Mingo County of said State (the "Issuer"), promises to pay to the order of the UNITED STATES OF AMERICA (the "Government"), at its National Finance Office, 1520 Market Street, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, and in the manner provided below, the principal sum of _____ DOLLARS (\$_____), or such lesser amount as is set forth on the Record of Advances attached hereto and incorporated herein by reference, plus interest on the unpaid principal balance at the rate of 3.625% per annum.

The principal of and interest on this Bond shall be paid in the following installments on the following dates: Monthly installments of interest only on the amounts advanced hereunder, commencing 30 days following the date of delivery of this Bond and continuing on the corresponding day of each month thereafter for the first 24 months after the date hereof, and thereafter, on the corresponding day of each month in installments of principal and interest in the aggregate amount of \$4,860, except that the final installment shall be paid at the end of 40 years from the date of this Bond in the sum of the unpaid principal and interest due on the date thereof and except that prepayments may be made as provided below. This consideration 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 the Issuer as requested by the Issuer 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 the Issuer. Extra payments, as defined in the regulations of the Government, shall, after payment of interest, be applied to the installment last to come due under this Bond and shall not affect the obligation of the Issuer to pay the remaining installments as scheduled herein.

Any amount advanced or expended by the Government for the collection hereof, or to preserve or to 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 the Issuer to the Government without demand. The Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Government. The Issuer has granted to the Government a lien on the proceeds of this Bond until such proceeds are expended for authorized purposes.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing waterworks system of the Issuer (the "Project"); (ii) to capitalize interest on the Bonds; and (iii) to pay certain costs of issuance of this Bond and related costs. The existing waterworks system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 of the Code of West Virginia, 1931, as amended (the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, _____, effective _____, _____, and a Supplemental Resolution duly adopted by the Issuer on _____, _____ (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS WITH THE ISSUER'S (1) WATER REVENUE BONDS, SERIES 2009 A (UNITED STATES DEPARTMENT OF AGRICULTURE) DATED AUGUST 3, 2009, AND ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$472,000 (THE "PRIOR BONDS"); (2) WATER REVENUE BONDS, SERIES 2012 A (UNITED STATES DEPARTMENT OF AGRICULTURE) ISSUED SIMULTANEOUSLY HEREWITH, AND ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$662,000 (THE "SERIES 2012 A BONDS") AND WATER REVENUE BONDS, SERIES 2012 C (WEST VIRGINIA INFRASTRUCTURE FUND) ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL PRINCIPAL AMOUNT OF \$_____ (THE "SERIES 2012 C BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of the Gross Revenues in favor of the registered owners of the Prior Bonds, the Series 2012 A Bonds and the Series 2012 C Bonds, and from moneys in the Series 2012 B Bonds Reserve Account created under the Bond Legislation for this Bond and unexpended proceeds of this Bond. Such Gross Revenues shall be sufficient to pay all operating expenses of the System and the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided from the Gross Revenues, the moneys in the Series 2012 B Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 110% of the maximum amount of principal of and interest on this Bond payable in any year and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Prior Bonds, the Series 2012 A Bonds and the Series 2012 C Bonds. The Issuer has entered into certain further covenants with the Registered Owners of this Bond, for the terms of which, reference is made to the Bond Legislation. Remedies provided the Registered Owners of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth in the Bond Legislation, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Recorder of the Issuer, as registrar (the "Registrar"), which shall be kept for that purpose at the office of the Registrar, by the Registered Owner or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its attorney duly authorized in writing.

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

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

The Issuer 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 such purposes and periods of time.

If at any time it so appears to the Government that the Issuer may be able to obtain a loan from a responsible cooperative or private creditor at reasonable rates and terms for loans for such purposes and period of time, the Issuer will at the Government's request apply for and accept such loan in sufficient amount to repay the Government.

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, this Bond will be in default should any proceeds of this Bond 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.

This Bond is given as evidence of a loan to the Issuer made or insured by the Government pursuant to the Rural Development Act of 1972. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

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

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

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

[SEAL]

Mayor

ATTEST:

Recorder

EXHIBIT A
RECORD OF ADVANCES

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

Total \$ _____

(Form of)

ASSIGNMENT

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

Dated: _____.

In the presence of:

(FORM OF SERIES 2012 C BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. CR-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That on this ____ day of _____, 2012, THE TOWN OF GILBERT, a municipal corporation and political subdivision of the State of West Virginia in Mingo County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of _____ DOLLARS (\$ _____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 20__, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. This Bond will bear no interest.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia

(the "Paying Agent"). The interest on this Bond are payable by check or draft of the Paying Agent mailed to the Registered Owner (as defined in the hereinafter described Bond Legislation) hereof at the address as it appears on the books of the Registrar (as defined in the hereinafter described Bond Legislation) on the 15th day of the month next preceding a payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Council, dated _____, 2012.

This Bond is issued (i) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the existing waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The existing public waterworks system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, 2012, and a Supplemental Resolution duly adopted by the Issuer on _____, 2012 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (1) WATER REVENUE BONDS, SERIES 2009 A (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED AUGUST 3, 2009, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF \$472,000 (THE "PRIOR BONDS"); (2) WATER REVENUE BONDS, SERIES 2012 A (UNITED STATES DEPARTMENT OF AGRICULTURE), ISSUED SIMULTANEOUSLY HERewith, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF \$662,000; (THE "SERIES 2012 A BONDS") AND WATER REVENUE BONDS, SERIES 2012 B (UNITED STATES DEPARTMENT OF AGRICULTURE), ISSUED SIMULTANEOUSLY

HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$_____ (THE "SERIES 2012 B BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the System, on a parity with the pledge of Gross Revenues in favor of the registered owners of the Prior Bonds, the Series 2012 A Bonds and the Series 2012 B Bonds, and from moneys in the reserve account created under the Bond Legislation for this Bond (the "Series 2012 B Bonds Reserve Account") and unexpended proceeds of this Bond. Such Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 2012 C Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest on this Bond and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Prior Bonds and the Series 2012 B Bonds; provided however, that so long as there exists in the Series 2012 C Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the Prior Bonds, the Series 2012 A Bonds and the Series 2012 B Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, 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 the conversion of wetlands to produce an agricultural commodity.

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

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

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

[SEAL]

Mayor

ATTEST:

Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2012 C Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 2012.

UNITED BANK, INC., as Registrar

By _____
Its Authorized Officer

EXHIBIT A
RECORD OF ADVANCES

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

EXHIBIT B
DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

Dated: _____, _____.

In the presence of:

Section 3.10. Sale of Bonds. A. The Series 2012 B Bonds shall be sold to the Government pursuant to the terms and conditions of the Letter of Conditions. The Letter of Conditions is hereby approved and specifically incorporated into this Bond Legislation.

B. The Series 2012 C Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the Loan Agreement in the form attached hereto as “Exhibit A” and made a part hereof, and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The Loan Agreement, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Bond Legislation.

Section 3.11. “Amended Schedule B” Filing. Upon completion of the acquisition and construction of the Project, the Issuer will file with the Government, the Authority and the Council a schedule, the forms of which will be provided by the Government, the Authority and the Council, setting forth the actual costs of the Project and sources of funds therefore.

ARTICLE IV

[Reserved]

ARTICLE V

SYSTEM REVENUES AND APPLICATION THEREOF

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

The following special funds or accounts are hereby created (or continued, if previously created by the Prior Ordinance) with and shall be held by the Depository Bank:

- (1) Revenue Fund (created by the Prior Ordinance);
- (2) Renewal and Replacement Fund (created by the Prior Ordinance);
and
- (3) Series 2012 B and C Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission.

The following special account is hereby created with and shall be held by the Commission:

- (1) Series 2012 B Bonds Reserve Account;
- (2) Series 2012 C Bonds Sinking Fund; and
- (3) Series 2012 C Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

- (1) The Issuer shall first, each month, from the moneys in the Revenue Fund, (i) make the interest payment on the Prior Bonds and the Series 2012 A Bonds in the amounts and on the dates required by the Prior Ordinance and the Series 2012 A Ordinance; and (ii) commencing on the day which is 30 days following the date of delivery of the Series 2012 B Bonds and continuing on the corresponding day of each month, remit to the National Finance Office for deposit in the Series 2012 B Bonds

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Sinking Fund hereby established at the National Finance Office, the amount of interest set forth in the Series 2012 B Bonds.

(2) The Issuer shall next, each month, from the moneys in the Revenue Fund, (i) make the principal payment on the Prior Bonds and the Series 2012 A Bonds in the amounts and on the dates required by the Prior Ordinances and the Series 2012 A Ordinance; (ii) commencing on the day which is 24 months following the date of delivery of the Series 2012 B Bonds and continuing on the corresponding day of each month, remit to the National Finance Office for deposit in the Series 2012 B Bonds Sinking Fund, the amount of principal set forth in the Series 2012 B Bonds; and (iii) remit to the Commission commencing 4 months prior to the first date of payment of principal of the Series 2012 C Bonds, if not fully funded upon issuance of the Series 2012 C Bonds, for deposit in the Series 2012 C Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal, if any, which will mature and become due on the Series 2012 A Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2012 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

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

The deposits into the Series 2012 B Bonds Sinking Fund provided in this paragraph and in Section 5.03 A(1) above, constitute actual payments of principal of and interest on the Series 2012 B Bonds to the Government.

(3) The Issuer shall next, each month, from the moneys in the Revenue Fund, (i) make the reserve account payments into the Reserve Accounts for the Prior Bonds and the Series 2012 A Bonds in the amount and on the dates required by the Prior Ordinances and the Series 2012 A Ordinance; (ii) commencing on the day which is 24 months following the date of delivery of the Series 2012 B Bonds and continuing on the corresponding day of each month, remit to the Commission for deposit in the Series 2012 B Bonds Reserve Account, an amount equal to 1/120th of the Series 2012 B Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2012 B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2012 B Bonds Reserve Requirement; and (iii) commencing on the day which is 24 months following the

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date of delivery of the Series 2012 C Bonds and continuing on the corresponding day of each month, remit to the Commission for deposit in the Series 2012 C Bonds Reserve Account, an amount equal to 1/120th of the Series 2012 C Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2012 C 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 2012 C Bonds Reserve Requirement

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

(5) The Issuer shall next, each month, from the moneys in the Revenue Fund, make the payments into the Renewal and Replacement Fund in an amount equal to 2 ½% of the Gross Revenues each month, exclusive of any payments for account of the Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, improvements or extensions to the System; provided that, any deficiencies in the Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 2012 B Bonds Sinking Fund and Series 2012 C Bonds Sinking Fund shall be used only for the purpose of paying principal of and interest on the Series 2012 B Bonds and Series 2012 C Bonds, respectively, as the same shall become due. Moneys in the Series 2012 B Bonds Reserve Account and Series 2012 C Bonds Reserve Account shall be used only for the purpose of paying principal of and interest on the Series 2012 B Bonds and the Series 2012 C Bonds, respectively, as the same shall come due, when moneys in the Series 2012 B Bonds Sinking Fund or Series 2012 C Bonds Sinking Fund, respectively, are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2012 B Bonds Reserve Account (if fully funded at the Series 2012 B Bonds Reserve Requirement), the Series 2012 C Bonds Sinking Fund and the Series 2012 C Bonds Reserve Account (if fully funded at the Series 2012 C Bonds Reserve Requirement) shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2012 B and C Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in

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the Revenue Fund and applied in full, first to the next ensuing interest payment due on the Series 2012 B Bonds and Series 2012 C Bonds, respectively, and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2012 B Bonds Reserve Account or the Series 2012 C Bonds Reserve Account which result in a reduction in the balance of such account to an amount below the Series 2012 B Bonds Reserve Requirement or the Series 2012 C Bonds Reserve Requirement, respectively, shall be subsequently restored from the first Gross Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the Series 2012 Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay any interest on such additional Parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve accounts in an amount equal to the requirement therefor.

Interest, principal or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Prior Bonds and the Series 2012 Bonds in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2012 B Bonds Reserve Account, the Series 2012 C Bonds Reserve Account and the Series 2012 C Bonds Sinking Fund created hereunder, and all amounts required for such account shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Government or the Authority, the Issuer shall make the necessary arrangements whereby required payments into the Series 2012 B Bonds Reserve Account, the Series 2012 C Bonds Reserve Account and the Series 2012 C Bonds Sinking Fund shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Moneys in the Series 2012 B Bonds Reserve Account, the Series 2012 C Bonds Reserve Account and the Series 2012 C Bonds Sinking Fund shall be invested and reinvested by the Commission in accordance with Article VIII hereof.

The Series 2012 B Bonds Sinking Fund, the Series 2012 B Bonds Reserve Account, the Series 2012 C Bonds Sinking Fund and the Series 2012 C Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of

servicing the Series 2012 B Bonds and the Series 2012 C Bonds, respectively, Outstanding under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) remit to the Commission the required principal, interest and reserve account payments and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

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

D. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinabove provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such longer period as shall be required by the Act, such excess shall be considered as surplus revenues (the "Surplus Revenue"). Surplus Revenues may be used for any lawful purpose of the System.

E. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Depository Bank, or the Government, on such dates as the respective parties shall require, such additional sums as shall be necessary to pay their respective charges then due. If required by the Government or the Authority, the Issuer shall make the necessary arrangements whereby payments to the Commission or the Government under this paragraph shall be automatically debited from the Revenue Fund and electronically transferred to the Commission or the Government on the dates required hereunder.

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

G. If, on any monthly payment date, the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments, in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided that, all deposits, including on account of

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deficiencies, shall be made in the order of priority set forth in Section 5.03 A hereof, and no payment of lower priority shall be made if there exists a deficiency in a fund or account of higher priority.

H. All remittances made by the Issuer to the Government, the Commission and the Depository Bank shall clearly identify the fund or account into which each amount is to be deposited.

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

ARTICLE VI

APPLICATION OF BOND PROCEEDS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the monies received from the sale of the Series 2012 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2012 B Bonds, there shall be deposited with the Commission in the Series 2012 B Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding the Series 2012 B Bonds Reserve Account.

B. From the proceeds of the Series 2012 C Bonds, there shall be deposited with the Commission in the Series 2012 C Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 2012 C bonds Reserve Account.

C. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2012 B Bonds, such monies shall be deposited with the Depository Bank in the Series 2012 B and C Bonds Construction Trust Fund and applied solely to payment of costs of the Project in the manner set forth in Section 6.02 hereof and until so expended, are hereby pledged as additional security for the Series 2012 B Bonds.

D. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2012 C Bonds, such monies shall be deposited with the Depository Bank in the Series 2012 B and C Bonds Construction Trust Fund and applied solely to payment of costs of the Project in the manner set forth in Section 6.02 hereof and until so expended, are hereby pledged as additional security for the Series 2012 C Bonds.

E. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2012 B Bonds shall be expended as directed by the Government and any remaining proceeds of the Series 2012 C Bonds shall be expended as directed by the Council.

Section 6.02. Disbursements from Bond Construction Trust Fund. A. The Series 2012 B Bonds Construction Trust Fund shall be kept separate and apart from all other funds of the Issuer, and shall be drawn out, used and applied by the Issuer solely for the payment of the costs of the Project and purposes incidental thereto, including payment of any borrowings by the Issuer made for the purpose of temporarily financing a portion of the costs of the Project and payment of interest on the Series 2012 B Bonds and the Series 2012 C Bonds prior to and during construction and for a period up to six months after completion of construction and for no other purposes whatsoever. If approved by the Government and the Authority, the moneys in said fund shall be secured at all times by Government Obligations having a fair market value at least equal to the balance in said fund in excess of the amount insured by the FDIC. If for any reason the amounts on deposit in the Series 2012 B and C Bonds Construction Trust Fund are not necessary for, or are not applied to, such purposes, then such unapplied amounts shall be deposited by the Issuer as determined by the rules and regulations of the Government and the Authority. All such proceeds shall constitute a trust fund for such purposes, and there is hereby created a lien upon such moneys, until so applied, in favor of the Registered Owners of the Series 2012 Bonds.

Expenditures or disbursements of proceeds of the Series 2012 B Bonds from the Series 2012 B and C Bonds Construction Trust Fund shall be made only after such expenditures or disbursements have been approved in writing by the Governing Body, the Consulting Engineers and the Government.

The Issuer shall coordinate with the Government on the monthly payment of the costs of the Project and shall submit invoices and requisitions as directed by the Government.

B. The Issuer shall each month provide the Council with a requisition for the costs incurred for the Project, together with such documentation as the Council shall require. Payments of all Costs of the Project from the Series 2012 C Bonds shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements of proceeds of the Series 2012 C Bonds from the Series 2012 B and C Construction Trust Fund shall be made only after submission to the Council of a certificate, signed by an Authorized Officer stating that:

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

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

(iii) Each of such costs has been otherwise properly incurred; and

(iv) Payment for each of the items proposed is then due and owing.

The Issuer shall expend all proceeds of the Series 2012 C Bonds within 3 years of the date of the issuance of the Council's Bonds, the proceeds of which were used to make the loan to the Issuer.

Pending such application, monies in the Series 2012 B and C Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions set forth in this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Registered Owner of the Series 2012 Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Registered Owner of the Series 2012 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as the Series 2012 Bonds or the interest thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2012 Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Registered Owner of any Series 2012 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2012 Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Gross Revenues; Lien Position with Respect to the Prior Bonds. The payment of the debt service of the Series 2012 Bonds shall be secured by a first lien on the Gross Revenues derived from the operation of the System on a parity with each other and with the lien on the Gross Revenues in favor of the Registered Owners of the Prior Bonds and the Series 2012 A Bonds. The Gross Revenues in an amount sufficient to pay the principal of and interest on the Series 2012 Bonds, the Prior Bonds and the Series 2012 A Bonds and to make the payments into all funds and accounts and all other payments provided for in this Bond Legislation, are hereby irrevocably pledged to such payments as they become due and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of this Bond Legislation. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the water rate ordinance of the Issuer duly enacted on November 21, 2011.

So long as the Series 2012 Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation. In the event the schedule of rates and charges initially established for the System in connection with the Series 2012 Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the provisions governing the sale of the System, or any part thereof, shall be as set forth and described in the Prior Resolutions and the System may not be sold, mortgaged, leased or otherwise disposed of unless the Issuer has obtained the written consent of the Government, the Authority and the Council, as applicable bondholders. Further, so long as the Series 2012 Bonds are outstanding and except as otherwise required by law, and with the written consent of the Government, the Authority and the Council, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2012 B Bonds, immediately be remitted to the National Finance Office, and with respect to the Series 2012 C Bonds, immediately be remitted to the Commission for deposit in the Series 2012 C Bonds Sinking Fund, and, with the written consent of the Government, the Authority and the Council, the Issuer shall direct the National Finance Office and the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Series 2012 Bonds. Any balance remaining after the payment of all the Series 2012 Bonds and interest, if any, thereon shall be remitted to the Issuer unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

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

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

Section 7.06. Issuance of Other Obligations Payable out of Revenues and General Covenant Against Encumbrances. Except additional Parity Bonds provided for in Section 7.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2012 Bonds. All obligations hereafter issued by the Issuer payable from the revenues of the System, except such additional Parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for

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payment from such revenues and in all other respects, to the Series 2012 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or, except with respect to such additional Parity Bonds, being on a parity with the lien of the Series 2012 Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 2012 Bonds and the interest thereon in this Bond Legislation or upon the System or any part thereof.

Section 7.07. Parity Bonds. No Parity Bonds payable out of the revenues of the System shall be issued after the issuance of any Bonds pursuant to this Bond Legislation, except under the conditions and in the manner herein provided and with the prior written consent of the Government, the Authority and the Council.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2012 Bonds.

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

So long as the Series 2012 B Bonds are Outstanding, no Parity Bonds shall be issued at any time, unless there has been procured and filed with the Recorder a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues 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 then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Bond Legislation 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 Registered Owners of the Series 2012 B Bonds and the Prior Bonds, representing

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75% of the then-outstanding principal indebtedness. In the event the foregoing limitation is waived or when the Series 2012 B Bonds and the Prior Bonds are no longer outstanding, the following parity requirements shall be met:

So long as the Series 2012 C Bonds are outstanding, no Parity Bonds shall be issued at any time, 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 actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased completion of the improvements to be financed by such Parity Bonds, if any, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest, if any, on the following:

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

The “estimated average increased annual Net Revenues expected to be received in each of the 3 succeeding years,” as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from the improvements to be financed by such Parity Bonds and any increase in rates adopted by the Issuer, the time for appeal of which shall have expired prior to the issuance of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Secretary prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period herein above referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the time for appeal of which shall have expired prior to issuance of such Parity Bonds.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit,

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protection and security of the Registered Owners of the Series 2012 B Bonds and the Registered Owners of any Parity Bonds subsequently issued, from time to time, within the limitations of and in compliance with this Section. All the Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their respective liens on the revenues of the System and their respective sources 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 additional 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 lien of the Series 2012 Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this Section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2012 Bonds.

No Parity Bonds shall be issued at any time, however, unless all the payments into the respective funds and accounts provided for in this Bond Legislation on account of 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 shall then be in full compliance with all the covenants, agreements and terms of this Bond Legislation and the Prior Ordinances.

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

The Issuer shall permit the Government, the Authority and the Council and its agents and representatives to inspect all records pertaining to the operation and maintenance of the System, at all reasonable times, following completion of construction

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of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Registered Owner of the Series 2012 B Bonds issued pursuant to the Bond Legislation shall have the right, at all reasonable times, to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles in accordance with the rules and regulations of the PSC and the Act. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books, and along with other bookkeeping records as prescribed by the Issuer. The Governing Body shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Governing Body shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Government, the Authority and the Council, and shall mail in each year to any Registered Owner of the Series 2012 Bonds requesting the same, an annual report containing the following:

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

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

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

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Certified Public Accountants (and to the extent legally required in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto) and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Registered Owner of the

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Series 2012 Bonds, and shall submit said report to the Government, the Authority and the Council. Such audit report shall include a statement that the Issuer is in compliance with the terms and provisions of the Act and this Bond Legislation and that the Gross Revenues are adequate to meet the Operating Expenses and debt service and reserve requirements.

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

The Issuer shall permit the Government, the Authority and the Council and its agents and representatives to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Government, the Authority and the Council and its agents and representatives with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Government, the Authority and the Council with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to issuance of the Series 2012 Bonds, equitable rates or charges for the use of and service rendered by the System shall be established in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from 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 2012 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2012 Bonds, including the Prior Bonds and the Series 2012 A

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Bonds; provided that, in the event that an amount equal to or in excess of the reserve requirement is on deposit respectively in the Reserve Accounts and any reserve accounts for obligations on a parity with the Series 2012 Bonds, including the Prior Bonds and the Series 2012 A Bonds, are funded at least at the requirement therefore, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal and interest, if any, on the Series 2012 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2012 Bonds, including the Prior Bonds. In any event, subject to any requirements of law, the Issuer shall not reduce the rates or charges for services described in Section 7.04.

Section 7.10. Operating Budget. The Issuer shall, annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Government the Authority and the Council within 30 days of the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made, except upon the further certificate of a professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Government, the Authority and the Council and any Registered Owner of the Series 2012 Bonds within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Government, the Authority and the Council and any Registered Owner of the Series 2012 Bonds or anyone acting for and on behalf of such Registered Owner.

Section 7.11. Engineering Services and Operating Personnel. The Issuer shall obtain a certificate of the Consulting Engineers, certifying that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Government, the Authority and the Council, the Project will be adequate for the purposes for which it was designed, the funding plan as submitted to the Government, the Authority and the Council is sufficient to pay the costs of the

acquisition and construction of the Project, and all permits required by federal and State laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the Government, the Authority and the Council, covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies.

The Issuer shall employ qualified operating personnel, properly certified by the State to operate the System so long as the Series 2012 Bonds are Outstanding.

The Issuer shall perform an annual maintenance audit which maintenance audit shall be submitted to the Authority and the Public Service Commission of West Virginia.

Section 7.12. No Competing Franchise. To the extent allowable by law, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

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

Whenever any fees, rates, rentals or other charges for the services or facilities of the System shall remain unpaid for a period of 20 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and any rules and regulations promulgated by the PSC applicable thereto, fees, rates, rentals and other charges, if not paid when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that it will, to the full extent permitted by law and any rules and regulations promulgated by the PSC applicable thereto, discontinue and shut off the services and facilities of the System to all delinquent users of the services and facilities of the System, and will not restore such services of the System until all delinquent charges

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for the services and facilities of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid, and shall take all further actions to enforce collections to the maximum extent permitted by law.

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

Section 7.15. Insurance and Construction Bonds. The Issuer hereby covenants and agrees that so long as the Series 2012 Bonds remain Outstanding, the Issuer shall, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(A) **Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance,** to be procured prior to 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 insurable portions of the System, including machinery and equipment housed therein, 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 personal liability to protect the Issuer from claims for bodily injury and/or death and not less than \$2,000,000 from claims for damage to property of others which may arise from the operation of the System.

(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 for the benefit of the Issuer, with limits of not less than \$1,000,000 for personal liability to protect the Issuer from claims for bodily injury and/or death and not less than \$2,000,000 from claims for damage to property of others which may arise from such operation of vehicles.

(D) Workers' Compensation Coverage for All Employees of the System 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 contractor dealing directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with Chapter 38, Article 2, Section 39 of the Code of West Virginia, 1931, as amended.

(E) Fidelity Bonds will be provided as to every member, officer and employee of the Issuer having custody of the Revenue Fund or of any other funds or property of the System in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount required by the Government, the Authority and the Council and to be increased thereafter as necessary to cover the maximum amount of funds under control of that position at any one time.

(F) Flood Insurance will be obtained by the Issuer if available; 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.

(G) Construction Bonds. The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction. The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project. The Issuer shall verify such insurance prior to commencement of construction.

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

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

The Issuer has obtained all permits required by State and federal laws necessary for the acquisition and construction of the Project, all requisite orders and approvals from the PSC and the West Virginia Infrastructure and Jobs Development Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for the issuance of the Series 2012 Bonds required by State law, with all requisite appeal periods having expired without successful appeal.

Section 7.18. Compliance With Letter of Conditions, Loan Agreement and Law. The Issuer shall comply with, perform and satisfy all terms and conditions of the Letter of Conditions, the Loan Agreement, this Bond Legislation and the Act. The Issuer shall comply with all applicable laws, rules and regulations issued by the Government the Authority and the Council or other State, federal or local bodies in regard to the acquisition and construction of the Project and operation, maintenance and use of the System. The Issuer shall provide the Council with all documents submitted to the Government and the Authority.

The Issuer shall serve the additional customers at the location(s) as set forth in Certificate of Engineer. The Issuer shall not reduce the amount of additional customers served by the project without the prior written approval of the Board of the Authority. Following completion of the Project the Issuer shall certify to the Authority the number of customers added to the System.

Section 7.19. Statutory Mortgage Lien. For the further protection of the Registered Owner of the Series 2012 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 delivery of the Series 2012 Bonds and shall be on a parity with the statutory mortgage lien in favor of the Registered Owners of the Prior Bonds and the Series 2012 A Bonds.

Section 7.20. Contracts. A. The Issuer shall, simultaneously with the delivery of the Series 2012 Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the Government and the Council for written approval. The Issuer shall obtain the written approval of the Government and the Council before expending any proceeds of the Series 2012 Bonds held in “contingency” as set forth in the schedule attached to the certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the Government and the Council before expending any proceeds of the Series 2012 Bonds made available due to bid or construction or project underruns.

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

Section 7.21. [Reserved.]

ARTICLE VIII

INVESTMENT OF FUNDS

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

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

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments and shall distribute to the Issuer, at least once each year (or more often if requested by the Issuer), a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2012 B Bonds are outstanding.

Notwithstanding the foregoing, any investments made pursuant to this Bond Legislation shall comply with the guidelines of the Government.

Section 8.02. Certificate as to Use of Proceeds; Covenants as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on

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the use of proceeds of the Series 2012 C Bonds as a condition to the issuance of the Series 2012 C Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2012 C Bonds as may be necessary in order to maintain the status of the Series 2012 C Bonds as governmental bonds; (ii) that it shall not take, or permit or suffer to be taken, any action with respect to the Issuer's use of the proceeds of the Series 2012 C bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority or the Council, as the case may be, from which the proceeds of the Series 2012 C Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority in compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Resolution.

The Issuer shall annually furnish to the Authority information with respect to the Issuer's use of the proceeds of the Series 2012 C Bonds and any additional information requested by the Authority.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an “Event of Default” with respect to the Series 2012 Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest, if any, on the Series 2012 Bonds; or

(B) If default occurs in the Issuer’s observance of any of the covenants, agreements or conditions on its part relating to the Series 2012 Bonds set forth in this Bond Legislation, any supplemental resolution, or in the Series 2012 Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Government, the Authority, the Council, the Depository Bank, the Registrar, the Commission or a Registered Owner of the Series 2012 B Bonds;

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

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

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of the Series 2012 Bonds may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding, enforce all rights of such Registered Owners, including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Series 2012 Bonds, (iv) by action at law or bill in equity, require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Series 2012 Bonds, and (v) by action or bill in equity, enjoin any acts in violation of the Bond Legislation with respect to the Series 2012 Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Registered Owners of the Series

2012 Bonds shall be on a parity with the Registered Owners of the Prior Bonds and the Series 2012 A Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of the Series 2012 Bonds may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including the completion of the Project, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default, any Registered Owner shall, in addition to all other remedies or rights, have the right, by appropriate legal proceedings, to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the Bonds and any interest thereon, the deposits into the funds and accounts hereby established as herein provided and the payment of Operating Expenses of the System and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of the Bond Legislation and the Act.

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

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

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

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Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System, for the sole purpose of the protection of both the Issuer and Registered Owners, and the curing and making good of any default under the provisions of the Bond Legislation, and the title to and ownership of the System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Bonds. If the Issuer shall pay to the Registered Owners of the Series 2012 Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in the Bond Legislation, then the pledge of Gross Revenues and any other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners shall thereupon cease, terminate and become void and be discharged and satisfied.

Except through direct payment of the entire outstanding principal of and all accrued interest on the Series 2012 Bonds to the Registered Owners thereof, the Issuer may not defease the Series 2012 Bonds or provide for payment thereof by escrow or other similar arrangements.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Modification or Amendment. Prior to the issuance of the Series 2012 Bonds, this Bond Legislation may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2012 Bonds, no material modification or amendment of this Bond Legislation or of any ordinance or resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Registered Owners of the Series 2012 Bonds shall be made without the consent in writing of the Registered Owners of the Series 2012 Bonds then Outstanding; provided that, no change shall be made in the maturity of the Series 2012 Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the revenues of the System without the consent of the Registered Owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of the Series 2012 Bonds required for consent to the above permitted amendments or modifications.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of this Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 2012 Bonds and no change, variation or alteration of any kind of the provisions of this Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Bond Legislation should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Bond Legislation, the Supplemental Resolution and the Series 2012 Bonds.

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

Section 11.05. Conflicting Provisions Repealed. All ordinances, resolutions and orders, or parts thereof, in conflict with this Bond Legislation are, to the extent of such conflict, repealed.

Section 11.06. Covenant of Due Procedure. 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 final enactment and passage of this Bond Legislation do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the Recorder and members of the Governing Body were at all times when any actions in connection with this Bond Legislation occurred, and are, duly in office and duly qualified for such office.

Section 11.07. Statutory Notice of Public Hearing. Upon adoption hereof, the abstract of this Bond Legislation in the form set forth in Exhibit B attached hereto and incorporated herein by reference, shall be published once a week for 2 successive weeks, with at least 6 full days intervening between each publication, in Williamson Daily News, one qualified newspaper of general circulation in the Issuer, together with a notice stating that this Bond Legislation has been adopted and that the Issuer contemplates the issuance of the Series 2012 B Bonds, and that any person interested may appear before the Issuer upon a certain date, not less than 10 days subsequent to the date of the first publication of such abstract of this Bond Legislation and notice, and present protests, and that a certified copy of this Bond Legislation is on file with the Issuer for review by interested persons during office hours of the Issuer. The Governing Body hereby determines that the Abstract contains sufficient information as to give notice of the contents hereof. At such hearing, all objections and suggestions shall be heard and the Issuer shall take such action as it shall deem proper in the premises.

Section 11.08. Effective Date. This Bond Legislation shall take effect immediately following the public hearing and final reading hereof.

First Reading: March 12, 2012

Second Reading: April 17, 2012

Public Hearing
and Third Reading: May 14, 2012


Mayor

CERTIFICATION

Certified a true copy of a Bond Ordinance duly passed by the Council of
THE TOWN OF GILBERT on April 17, 2012, and effective on May 14, 2012.

Dated this 27th day of July, 2012.


Recorder

[SEAL]

EXHIBIT A

PROJECT DESCRIPTION

The Project consists of construction and acquisition of 18.3 miles of mains, 15 fire hydrants, one water storage tank of 300,000-gallon capacity with telemetry, one water station, small improvements to the existing water treatment plant including a new pre-sedimentation tank, and the installation of approximately 439 new customer services, and all necessary appurtenances thereto.

EXHIBIT B

THE TOWN OF GILBERT

NOTICE OF PUBLIC HEARING AND ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on April 17, 2012, the Council of The Town of Gilbert (the "Issuer") adopted an ordinance which, among other things:

1. Authorized the acquisition and construction of certain additions, betterments and improvements (the "Project") to the Issuer's existing waterworks system (the "System") and the financing of the cost thereof, not otherwise provided, through the issuance of not more than \$3,500,000 in aggregate principal amount of Water Revenue Bonds, Series 2012 B (United States Department of Agriculture) and Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund) (the "Bonds").

2. Directed that the Bonds be issued in such principal amounts, bear interest at such rate or rates, not exceeding the then legal maximum rate, payable monthly on such dates, mature on such dates and in such amounts and redeemable, in whole or in part, as prescribed in a supplemental resolution.

3. Directed the continuation of a revenue fund and the disposition of the revenues of the System; provided for the payment of operating expenses of the System and debt service on the Bonds; directed the creation of a sinking fund and a reserve account for the Bonds; directed the creation of a bond construction trust fund and the disbursement of Bond proceeds.

4. Provided that the Bonds shall not be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Gross Revenues of the System; pledged the Gross Revenues of the System to payment of the Bonds and established the rights of the registered owners of the Bonds to the Gross Revenues of the System; provided certain conditions for the issuance of additional bonds.

5. Provided for insurance coverage on the Project and the System, enforcement of collection of rates and other charges for the System, and other covenants of the Issuer in favor of the registered owners of the Bonds.

6. Established the events of default and the remedies of the registered owners of the Bonds; provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance.

The Issuer contemplates the issuance of the Bonds described in and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Council of The Town of Gilbert at a regular meeting on May 14, 2012, at 6:00 p.m., in the Council Chambers, Town Hall, Gilbert, West Virginia, and present protests and be heard as to whether the above described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council is on file with the Recorder for review by interested persons during the office hours of the Town Hall.

/s/Michael Fox
Recorder

THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 B
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

2.10

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE TOWN OF GILBERT WATER REVENUE BONDS, SERIES 2012 B (UNITED STATES DEPARTMENT OF AGRICULTURE) AND WATER REVENUE BONDS, SERIES 2012 C (WEST VIRGINIA INFRASTRUCTURE FUND); DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; APPROVING AND AUTHORIZING THE ENTERING INTO OF A LOAN AGREEMENT; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Council (the “Governing Body”) of The Town of Gilbert (the “Issuer”) has duly and officially passed a Bond Ordinance on April 17, 2012, effective May 14, 2012 (the “Bond Ordinance”), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATERWORKS SYSTEM OF THE TOWN OF GILBERT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$2,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2012 B (UNITED STATES DEPARTMENT OF AGRICULTURE) AND NOT MORE THAN \$1,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2012 C (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND

DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO THE SERIES 2012 C BONDS AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Bond Ordinance provides for the issuance of the Water Revenue Bonds, Series 2012 B (United States Department of Agriculture), of the Issuer, in an aggregate principal amount not to exceed \$2,000,000 (the "Series 2012 B Bonds") and the Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund) (the "Series 2012 C Bonds" and together with the Series 2012 B Bonds, the "Bonds"), and has authorized the execution and delivery of the loan agreement relating to the Series 2012 C Bonds between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), all in accordance with Chapter 8, Article 19 and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (the "Act"); and in the Bond Ordinance it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds should be established by a supplemental resolution, and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Series 2012 B Bonds are proposed to be purchased by the Government pursuant to the Letter of Conditions;

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE TOWN OF GILBERT, WEST VIRGINIA, AS FOLLOWS:

Section 1. It is hereby found and determined that:

(A) The Notice of Public Hearing and Abstract of Bond Ordinance (the "Notice") was duly published in the Williamson Daily News, one qualified newspaper of general circulation in the Issuer with the first publication thereof being not less than ten (10) days before the day set by the Bond Ordinance and the Notice for the public hearing, at which interested persons may appear before the Council and present protests and suggestions and with the last publication thereof being prior to said date set by the Bond Ordinance and the Notice for the public hearing, and a copy of the Affidavit of Publication reflecting such publications is incorporated herein by reference;

(B) In accordance with the Bond Ordinance and the Notice, the Recorder has maintained in his or her office a certified copy of the Bond Ordinance for review by interested persons during the regular office hours of such office;

(C) In Council chambers, Town Hall, Gilbert, West Virginia, on May 14, 2012, at 7:00 p.m., prevailing time, in accordance with the Bond Ordinance and the Notice, the Council met for the purpose of hearing protests and suggestions regarding whether the Bond Ordinance should be put into effect and heard all protests and suggestions with regard thereto;

(D) At the public hearing, no significant reasons were presented that would require modification or amendment of the Bond Ordinance and no written protest with regard thereto was filed by 30 percent or more of the freeholders of the Issuer; and

(E) The Bond Ordinance shall be put into effect as of the date hereof and the Bonds contemplated thereby shall be issued, all as provided in the Bond Ordinance and this Supplemental Resolution.

Section 2. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the following bonds of the Issuer:

A. Water Revenue Bonds, Series 2012 B (United States Department of Agriculture), of the Issuer, in the original principal amount of \$1,200,000. The Bonds shall be issued in the form of one Bond, shall be dated the date of delivery, shall mature forty years from the date thereof, shall be numbered BR-1, and the principal amount advanced under the Bonds shall bear interest at the rate of 2.75% per annum. Monthly installments of interest only on the amounts advanced under the Bonds are payable 30 days following the date of delivery of the Bonds and on the corresponding day of each month thereafter for the first 24 months after the date of delivery of the Bonds, and thereafter, monthly installments of principal of and interest on the Bonds, in the aggregate amount of \$4,248, are payable on the corresponding day of each month, except

that the final installment on the Bonds shall be paid at the end of 40 years from the date of the Bonds in the sum of the unpaid principal and interest due on the date thereof. The Bonds are subject to prepayment as set forth in the Bond Ordinance and the Bonds. All principal and interest payments on the Bonds will be paid by the Issuer directly to the order of the United States of America at its National Finance Office, 1520 Market Street, St. Louis, Missouri 63103.

B. Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund), of the Issuer, shall be in the form of a single bond, numbered CR-1, shall be issued in the principal amount of \$983,500, shall be dated such date, shall finally mature no later than June 1, 2052, and shall bear no interest. The principal of the Bonds shall be payable on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2014, in the amounts as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Series 2012 C Bonds. The Series 2012 C Bonds shall be subject to redemption upon the written consent of the Authority and the Council, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Series 2012 C Bonds.

Section 3. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Bond Ordinance.

Section 4. The Issuer hereby approves and accepts the offer of the Government to purchase the Series 2012 B Bonds. The execution and delivery of the Bonds by the Mayor and the Recorder and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 5. The Issuer hereby appoints and designates Branch Banking and Trust, Gilbert, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 6. The Municipal Bond Commission (the "Commission") is appointed as Paying Agent for the Series 2012 C Bonds.

Section 7. The proceeds of the Bonds, as advanced from time to time, shall be deposited in or credited to the Series 2012 B and C Bonds Construction Trust Fund, as received by the Issuer for payment of costs of the Project, including costs of issuance of the Bonds.

Section 8. The Loan Agreement and the execution and delivery by the Mayor thereof shall be and the same are hereby authorized, approved, and directed. The Mayor shall execute and deliver the Loan Agreement with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Loan Agreement by the Mayor shall be conclusive evidence of any approval required by this Section, and authorization of any action required by the Loan Agreement relating to the issuance and sale of the Bonds, including the payment of all necessary fees and expenses in connection therewith.

Section 9. The Issuer hereby appoints and designates United Bank, Inc., to serve as Registrar (the "Registrar") for the Bonds under the Bond Ordinance and approves and accepts the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved.

Section 10. The Mayor and Recorder are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Series 2012 B Bonds may be delivered to the Government pursuant to the Letter of Conditions and the Series 2012 C Bonds may be delivered to the Authority pursuant to the Loan Agreement on or about July 27, 2012.

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

Section 12. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer. Moneys in the Series 2012 B Bonds Reserve Account, the Series 2012 C Sinking Fund and the Series 2012 C Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 13. The Issuer shall serve the additional customers at the location(s) as set forth in Certificate of Engineer. The Issuer shall not reduce the amount of additional customers served by the Project without the prior written approval of the

Board of the Authority. Following completion of the Project the Issuer shall certify to the Authority the number of customers added to the System.

Section 14. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project.

Section 15. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 16. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 25th day of July, 2012.


Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of THE TOWN OF GILBERT on the 25th day of July, 2012.

Dated this 27th day of July, 2012.

[SEAL]


Recorder

GILBERT TOWN COUNCIL MEETING OF MARCH 12, 2012 AT 6:30 P.M.

The meeting was called to order on March 12, 2012 at 6:30 by Mayor Vivian Livingood. A roll call of council members showed the following members present: Sharon Murphy, Todd Westfall, Curtis Lester, Randy Livingood, and Recorder Michael Fox. Absent due to a doctor's appointment was Jennifer Miller. Also in attendance at the meeting was the following: Ryan White of Jackson and Kelly (Water Works Attorney), Nathan Glanden, Police Dept. Lt., Joe Blankenship, Gilbert Chief of Police, Rick Robert of EL Robinson, Glen Rutledge, Attorney for the Town of Gilbert, Jim Boggs of Region II Planning, Vivian Carter, Administrative Assistant for the Town of Gilbert, James Deel, Gilbert Water Works Supt. Michael Preston, Wastewater Supt., and Mingo Messenger reporter Audrey Lee and husband.

Prayer was led by Town Attorney Glen Rutledge.

The pledge was led by Todd Westfall.

MINUTES OF PREVIOUS MEETING

A motion was made by Sharon Murphy and seconded by Curt Lester to approve the minutes of the previous meeting. Motion carried. Michael Fox abstained due to the fact he was not present at the meeting.

FINANCIAL STATEMENTS

A motion was made to approve

by Sharon Murphy and seconded by Curt Lester. Motion carried.

RYAN WHITE OF JACKSON AND KELLY

Ryan White, of Jackson and Kelly – bond counsel for the water project, then addressed council reading the bond ordinance by title. Michael Fox made the motion to approve the ordinance with Todd Westfall seconding the motion. Motion carried.

Ryan then explained the loan agreement with the USDA and the bonds. A motion was made by Michael Fox to approve the loan agreement with Sharon Murphy seconding the motion. Motion carried.

Second reading will be at the next council meeting.

RICK ROBERTS OF EL ROBINSON

Rick Roberts, of EL Robinson, answered some questions which the council had for him concerning the USDA. Rick further asked council to approve the Mayor to sign forms for the Horsepen/Browning Fork project. A motion was made by Michael Fox and seconded by Sharon Murphy for the Mayor to sign the documents for the project. Motion carried.

Rick Roberts then discussed with council about the final purchases for the money left over from the Slabtown Water Project. The rest of the monies will be spent on the purchase of a new truck and a storage building. A motion was made by Todd Westfall and seconded by Curt Lester to approve the purchase. Motion carried.

This will take three to four months for delivery according to Mr. Roberts.

Rick stated that we need at least three quotes for a building.

JIM BOGGS

Jim Boggs of Region II Planning and Developing presented the application for the upcoming project of the Justice Sewer. First order of business, Jimmy asked council to sign a resolution for the Justice project. A motion was made by Curt Lester to approve the resolution with Todd Westfall seconding the motion. Motion carried.

Second item that Mr. Boggs requested is for the council to approve the Fair Housing Proclamation. A motion was made by Curt Lester and seconded by Michael Fox to approve the signing of the Fair Housing Proclamation. Motion carried.

Third and final item which Mr. Boggs requested is the adopting of the assessment participation breakdown. A motion of Todd Westfall and seconded by Sharon Murphy to approve the assessment. Motion carried.

Jim Boggs then explained the application for the Justice Sewer Project.

CIVIL WAR REENACTMENT

Reuben Mitchell gave an update on the upcoming event – The Civil War Reenactment. Reuben gave details on the artillery which will be used during the event. Everyone showed excitement about the upcoming event.

FIRE DEPT.

Michael Tolley, Chief for the Gilbert Vol. Fire Dept., gave an update on the remodeling of the kitchen project. He further explained the recent fire at Justice and the dangers our firefighters was in. During this fire Chief Tolley explained that he had six fire stations to respond to assists us.

Council then approved, with the motion of Curt Lester and seconding by Sharon Murphy, to allow Mike Tolley a debit card on the fire account. Motion carried.

POLICE DEPT.

Joe F. Blankenship, Chief of Police, then gave an update report on the police dept. He explained that Mike Rasmussen would need to go to the academy by April 23 and that he would like to request that the council hires S. Gibson as a full time officer. Mayor Livingood stated that this would be discussed in executive session.

Nathan Glanden asked each council member to study the manual which was presented to them. This will be a police handbook for each officer and will also require a board to make decisions about the police dept. concerning all aspects of the officer duties.

Second, Lt. Glanden explained the DUI grant which he applied for and was approved. The sum which was approved for was \$3360.00

TOWN HALL

A motion was made by Todd Westfall and seconded by Curt Lester to approve keyless door locks for the police dept and front door of town hall. Motion carried.

Mayor Livingood then requested attorney Glen Rutledge to send a letter to Tim Cox concerning his recent work done on the Town Hall building roof.

BUDGET

A motion made by Michael Fox and seconded by Curt Lester to approve the budget but to include \$5000.00 to the LHCC – (which would be other fair/festivals). Motion carried. A motion was then made by Curt Lester and seconded by Todd Westfall to approve donating \$5000.00 under this year's budget. Motion carried with Sharon Murphy abstaining. (Mrs. Murphy is on the board of directors)

LITTLE EGYPT ROAD

No update on the road at this time

BLAINE BOWMAN

Council decided we would not be having a concert here at this time. So we will not be needing his band to perform at this time.

TRAILFEST 2012

Vivian Livingood gave a brief update on the upcoming trailfest.

PROPERTY OUT BACK

Mayor Livingood informed council that Eric Hatfield and his family has moved their furniture out of the trailer out back and was asked if he could rent the trailer to another individual or did he need to make arrangements to have the trailer moved. Council stated that they would like the trailer to be removed from town property.

On a motion made by Todd Westfall and seconded by Sharon Murphy to go into executive session at 8:15.

A motion was made by Sharon Murphy and seconded by Curt Lester to come out of executive session at 9:45.

On a motion by Curt Lester the council accepted the resignation of Joe F. Blankenship as Chief of Police. Michael Fox seconded the motion. Motion carried.

A motion made by Michael Fox and seconded by Todd Westfall to approve Stuart Gibson as a full time police officer. Motion carried.

A motion was made by Michael Fox to adjourn the meeting at 9:45. Curt Lester seconding the motion. Motion carried.

GILBERT TOWN COUNCIL

MEETING OF APRIL 17, 2012

The Gilbert Town Council held its regular meeting on Tuesday, April 17, 2012 , with the following people in attendance Mayor Vivian Livingood ,Recorder Michael Fox, Council members Randy Livingood, Sharon Murphy, Todd Westfall, Curt Lester, Wastewater operator Mike Preston and wife Dorothy, EL Robinson engineer Rick Roberts, Town Attorney Glen Rutledge, Water Project attorney Ryan White of Jackson and Kelly, Patrolman Mike Rasmussen and wife Susie (also operators of the Mud Buddies Foundation), Lt. Nathan Glanden, Williamson News reporter Chad Abshire, Town Secretaries Vivian Carter and Victoria Surber.

Prayer was led by Town attorney Glen Rutledge.

The Pledge was led by Todd Westfall.

The first item of business is the financial reports which Michael Fox made the motion with Curt Lester seconding the motion. Motion carried.

The next item on the agenda is the minutes of the previous meeting. A motion was made by Michael Fox and seconded by Todd Westfall to approve the minutes. Motion carried.

HORSEPEN WATER PROJECT

Ryan White of Jackson and Kelly then addressed the council with the second reading of the Bond Ordinance for the project. Mr. White read the ordinance by title. A motion made by Michael Fox to approve the second reading of the ordinance. Seconded by Sharon Murphy. Motion carried.

Mr. White further asked council to approve a public hearing for the project on May 14, 2012 at 6:00 in the chambers of town hall before the regular town council meeting. A motion was made by Michael Fox and seconded by Todd Westfall to approve the meeting. Motion carried.

Ryan White then read the second ordinance by title. A motion was made by Michael Fox and seconded by Sharon Murphy to approve the ordinance. Motion carried.

A motion was then made by Curt Lester to approve having a public hearing at town hall at 6:00 p.m. with Todd Westfall seconding the motion. Motion carried.

EL ROBINSON – RICK ROBERTS

Rick Roberts, of EL Robinson, then addressed the council informing them that he would be asking for bids for the building for the water dept. Also, we will be having pre-bid meeting on May 10, 2012 at 10:00 am for the Horsepen, Browning Fork and Gilbert Creek project.

CIVIL WAR REENACTMENT

Mayor Livingood gave a brief update on the reenactment and how everything is coming together.

SIDEWALK BIDS

Mayor Livingood informed the council members that we are now going to bid for the sidewalk project , and that she would have more information at the next meeting.

STEVIE ELLIS DAY

Council discussed the "Stevie Ellis Day" which will be cleaning up the town in honoring a man who cleaned this town every day for many years. On the decision of the council May 5, 2012, we will meet at town hall at 10:00 to clean the town to honor the man who clean this town every day. BB&T has partnered with the town and will be providing the food and cooking after the clean-up.

COMPUTER CLASSES

Mayor Livingood asked council to allow Victoria Surber and Vivian Carter to go to Digital camera class. Mayor Livingood stated she also would be attending the class. A motion was made by Michael Fox and seconded by Sharon Murphy to pay for the class. Motion carried.

FIRE DEPT.

Mike Tolley then gave a brief update on the fire dept. He further stated that he was still looking for cabinets and appliances for the kitchen area. After a brief discussion on how well the fire department is moving forward, a motion was made by Sharon Murphy for Mike Tolley to order the cabinets and the town will pay for them. The motion was seconded by Randy Livingood. Motion carried.

Mike Tolley then asked if we could sell Baisden Volunteer Fire Dept. two hydrant wrenches. A motion was made by Todd Westfall and seconded by Michael Fox to approve the Baisden Vol. Fire Dept. but we are to keep the serial numbers on record and they must pay for them. Motion carried.

Mayor Livingood then asked if council would like to purchase the property which the fire dept now sits on. According to Mayor Livingood, Roger Powers, real estate agent for Norfolk Southern, will be retiring on July 1, 2012 and he is unsure what will happen once he leaves his position with the property. A motion was made by Michael Fox and seconded by Sharon Murphy to approve the purchase of the property along with the purchase of the property which the Head Start now resides on. Mayor Livingood stated that she would talk to Mr. Powers about the price of both properties. Motion carried.

BLAINE BOWMAN CONCERT

Council then was asked about having a concert with Blaine Bowman. Council stated that at this time they do not want to have another concert.

POLICE DEPT.

Lt. Nathan Glanden then gave the council an update on the police department. Mayor Livingood then gave a brief update on the happenings of the police department and praised the department on how they were handling everything.

Lt. Glanden asked for council to approve the purchase of tires for the police department. A motion was made by Sharon Murphy and seconded by Todd Westfall to approve the purchase of the tires.

The next item which the council discussed was the purchasing of two police cars from the business in Ohio. A motion was made by Curt Lester to have Randy Livingood and Nathan Glanden go to Ohio and purchase two police cars. This was seconded by Todd Westfall. Motion carried.

LAY THE LEVY

A motion was made by Michael Fox and seconded by Todd Westfall to approve the "Laying of the Levy" for the budget year 2012-2013. Motion carried.

RESOLUTION FOR THE MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN

Mayor Livingood then read the "Multi-Jurisdictional Hazard Mitigation Plan" which was presented by way of email from Region II Planning and Developing. A motion was made by Todd Westfall and seconded by Curt Lester to approve the resolution. Motion carried.

BILL PEAK

Bill Peak who had requested to be put on the agenda was unable to attend due to a previous doctor's appointment. Mayor Livingood informed the council as to why he had requested to speak to council. According to Mr. Peak, per Mayor Vivian Livingood, the street which is located behind his home in Ellis Bottom has been closed due to the recent work done on the property owned by Terry and Penny Sammons. Mr. Peak stated that he had informed the construction workers that this was a town street and that it should remain open because he uses this street to have access to the front his property. However, at the present time Mr. Peak is unable to obtain access to the front of his property with his vehicle. He is requesting by via of Mayor Livingood to ask council to open the existing street. After a brief discussion with council and town attorney Glen Rutledge, Mayor Livingood stated that she felt this was a misunderstanding between the land owners and that she would call Mr. Sammons and make an appointment to discuss this situation. She further stated she knew that Mr. Sammons was a person we could work with to resolve this situation.

EXECUTIVE SESSION

A motion was then made by Michael Fox and seconded by Sharon Murphy to go into executive session. Motion carried at 8:05 p.m.

A motion was made at 9:45 to come back into session by a motion made by Curt Lester and seconded by Todd Westfall. Motion carried.

POLICE DEPT.

A motion was made by Mike Fox and seconded by Randy Livingood to appoint Mike Rasmussen as the new Chief of Police. Motion carried with Todd Westfall voting no.

A motion was made by Michael Fox and seconded by Randy Livingood to appoint Nathan Glanden as the Assistant Chief. Motion carried.

A motion was made by Michael Fox and seconded by Todd Westfall to pay Mike Rasmussen \$13.00 per hour. Motion carried.

A motion was made by Curt Lester to hire the following men on a part time basis and the rate of pay will be \$8.00 per hour. They are as follows: Wesley Lester, Michael Todd Perry, Shelby Sloan and Jody Browning. This motion was seconded by Todd Westfall. Motion carried.

A motion was made by Curt Lester to have t-shirts for the new officers with Michael Fox seconding the motion. Motion carried.

A motion was made by Curt Lester and seconded by Michael Fox to close the meeting at 9:45. Motion carried.

GILBERT TOWN COUNCIL MEETING - - MAY 14, 2012

The Gilbert Town council meeting was called to order by Recorder Michael Fox with the following people in attendance: Council member Randy Livingood, Council member Jennifer Miller, Council member Todd Westfall, Sammy Gee, attorney Jackson and Kelly, Glen Rutledge, town attorney, EL. Robinson representatives Randall Lewis, Rick Roberts, and Jeff Nelson, administrative assistant Vivian Carter and Victoria Surber, Pam Surber, Doug Surber, Police Chief Mike Rasmussen, Asst. Chief Nathan Glandon, Fire Chief Mike Tolley and.

Absent due to illness was Mayor Vivian Livingood, Council member Sharon Murphy and Curt Lester.

Prayer was led by Victoria Surber.

A motion was made by Todd Westfall to approve the financial statements with Jennifer Miller seconding the motion. Motion carried.

A motion was made by Jennifer Miller to approve the minutes of the previous meeting. This was seconded by Todd Westfall. Motion carried.

PENNY SAMMONS

Penny Sammons was not in attendance. So this request, which was made by Ms. Sammons, was tabled.

SLABTOWN WATER PROJECT

Rick Roberts, then approached the council about requesting the final drawdown from RUS from the Slabtown Water Project. The drawdown is for the amount of \$4289.65 for a building. A legal advertisement was put in the newspaper which only one company mailed in a bid. The company T-N-T Carports submitted a bid of \$11,342.00 for the building. Mr. Roberts asked council to accept the bid and pay the remaining monies for the building. A motion was made by Todd Westfall to have Recorder Michael Fox to sign the drawdown for the remaining monies for the building with Jennifer Miller seconding the motion. Motion carried with Randy Livingood abstaining.

HORSEPEN WATER PROJECT

Sammy Gee, Horsepen water project attorney with Jackson and Kelly, then addressed council about the third and final hearing for the ordinance. She first asked for any comments from the audience (time was 6:28) after a brief wait no one commented on the Horsepen Water project (time was 6:29). She then asked if there had been any written comments about the upcoming project. She was informed that the town hall office had received none. Ms. Gee then read the ordinance by title and again informed council

that this was the third and final hearing for the ordinance. A motion was then made by Todd Westfall and seconded by Jennifer Miller to approve the 2012 a ordinance.

Next, Ms. Gee brought the Ordinance 2012b and 2012c to the council for approval. Ms. Gee asked for public comment (time was 6:32) when no one spoke comment period ended (time was 6:33) Ms. Gee then read the ordinance by title and she informed council that this was the third and final hearing for the ordinance. A motion was made by Todd Westfall to approve the ordinance with Jennifer Miller seconding. Motion carried.

Rick Roberts, of EL Robinson, then addressed the council about the bid opening. According to Mr. Roberts the bids came in 5% over what was projected. A bid tabulation was given to each member of council. Rick asked if council would approve a letter to be sent to RUS and the in fractural Council requesting additional funds for the project. A motion was made by Todd Westfall and seconded by Jennifer Miller to have a letter sent to the designated agencies. Motion carried.

SIDEWALK BIDS

Jeff Nelson, EL Robinson, then presented the council with the bids (which was opened May 14, 2012 at 2:00). Mr. Nelson explained that we had four companies to bid on the project and are as follows: Asphalt Contract and Site Work - \$197,671., McClanahan Construction - \$234,400, Welding Inc. - \$322,000, and Garcie R. Marker and Sons - \$212,419.00. The winning project was Asphalt Contract. Mr. Nelson asked for council to consider taking out Alt #2 and Alt #3. However, if monies are available, this part of the contract will be fulfilled. A motion was made by Todd Westfall and seconded by Jennifer Miller to approve the contract being awarded to Asphalt Contract and Site Work. Motion carried.

FIRE DEPT.

Mike Tolley, Fire Chief for the GVFD, was the next person to address the council. He gave council an update on the kitchen cabinets and the appliances. Chief Tolley explained that the cabinets and the appliances had been ordered from Lowes. He further explained that he was in need of air packs and that some of the ones they had at the station were over 20 years old. He asked council to approve the purchase of two per year and to apply for grants to purchase the air packs. Chief Tolley informed council that there were two companies that they could purchase them from and he is planning on asking both companies to come to the fire house to demonstrate the air packs.

PROPERTY

At this time, Roger Powers of N&S is trying to start the paperwork on the property which the firehouse is now sitting on. Council is hoping to move forward with the purchase of the property as quickly as possible.

POLICE DEPT.

Chief M. Rasmussen was then asked to address council. Chief asked if council would consider hiring Wessley Lester and Shelby Sloan full time. Recorder Michael Fox stated that they would discuss this in

executive session and have their decision. Chief gave a brief discussion on what he and the officer's activities have been in the recent month. They next discussed police cars which they have found a company in Florida that sells used cars. According to Chief Rasmussen we can purchase two police cars and a 06 explorer for approximately 31,000.00. These vehicles can be painted to our specifications and they also can have police gear installed inside of the vehicles. When discussing the cars which we now own, Council member Randy Livingood stated that he would like to see us keep the Impala because he felt that it was a better car. Last month, at the town council meeting, Chief Rasmussen and Asst. Chief Nathan Glanden had approached the council about purchasing cars from a dealership in Ohio and upon their discussion with them and the one in Florida, they both felt that the one in Florida would give us a better deal on the vehicles. A motion was made by Randy Livingood and seconded by Todd Westfall to approve the purchase of the vehicles from the dealership in Florida. Motion carried.

Council decided to wait until a later time for a decision on the police cars which we now have.

PAM SURBER

Pam Surber addressed the council about having a street light installed at the body shop/car wash. She explained that this is a very dark area and she would like for council to have a light installed there. A motion was made by Todd Westfall and seconded by Randy Livingood to have the street light placed there. Motion carried.

CREDIT CARD MACHINE

BB&T representative has contacted the Mayor about having a credit card machine placed in town hall. After a brief discussion, a motion was made by Randy Livingood and seconded by Jennifer Miller to not have a machine put in town hall. Motion carried.

CIVIL WAR REENACTMENT

Reuben Mitchell addressed the council about the Civil War Reenactment we had in Gilbert. He expressed his appreciation for the wonderful time they had in Gilbert and that all of the actors/actress loved it. He further stated that everyone was pleased with the number of people who came to the reenactment and those who supported the event.

Many people in the audience then told stories on what happened that weekend and how much they enjoyed the reenactment and was looking forward to next year's event.

EXECUTIVE SESSION

A motion was made by Todd Westfall and seconded by Jennifer Miller to go into executive session. Motion carried. Time was 7:28 p.m.

A motion was made by Todd Westfall and seconded by Jennifer Miller to come out of executive session at 8:16. Motion carried.

A motion was made by Randy Livingood and seconded by Jennifer Miller to hire Wesley Lester and Shelby Sloan as full time police officers with a 90 day probation period. Also to hire Damien Salmons as a part time officer, the rate of pay will be determined on the his credentials on whether his certification is still valid. Chief Rasmussen has been asked by council to contact Chuck Sadler on this matter. Motion carried. Mr. Salmons will also be on a 90 day probation period.

Having no further business, a motion was made by Todd Westfall and seconded by Jennifer Miller to adjourn the meeting at 8:18. Motion carried.

I, Angie Alexander, Regional Business Manager of Williamson Daily, a newspaper published in Mingo County, West Virginia, do hereby certify that the annexed notice was published in said paper for 2 successive time(s) on the following date(s):

May 1st, & 8th, 2012

Given under my hand this 9th, day of May, 2012

Angie Alexander
Regional Business Manager

State of West Virginia
County of Logan, to-wit:

Subscribed and sworn before me this 9th day of May, 2012

Dottie J. Hatfield

NOTARY PUBLIC

Cost of Publication: \$ 175.32

COPY OF PUBLICATION

SEE ATTACHED

THE TOWN OF GILBERT

NOTICE OF PUBLIC HEARING AND ADOPTION OF BOND ORDINANCE

Notice is hereby given that the Council of the Town of Gilbert has adopted an ordinance and other things...

Section 1. The Council of the Town of Gilbert has adopted an ordinance...

Section 2. The Council of the Town of Gilbert has adopted an ordinance...

Section 3. The Council of the Town of Gilbert has adopted an ordinance...

Section 4. The Council of the Town of Gilbert has adopted an ordinance...

Section 5. The Council of the Town of Gilbert has adopted an ordinance...

Section 6. The Council of the Town of Gilbert has adopted an ordinance...

Section 7. The Council of the Town of Gilbert has adopted an ordinance...

Section 8. The Council of the Town of Gilbert has adopted an ordinance...

Section 9. The Council of the Town of Gilbert has adopted an ordinance...

4. Provide that the Board shall not be in violation of the provisions of this Ordinance...

5. Provide for the collection of the taxes provided for in this Ordinance...

6. Extension of the term of the Board and the terms of the Board...

The Council of the Town of Gilbert has adopted an ordinance...

Section 10. The Council of the Town of Gilbert has adopted an ordinance...

persons during the public hearing of the Town Hall

Michael Fox



SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE TOWN OF GILBERT
WATER REVENUE BOND, SERIES 2012 B
(UNITED STATES DEPARTMENT OF AGRICULTURE)

No. BR-1

\$1,200,000

FOR VALUE RECEIVED, on this 27th day of July, 2012, THE TOWN OF GILBERT, a municipal corporation and political subdivision of the State of West Virginia in Mingo County of said State (the "Issuer"), promises to pay to the order of the UNITED STATES OF AMERICA (the "Government"), at its National Finance Office, 1520 Market Street, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, and in the manner provided below, the principal sum of ONE MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000), or such lesser amount as is set forth on the Record of Advances attached hereto and incorporated herein by reference, plus interest on the unpaid principal balance at the rate of 2.75% per annum.

The principal of and interest on this Bond shall be paid in the following installments on the following dates: Monthly installments of interest only on the amounts advanced hereunder, commencing 30 days following the date of delivery of this Bond and continuing on the corresponding day of each month thereafter for the first 24 months after the date hereof, and thereafter, on the corresponding day of each month in installments of principal and interest in the aggregate amount of \$4,248, except that the final installment shall be paid at the end of 40 years from the date of this Bond in the sum of the unpaid principal and interest due on the date thereof and except that prepayments may be made as provided below. This consideration 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 the Issuer as requested by the Issuer 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 the Issuer. Extra payments, as defined in the regulations of the Government, shall, after payment of interest, be applied to the installment last to come due under this Bond and shall not affect the obligation of the Issuer to pay the remaining installments as scheduled herein.

Any amount advanced or expended by the Government for the collection hereof, or to preserve or to 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 the Issuer to the Government without demand. The Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Government. The Issuer has granted to the Government a lien on the proceeds of this Bond until such proceeds are expended for authorized purposes.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing waterworks system of the Issuer (the "Project"); (ii) to capitalize interest on the Bonds; and (iii) to pay certain costs of issuance of this Bond and related costs. The existing waterworks system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 of the Code of West Virginia, 1931, as amended (the "Act"), a Bond Ordinance duly enacted by the Issuer on April 17, 2012, effective May 14, 2012, and a Supplemental Resolution duly adopted by the Issuer on July 25, 2012 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS WITH THE ISSUER'S (1) WATER REVENUE BONDS, SERIES 2009 A (UNITED STATES DEPARTMENT OF AGRICULTURE) DATED AUGUST 3, 2009, AND ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$472,000 (THE "PRIOR BONDS"); (2) WATER REVENUE BONDS, SERIES 2012 A (UNITED STATES DEPARTMENT OF AGRICULTURE) ISSUED SIMULTANEOUSLY HEREWITH, AND ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$662,000 (THE "SERIES 2012 A BONDS") AND WATER REVENUE BONDS, SERIES 2012 C (WEST VIRGINIA INFRASTRUCTURE FUND) ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL PRINCIPAL AMOUNT OF \$983,500 (THE "SERIES 2012 C BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of the Gross Revenues in favor of the Registered Owners of the Prior Bonds, the Series 2012 A Bonds and the Series 2012 C Bonds, and from moneys in the Series 2012 B Bonds Reserve Account created under the Bond Legislation for this Bond and unexpended proceeds of this Bond. Such Gross Revenues shall be sufficient to pay all operating expenses of the System and the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided from the Gross Revenues, the moneys in the Series 2012 B Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 110% of the maximum amount of principal of and interest on this Bond payable in any year and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Prior Bonds, the Series 2012 A Bonds and the Series 2012 C Bonds. The Issuer has entered into certain further covenants with the Registered Owners of this Bond, for the terms of which, reference is made to the Bond Legislation. Remedies provided the Registered Owners of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth in the Bond Legislation, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Recorder of the Issuer, as registrar (the "Registrar"), which shall be kept for that purpose

at the office of the Registrar, by the Registered Owner or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its attorney duly authorized in writing.

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

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

The Issuer 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 such purposes and periods of time.

If at any time it so appears to the Government that the Issuer may be able to obtain a loan from a responsible cooperative or private creditor at reasonable rates and terms for loans for such purposes and period of time, the Issuer will at the Government's request apply for and accept such loan in sufficient amount to repay the Government.

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, this Bond will be in default should any proceeds of this Bond 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.

This Bond is given as evidence of a loan to the Issuer made or insured by the Government pursuant to the Rural Development Act of 1972. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

SPECIMEN

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

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

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

[SEAL]

Marian Greenwood
Mayor

ATTEST:

Sharon [Signature]
Recorder

EXHIBIT A

RECORD OF ADVANCES

SPECIMEN

<u>Amount</u>	<u>Date</u>	<u>Amount</u>	<u>Date</u>
(1) \$516,053.39	July 27, 2012	(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 \$ _____

BR-1

(Form of)
ASSIGNMENT

SPECIMEN

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

Dated: _____

In the presence of:

NUMBER
CR-1



SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. CR-1

\$983,500

KNOW ALL MEN BY THESE PRESENTS: That on this 27th day of July, 2012, THE TOWN OF GILBERT, a municipal corporation and political subdivision of the State of West Virginia in Mingo County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of NINE HUNDRED EIGHTY-THREE THOUSAND FIVE HUNDRED DOLLARS (\$983,500), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2014, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. This Bond will bear no interest.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond are payable by check or draft of the Paying Agent mailed to the Registered Owner (as defined in the hereinafter described Bond Legislation) hereof at the address as it appears on the books of the Registrar (as defined in the hereinafter described Bond Legislation) on the 15th day of the month next

preceding a payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Council, dated July 27, 2012.

This Bond is issued (i) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the existing waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The existing public waterworks system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on April 17, 2012, effective May 14, 2012, and a Supplemental Resolution duly adopted by the Issuer on July 25, 2012 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (1) WATER REVENUE BONDS, SERIES 2009 A (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED AUGUST 3, 2009, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF \$472,000 (THE "PRIOR BONDS"); (2) WATER REVENUE BONDS, SERIES 2012 A (UNITED STATES DEPARTMENT OF AGRICULTURE), ISSUED SIMULTANEOUSLY HEREWITH, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF \$662,000; (THE "SERIES 2012 A BONDS") AND WATER REVENUE BONDS, SERIES 2012 B (UNITED STATES DEPARTMENT OF AGRICULTURE), ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,200,000 (THE "SERIES 2012 B BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the System, on a parity with the pledge of Gross Revenues in favor of the Registered Owners of the Prior Bonds, the Series 2012 A Bonds and the Series 2012 B Bonds, and from moneys in the reserve

account created under the Bond Legislation for this Bond (the "Series 2012 C Bonds Reserve Account") and unexpended proceeds of this Bond. Such Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 2012 C Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest on this Bond and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Prior Bonds, the Series 2012 A Bonds and the Series 2012 B Bonds; provided however, that so long as there exists in the Series 2012 C Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the Prior Bonds, the Series 2012 A Bonds and the Series 2012 B Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owners of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the Registered Owners of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to the costs of the Project and costs of issuance

SPECIMEN

hereof as described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the Registered Owner of this Bond.

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, 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 the conversion of wetlands to produce an agricultural commodity.

CR-1 SPECIMEN

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

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

CR-1

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

[SEAL]

Marianne Murgood
Mayor

ATTEST:

Shan Blythe
Recorder

CR-1

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2012 C Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: July 27, 2012.

UNITED BANK, INC., as Registrar

By *[Signature]*
Its Authorized Officer

CR-1

EXHIBIT A

RECORD OF ADVANCES

SPECIMEN

<u>Amount</u>	<u>Date</u>	<u>Amount</u>	<u>Date</u>
(1) \$41,288.10	July 27, 2012	(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 \$ _____

CR-1

EXHIBIT B

DEBT SERVICE SCHEDULE

SPECIMEN

Bond Debt Service
 Town of Gilbert
 IF
 \$983,500
 0% Interest Rate
 40 Years from Closing Date
 Dated
 Date 7/27/2012
 Delivery
 Date 7/27/2012

Period Ending	Principal	Interest	Debt Service
3/1/2014	6,387		6,387
6/1/2014	6,387		6,387
9/1/2014	6,387		6,387
12/1/2014	6,387		6,387
3/1/2015	6,387		6,387
6/1/2015	6,387		6,387
9/1/2015	6,387		6,387
12/1/2015	6,387		6,387
3/1/2016	6,387		6,387
6/1/2016	6,387		6,387
9/1/2016	6,387		6,387
12/1/2016	6,387		6,387
3/1/2017	6,387		6,387
6/1/2017	6,387		6,387
9/1/2017	6,387		6,387
12/1/2017	6,387		6,387
3/1/2018	6,387		6,387
6/1/2018	6,387		6,387
9/1/2018	6,387		6,387
12/1/2018	6,387		6,387
3/1/2019	6,387		6,387
6/1/2019	6,387		6,387
9/1/2019	6,387		6,387
12/1/2019	6,387		6,387
3/1/2020	6,387		6,387
6/1/2020	6,387		6,387
9/1/2020	6,387		6,387
12/1/2020	6,387		6,387
3/1/2021	6,387		6,387
6/1/2021	6,387		6,387
9/1/2021	6,387		6,387
12/1/2021	6,387		6,387
3/1/2022	6,387		6,387
6/1/2022	6,387		6,387
9/1/2022	6,387		6,387
12/1/2022	6,387		6,387
3/1/2023	6,387		6,387
6/1/2023	6,387		6,387
9/1/2023	6,387		6,387
12/1/2023	6,387		6,387
3/1/2024	6,387		6,387
6/1/2024	6,387		6,387
9/1/2024	6,387		6,387

CR-1

Bond Debt Service
Town of Gilbert
IF
\$983,500
0% Interest Rate
40 Years from Closing Date

SPECIMEN

Period Ending	Principal	Interest	Debt Service
12/1/2024	6,387		6,387
3/1/2025	6,387		6,387
6/1/2025	6,387		6,387
9/1/2025	6,387		6,387
12/1/2025	6,387		6,387
3/1/2026	6,387		6,387
6/1/2026	6,387		6,387
9/1/2026	6,387		6,387
12/1/2026	6,387		6,387
3/1/2027	6,387		6,387
6/1/2027	6,387		6,387
9/1/2027	6,387		6,387
12/1/2027	6,386		6,386
3/1/2028	6,386		6,386
6/1/2028	6,386		6,386
9/1/2028	6,386		6,386
12/1/2028	6,386		6,386
3/1/2029	6,386		6,386
6/1/2029	6,386		6,386
9/1/2029	6,386		6,386
12/1/2029	6,386		6,386
3/1/2030	6,386		6,386
6/1/2030	6,386		6,386
9/1/2030	6,386		6,386
12/1/2030	6,386		6,386
3/1/2031	6,386		6,386
6/1/2031	6,386		6,386
9/1/2031	6,386		6,386
12/1/2031	6,386		6,386
3/1/2032	6,386		6,386
6/1/2032	6,386		6,386
9/1/2032	6,386		6,386
12/1/2032	6,386		6,386
3/1/2033	6,386		6,386
6/1/2033	6,386		6,386
9/1/2033	6,386		6,386
12/1/2033	6,386		6,386
3/1/2034	6,386		6,386
6/1/2034	6,386		6,386
9/1/2034	6,386		6,386
12/1/2034	6,386		6,386
3/1/2035	6,386		6,386
6/1/2035	6,386		6,386
9/1/2035	6,386		6,386
12/1/2035	6,386		6,386
3/1/2036	6,386		6,386
6/1/2036	6,386		6,386

CR-1

Bond Debt Service
Town of Gilbert
IF
\$983,500
0% Interest Rate
40 Years from Closing Date

SPECIMEN

Period Ending	Principal	Interest	Debt Service
9/1/2036	6,386		6,386
12/1/2036	6,386		6,386
3/1/2037	6,386		6,386
6/1/2037	6,386		6,386
9/1/2037	6,386		6,386
12/1/2037	6,386		6,386
3/1/2038	6,386		6,386
6/1/2038	6,386		6,386
9/1/2038	6,386		6,386
12/1/2038	6,386		6,386
3/1/2039	6,386		6,386
6/1/2039	6,386		6,386
9/1/2039	6,386		6,386
12/1/2039	6,386		6,386
3/1/2040	6,386		6,386
6/1/2040	6,386		6,386
9/1/2040	6,386		6,386
12/1/2040	6,386		6,386
3/1/2041	6,386		6,386
6/1/2041	6,386		6,386
9/1/2041	6,386		6,386
12/1/2041	6,386		6,386
3/1/2042	6,386		6,386
6/1/2042	6,386		6,386
9/1/2042	6,386		6,386
12/1/2042	6,386		6,386
3/1/2043	6,386		6,386
6/1/2043	6,386		6,386
9/1/2043	6,386		6,386
12/1/2043	6,386		6,386
3/1/2044	6,386		6,386
6/1/2044	6,386		6,386
9/1/2044	6,386		6,386
12/1/2044	6,386		6,386
3/1/2045	6,386		6,386
6/1/2045	6,386		6,386
9/1/2045	6,386		6,386
12/1/2045	6,386		6,386
3/1/2046	6,386		6,386
6/1/2046	6,386		6,386
9/1/2046	6,386		6,386
12/1/2046	6,386		6,386
3/1/2047	6,386		6,386
6/1/2047	6,386		6,386
9/1/2047	6,386		6,386
12/1/2047	6,386		6,386
3/1/2048	6,386		6,386

CR-1

Bond Debt Service
Town of Gilbert
IF
\$983,500
0% Interest Rate
40 Years from Closing Date

SPECIMEN

Period Ending	Principal	Interest	Debt Service
6/1/2048	6,386		6,386
9/1/2048	6,386		6,386
12/1/2048	6,386		6,386
3/1/2049	6,386		6,386
6/1/2049	6,386		6,386
9/1/2049	6,386		6,386
12/1/2049	6,386		6,386
3/1/2050	6,386		6,386
6/1/2050	6,386		6,386
9/1/2050	6,386		6,386
12/1/2050	6,386		6,386
3/1/2051	6,386		6,386
6/1/2051	6,386		6,386
9/1/2051	6,386		6,386
12/1/2051	6,386		6,386
3/1/2052	6,386		6,386
6/1/2052	6,387		6,387
	983,500		983,500

CR-1

(Form of)

SPECIMEN

ASSIGNMENT

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

Dated: _____, _____.

In the presence of:

BOND REGISTER

2.14(A)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 B
(UNITED STATES DEPARTMENT OF AGRICULTURE)

<u>Bond Number</u>	<u>Principal Amount</u>	<u>Date of Bond</u>
No. BR-1	\$1,200,000	July 27, 2012

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

United States of America
National Finance Office
1520 Market Street
St. Louis, Missouri 63103

Signature of Registrar:

The Town of Gilbert


Recorder

BOND REGISTER

2.14(B)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

<u>Bond Number</u>	<u>Principal Amount</u>	<u>Date of Bond</u>
No. CR-1	\$983,500	July 27, 2012

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25311-1571

Signature of Registrar:

United Bank, Inc.



Authorized Officer

**THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)**

2.7

BOND ORDINANCE

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	ORDINANCE

THE TOWN OF GILBERT

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATERWORKS SYSTEM OF THE TOWN OF GILBERT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$500,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 A (UNITED STATES DEPARTMENT OF AGRICULTURE); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE TOWN OF GILBERT:

ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

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

Section 1.02. Definitions. The following terms shall have the following meanings in this Bond Legislation unless the context expressly requires otherwise.

“Act” means Chapter 8, Article 19 of the Code of West Virginia, 1931, as amended and in effect on the date of enactment of this Bond Legislation.

“Bond Legislation,” “Ordinance” or “Bond Ordinance” means this Bond Ordinance in its present form and all ordinances, orders and resolutions supplemental hereto or amendatory hereof.

“Bonds” means, collectively, the Series 2009 A Bonds, the Prior Bonds and any Parity Bonds hereafter issued within the terms, restrictions and conditions contained in this Bond Legislation.

“Closing Date” means the date upon which there is an exchange of the Series 2009 A Bonds for all or a portion of the proceeds of the Series 2009 A Bonds.

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

“Consulting Engineers” means E. L. Robinson Engineering Co., Charleston, West Virginia, or any engineer or firm of engineers, licensed by the State, which shall at any time hereafter be procured by the Issuer as Consulting Engineers for the System in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended.

“Cost of Project” or “Costs” means those costs described in Section 1.04 E. hereof to be a part of the cost of the acquisition and construction of the Project.

“Depository Bank” means the bank or banks designated as such in the Supplemental Resolution and any successors and assigns, which shall be a member of FDIC.

“Event of Default” means any event or occurrence specified in Section 9.01 hereof.

“FDIC” means the Federal Deposit Insurance Corporation by Section 5.01 hereof.

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

“Governing Body” means the Council of the Issuer or any other governing body of the Issuer that succeeds to the functions of the Council as presently constituted.

“Government” means the United States of America, United States Department of Agriculture, Rural Utilities Service, which is expected to be the original purchaser of the Series 2009 A Bonds.

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

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

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

“Issuer” means The Town of Gilbert, a municipal corporation and political subdivision of the State in Mingo County, West Virginia, and, when appropriate, also means the Governing Body thereof and any department, board, organization or institution thereof in control of the management and operation of the System, as hereinafter defined.

“Letter of Conditions” means, collectively, the Letter of Conditions from the Government dated April 11, 2007, and all amendments thereto.

“Mayor” means the Mayor of the Issuer.

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

“Operating Expenses” means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses (other than those capitalized as part of the Costs); fees and expenses of fiscal agents, depository banks, registrars, paying agents and trustees (other than those capitalized as part of the Costs); payments to pension or retirement funds; taxes and such

other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided that, "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds; charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets; and amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Outstanding" when used with reference to Bonds, as of any particular date, describes all such Bonds theretofore and thereupon being authenticated and delivered except (i) any such Bond canceled by the Registrar, at or prior to said date; (ii) any such Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity of any such Bond, shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any such Bond deemed to have been paid as provided in Article X hereof; and (iv) for purposes of consents, notices or other action by a specified percentage of Registered Owners, any such Bond registered to the Issuer.

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

"Project" means the acquisition and construction of certain additions, betterments and improvements to the System, a description of which is attached hereto as Exhibit A and incorporated herein by reference.

"PSC" means the Public Service Commission of West Virginia or any successor to the functions thereof.

"PSC Order" means, collectively, the final order or orders of the PSC, granting the Issuer a certificate of convenience and necessity to construct the Project and approving the financing for the Project and the rates of the System.

"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; the Tennessee Valley Authority; or the Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligation 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 Federal Deposit Insurance Corporation ("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 owner of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia Investment Management Board pursuant to Chapter 12, Article 6 of the Code of West Virginia, 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 Investor Service, Inc., or Standard and Poor’s Corporation.

“Recorder” means the Recorder of the Issuer.

“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.

“Registrar” or “Bond Registrar” means the Issuer, which shall so serve by the Recorder.

“Renewal and Replacement Fund” means the Renewal and Replacement Fund created by Section 5.01 hereof.

“Reserve Accounts” means, collectively, the respective Reserve Accounts created for the Series 2009 A Bonds.

“Reserve Requirements” means, collectively, the respective reserve requirements of the Series 2009 A Bonds.

“Revenue Fund” means the Revenue Fund created by Section 5.01 hereof.

“Series 2009 A Bonds” means the Water Revenue Bonds, Series 2009 A (United States Department of Agriculture), of the Issuer, authorized to be issued by this Bond Legislation.

“Series 2009 A Bonds Construction Trust Fund” means the Series 2009 A Bonds Construction Trust Fund created by Section 5.01 hereof.

“Series 2009 A Bonds Reserve Account” means the Series 2009 A Bonds Reserve Account created by Section 5.02 hereof.

“Series 2009 A Bonds Reserve Requirement” means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2009 A Bonds in the then current or any succeeding Fiscal Year.

“Series 2009 A Bonds Sinking Fund” means the Series 2009 A Bonds Sinking Fund created by Section 5.03 A (1) hereof.

“Sinking Funds” means the Sinking Fund created for the Series 2009 A Bonds.

“State” means the State of West Virginia.

“Supplemental Resolution” means any resolution, ordinance or order of the Issuer supplementing or amending this Bond Legislation and when preceded by the article “the,” refers specifically to the Supplemental Resolution authorizing the sale of the Series 2009 A Bonds; provided that, any matter intended by this Bond Legislation to be included in the Supplemental Resolution with respect to the Series 2009 A Bonds and not so included may be included in another Supplemental Resolution.

“Surplus Revenues” means the Net Revenues not required by this Bond Legislation to be set aside and held for the payment of or security for the Series 2009 A Bonds or any other obligations of the Issuer, including, without limitation, the Sinking Funds, the Reserve Accounts and the Renewal and Replacement Fund.

“System” means the complete existing waterworks system of the Issuer, and shall include the Project and any extensions, additions, betterments and improvements thereto hereafter acquired or constructed for the 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.

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

Additional terms and phrases are defined in this Bond Legislation as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with generally accepted accounting principles.

The terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof” and any similar terms refer to this Bond Legislation; and the term “hereafter” means after the date of the enactment of this Bond Legislation.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Bond Legislation so numbered.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2009 A Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Findings. It is hereby found, determined and declared as follows:

A. The Issuer is a municipal corporation and political subdivision of the State in Mingo County of said State. The Issuer presently owns and operates a municipal waterworks system. However, the Issuer deems it necessary and desirable for the health, welfare and safety of the inhabitants of the Issuer that there be acquired and constructed the Project in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have been approved by the Government and are on file with the Issuer.

B. 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 Government.

C. The estimated maximum cost of acquisition and construction of the Project is \$2,889,478, of which \$472,000 will be obtained from proceeds of the Series 2009 A Bonds, \$917,478 will be obtained from a grant from the Government and \$1,500,000 will be obtained from a Small Cities Block Grant.

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 to make payments into all funds and accounts and other payments provided for in this Bond Legislation.

E. It is deemed necessary for the Issuer to issue the Series 2009 A Bonds in the aggregate principal amount of not more than \$500,000, to permanently finance a portion of the costs of acquisition and construction of the Project. Such costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest on the Series 2009 A Bonds prior to

and during acquisition or construction of the Project and for a period not to exceed six months after completion of acquisition or construction of the Project; amounts which may be deposited in the Series 2009 A Bonds Reserve Account; engineering, fiscal and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expenses, commitment fees, discount, initial fees for the service of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2009 A Bonds, and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided that, reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2009 A Bonds or the repayment of the indebtedness incurred by the Issuer for such purposes shall be deemed part of the Cost of the Project.

There are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

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

G. It is in the best interests of the Issuer that the Series 2009 A Bonds be sold to the Government pursuant to the terms and provisions of the Letter of Conditions.

H. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement, relating to authorization of the acquisition and construction of the Project, the operation of the System and the issuance of the Series 2009 A Bonds, or will have so complied prior to the issuance of any thereof, including, among other things, the approval of the Project and the financing thereof by the Infrastructure Council and the obtaining of a certificate of convenience and necessity from the PSC, the time for rehearing and appeal of which will have expired or will have been waived prior to the issuance of the Series 2009 A Bonds.

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 \$3,000,000, in accordance with the plans and specifications prepared by the Consulting Engineers, approved by the Government and the Issuer and heretofore filed in the office of the Governing Body. The proceeds of the Series 2009 A Bonds shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, which are in an amount and otherwise compatible with the plan of financing submitted to the Government.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 2009 A Bonds, funding the Series 2009 A Bonds Reserve Account, paying the costs of the Project not otherwise provided for and paying certain costs of issuance and related costs, or any of such purposes, as shall be specified in the Supplemental Resolution, there shall be and hereby are authorized to be issued negotiable Series 2009 A Bonds of the Issuer. The Series 2009 A Bonds shall be issued as a single bond, designated as “Water Revenue Bonds, Series 2009 A (United States Department of Agriculture),” in the aggregate principal amount of not more than \$500,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution.

Section 3.02. Terms of Bonds. The Series 2009 A Bonds shall be issued in such principal amounts; shall bear interest at such rate or rates, not exceeding the then legal maximum rate, payable monthly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in the Supplemental Resolution or as specifically provided in the Series 2009 A Bonds.

The Series 2009 A Bonds shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, shall be payable as provided in the Series 2009 A Bond form hereinafter set forth, and shall have such other terms not inconsistent with this Bond Legislation, as shall be set forth in the Supplemental Resolution and such Series 2009 A Bond form.

Section 3.03. Execution of Bonds. The Series 2009 A Bonds shall be executed in the name of the Issuer by the Mayor and attested by the Recorder, and the seal of the Issuer shall be affixed thereto or imprinted thereon. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the Issuer by such person as, at the actual time of the execution of such Bonds, shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Negotiability, Transfer and Registration. The Series 2009 A Bonds shall be and have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State , but the Bonds, and the right to principal of and stated interest on the Bonds, may only be transferred by transfer of the registration thereof upon the books of the Bond Registrar, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the 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 2009 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.

No registration of transfer of the Series 2009 A Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on the Bonds.

The Issuer shall be the Bond Registrar and will keep, or cause to be kept by its agent, at its office, books for the registration and transfer of the Series 2009 A Bonds and, upon presentation for such purpose, the Bond Registrar shall, under such reasonable regulations as it may prescribe, register the Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Bonds as hereinbefore provided.

The Bond Registrar shall accept the Series 2009 A Bonds for registration or transfer only if ownership thereof is to be registered in the name of the Government, 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 2009 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 2009 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, 1520 Market Street, 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. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2009 A Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Registered Owner's furnishing proof of its ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur. All Bonds so surrendered shall be canceled and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.06. Bonds not to be Indebtedness of the Issuer. The Series 2009 A Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Gross Revenues derived from the operation of the System as herein provided. No Registered Owner of the Series 2009 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2009 A Bonds or any interest thereon.

Section 3.07. Bonds Secured by Pledge of Gross Revenues. The payment of the debt service of the Series 2009 A Bonds shall be secured by a first lien on the Gross Revenues. Such Gross Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 2009 A Bonds and to make the payments into all funds and accounts established by this Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 3.08. Delivery of Bonds. The Issuer shall execute and deliver the Series 2009 A Bonds to the Government as soon as the Government will accept such delivery.

Section 3.09. Form of Bonds. The text of the Series 2009 A Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Bond Legislation or any subsequent resolution or ordinance adopted or enacted prior to the issuance thereof:

(FORM OF BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE TOWN OF GILBERT
WATER REVENUE BOND, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

No. AR-1

\$ _____

FOR VALUE RECEIVED, on this ___ day of _____, 2009, THE TOWN OF GILBERT, a municipal corporation and political subdivision of the State of West Virginia in Mingo County of said State (the "Issuer"), promises to pay to the order of the UNITED STATES OF AMERICA (the "Government"), at its National Finance Office, 1520 Market Street, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, and in the manner provided below, the principal sum of _____ DOLLARS (\$ _____), or such lesser amount as is set forth on the Record of Advances attached hereto and incorporated herein by reference, plus interest on the unpaid principal balance at the rate of 4.125% per annum.

The principal of and interest on this Bond shall be paid in the following installments on the following dates: Monthly installments of interest only on the amounts advanced hereunder, commencing 30 days following the date of delivery of this Bond and continuing on the corresponding day of each month thereafter for the first 24 months after the date hereof, and thereafter, on the corresponding day of each month in installments of principal and interest in the aggregate amount of \$2,054, except that the final installment shall be paid at the end of 40 years from the date of this Bond in the sum of the unpaid principal and interest due on the date thereof and except that prepayments may be made as provided below. This consideration 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 the Issuer as requested by the Issuer 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 the Issuer. Extra payments, as defined in the regulations of the Government, shall, after payment of interest, be applied to the installment last to come due under this Bond and shall not affect the obligation of the Issuer to pay the remaining installments as scheduled herein.

Any amount advanced or expended by the Government for the collection hereof, or to preserve or to 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 the Issuer to the Government without demand. The Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Government. The Issuer has granted to the Government a lien on the proceeds of this Bond until such proceeds are expended for authorized purposes.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The existing waterworks system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 of the Code of West Virginia, 1931, as amended (the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, _____, effective _____, _____, and a Supplemental Resolution duly adopted by the Issuer on _____, _____ (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System and from moneys in the Series 2009 A Bonds Reserve Account created under the Bond Legislation for this Bond and unexpended proceeds of this Bond. Such Gross

Revenues shall be sufficient to pay all operating expenses of the System and the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided from the Gross Revenues, the moneys in the Series 2009 A Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 110% of the maximum amount of principal of and interest on this Bond payable in any year and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Prior Bonds. The Issuer has entered into certain further covenants with the Registered Owners of this Bond, for the terms of which, reference is made to the Bond Legislation. Remedies provided the Registered Owners of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth in the Bond Legislation, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Recorder of the Issuer, as registrar (the "Registrar"), which shall be kept for that purpose at the office of the Registrar, by the Registered Owner or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its attorney duly authorized in writing.

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

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

The Issuer hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into

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consideration prevailing private and cooperative rates and terms in or near its community for loans for such purposes and periods of time.

If at any time it so appears to the Government that the Issuer may be able to obtain a loan from a responsible cooperative or private creditor at reasonable rates and terms for loans for such purposes and period of time, the Issuer will at the Government's request apply for and accept such loan in sufficient amount to repay the Government.

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, this Bond will be in default should any proceeds of this Bond 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.

This Bond is given as evidence of a loan to the Issuer made or insured by the Government pursuant to the Rural Development Act of 1972. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

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

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

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

[SEAL]

Mayor

ATTEST:

Recorder

EXHIBIT A

RECORD OF ADVANCES

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

Total \$ _____

(Form of)

ASSIGNMENT

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

Dated: _____

In the presence of:

Section 3.10. Sale of Bonds. The Series 2009 A Bonds shall be sold to the Government pursuant to the terms and conditions of the Letter of Conditions. The Letter of Conditions is hereby approved and specifically incorporated into this Bond Legislation.

ARTICLE IV

[Reserved]

ARTICLE V

SYSTEM REVENUES AND APPLICATION THEREOF

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

The following special funds or accounts are hereby created with and shall be held by the Depository Bank:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund; and
- (3) Series 2009 A Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission.

The following special account is hereby created with and shall be held by the Commission:

- (1) Series 2009 A Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

(1) The Issuer shall first, each month, from the moneys in the Revenue Fund commencing on the day which is 30 days following the date of delivery of the Series 2009 A Bonds and continuing on the corresponding day of each month, remit to the National Finance Office for deposit in the Series 2009 A Bonds Sinking Fund hereby established at the National Finance Office, the amount of interest set forth in the Series 2009 A Bonds.

(2) The Issuer shall next, each month, from the moneys in the Revenue Fund commencing on the day which is 24 months following the date of delivery of the Series 2009 A Bonds and continuing on the corresponding day of each month, remit to the National Finance Office for deposit in the Series 2009 A Bonds Sinking Fund, the amount of principal set forth in the Series 2009 A Bonds.

The deposits into the Series 2009 A Bonds Sinking Fund provided in this paragraph and in Section 5.03 A(1) above, constitute actual payments of principal of and interest on the Series 2009 A Bonds to the Government.

(3) The Issuer shall next, each month, from the moneys in the Revenue Fund commencing on the day which is 24 months following the date of delivery of the Series 2009 A Bonds and continuing on the corresponding day of each month, remit to the Commission for deposit in the Series 2009 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 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 2009 A Bonds Reserve Requirement.

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

(5) The Issuer shall next, each month, from the moneys in the Revenue Fund, make the payments into the Renewal and Replacement Fund in an amount equal to 2 ½% of the Gross Revenues each month, exclusive of any payments for account of the Reserve Account . All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, improvements or extensions to the System; provided that, any deficiencies in the Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 2009 A Bonds Sinking Fund shall be used only for the purpose of paying principal of and interest on the Series 2009 A Bonds as the same shall become due. Moneys in the Series 2009 A Bonds Reserve Account shall be used only for the purpose of paying principal of and interest on the Series 2009 A Bonds as the same shall come due, when moneys in the Series 2009 A Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2009 A Bonds Reserve Account (if fully funded in an amount equal to the Series 2009 A Bonds Reserve Requirement) shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the

Series 2009 A Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment due on the Series 2009 A Bonds and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2009 A Bonds Reserve Account which result in a reduction in the balance of such account to an amount below the Series 2009 A Bonds Reserve Requirement shall be subsequently restored from the first Gross Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the Series 2009 A Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay any interest on such additional Parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve accounts in an amount equal to the requirement therefor.

Interest, principal or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Prior Bonds and the Series 2009 A Bonds in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2009 A Bonds Reserve Account created hereunder, and all amounts required for such account shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Government, the Issuer shall make the necessary arrangements whereby required payments into the Series 2009 A Bonds Reserve Account shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Moneys in the Series 2009 A Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Article VIII hereof.

The Series 2009 A Bonds Sinking Fund and the Series 2009 A Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2009 A Bonds Outstanding under the conditions and restrictions set forth herein.

B. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinabove provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following

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month or such longer period as shall be required by the Act, such excess shall be considered as surplus revenues (the "Surplus Revenue"). Surplus Revenues may be used for any lawful purpose of the System.

C. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar or the Depository Bank, on such dates as the respective parties shall require, such additional sums as shall be necessary to pay their respective charges then due. If required by the Government, the Issuer shall make the necessary arrangements whereby payments to the Commission under this paragraph shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

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

E. If, on any monthly payment date, the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments, in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided that, all deposits, including on account of deficiencies, shall be made in the order of priority set forth in Section 5.03 A hereof, and no payment of lower priority shall be made if there exists a deficiency in a fund or account of higher priority.

F. All remittances made by the Issuer to the Government, the Commission and the Depository Bank shall clearly identify the fund or account into which each amount is to be deposited.

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

ARTICLE VI

APPLICATION OF BOND PROCEEDS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. All moneys derived from the sale of the Series 2009 A Bonds shall be deposited by the Issuer, as received from time to time, in the Series 2009 A Bonds Construction Trust Fund and shall be used solely to pay costs of the Project and until so expended, are hereby pledged as additional security for the Series 2009 A Bonds.

Section 6.02. Disbursements from Bond Construction Trust Fund. The Series 2009 A Bonds Construction Trust Fund shall be kept separate and apart from all other funds of the Issuer, and shall be drawn out, used and applied by the Issuer solely for the payment of the costs of the Project and purposes incidental thereto, including payment of any borrowings by the Issuer made for the purpose of temporarily financing a portion of the costs of the Project and payment of interest on the Series 2009 A Bonds prior to and during construction and for a period up to six months after completion of construction and for no other purposes whatsoever. If approved by the Government, the moneys in said fund shall be secured at all times by Government Obligations having a fair market value at least equal to the balance in said fund in excess of the amount insured by the FDIC. If for any reason the amounts on deposit in the Series 2009 A Bonds Construction Trust Fund are not necessary for, or are not applied to, such purposes, then such unapplied amounts shall be deposited by the Issuer as determined by the rules and regulations of the Government. All such proceeds shall constitute a trust fund for such purposes, and there is hereby created a lien upon such moneys, until so applied, in favor of the Registered Owners of the Series 2009 A Bonds.

Expenditures or disbursements from the Series 2009 A Bonds Construction Trust Fund shall be made only after such expenditures or disbursements have been approved in writing by the Governing Body, the Consulting Engineers and the Government.

The Issuer shall coordinate with the Government on the monthly payment of the costs of the Project and shall submit invoices and requisitions as directed by the Government.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions set forth in this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Registered Owner of the Series 2009 A Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Registered Owner of the Series 2009 A Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as the Series 2009 A Bonds or the interest thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2009 A Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Registered Owner of any Series 2009 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2009 A Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Gross Revenues. The payment of the debt service of the Series 2009 A Bonds shall be secured by a first lien on the Gross Revenues derived from the operation of the System. The Gross Revenues in an amount sufficient to pay the principal of and interest on the Series 2009 A Bonds and to make the payments into all funds and accounts and all other payments provided for in this Bond Legislation, are hereby irrevocably pledged to such payments as they become due and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of this Bond Legislation. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the Recommended Decision of the Administrative Law Judge entered on August 28, 2008, as made final on September 17, 2008, in case number 08-0786-W-MA.

So long as the Series 2009 A Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to

take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation. In the event the schedule of rates and charges initially established for the System in connection with the Series 2009 A Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation.

Section 7.05. Sale of the System. So long as the Series 2009 A Bonds are Outstanding, the System may be sold, transferred, mortgaged, leased or otherwise disposed of, or encumbered (other than any statutory mortgage lien created under the Act on account of obligations issued within the restrictions hereof) only with the written consent of the Government and such consent will specify the disposition of any such sale or transfer.

Section 7.06. Issuance of Other Obligations Payable out of Revenues and General Covenant Against Encumbrances. Except additional Parity Bonds provided for in Section 7.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2009 A Bonds. All obligations hereafter issued by the Issuer payable from the revenues of the System, except such additional Parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Series 2009 A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or, except with respect to such additional Parity Bonds, being on a parity with the lien of the Series 2009 A Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 2009 A Bonds and the interest thereon in this Bond Legislation or upon the System or any part thereof.

Section 7.07. Parity Bonds. No Parity Bonds payable out of the revenues of the System shall be issued after the issuance of any Bonds pursuant to this Bond Legislation, except under the conditions and in the manner herein provided and with the prior written consent of the Government.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2009 A Bonds.

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

So long as the Series 2009 A Bonds are Outstanding, no Parity Bonds shall be issued at any time, unless there has been procured and filed with the Recorder a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues 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 then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Bond Legislation 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 Registered Owners of the Series 2009 A 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 Registered Owners of the Series 2009 A Bonds and the Registered Owners of any Parity Bonds subsequently issued, from time to time, within the limitations of and in compliance with this Section. All the Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their respective liens on the revenues of the System and their respective sources 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 additional 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 lien of the Series 2009 A Bonds on such revenues. The

Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this Section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2009 A Bonds.

No Parity Bonds shall be issued at any time, however, unless all the payments into the respective funds and accounts provided for in this Bond Legislation on account of 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 shall then be in full compliance with all the covenants, agreements and terms of this Bond Legislation and the Prior Ordinances.

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

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

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Registered Owner of the Series 2009 A Bonds issued pursuant to the Bond Legislation shall have the right, at all reasonable times, to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles in accordance with the rules and regulations of the PSC and the Act. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books, and along with other bookkeeping records as prescribed by the Issuer.

The Issuer shall file with the Government, and shall mail in each year to any Registered Owner of the Series 2009 A Bonds requesting the same, an annual report containing the following:

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

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

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

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Certified Public Accountants (and to the extent legally required in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto) and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Registered Owner of the Series 2009 A Bonds, and shall submit said report to the Government. Such audit report shall include a statement that the Issuer is in compliance with the terms and provisions of the Act and this Bond Legislation and that the Gross Revenues are adequate to meet the Operating Expenses and debt service and reserve requirements.

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

The Issuer shall permit the Government and its agents and representatives to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Government and its agents and representatives with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Government with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to issuance of the Series 2009 A Bonds, equitable rates or charges for the use of and service rendered by the System shall be established in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from 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 Fiscal Year equal to at least 110% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Series 2009 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2009 A Bonds. In any event, the Issuer shall not reduce the rates or charges for services of the System described in Section 7.04.

Section 7.10. Operating Budget. The Issuer shall, annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Government within 30 days of the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made, except upon the further certificate of a professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Government and any Registered Owner of the Series 2009 A Bonds within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Government

and any Registered Owner of the Series 2009 A Bonds or anyone acting for and on behalf of such Registered Owner.

Section 7.11. Engineering Services and Operating Personnel. The Issuer shall obtain a certificate of the Consulting Engineers, certifying that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Government, the Project will be adequate for the purposes for which it was designed, the funding plan as submitted to the Government is sufficient to pay the costs of the acquisition and construction of the Project, and all permits required by federal and State laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the Government, covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies.

The Issuer shall employ qualified operating personnel, properly certified by the State to operate the System so long as the Series 2009 A Bonds are Outstanding.

Section 7.12. No Competing Franchise. To the extent allowable by law, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

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

Whenever any fees, rates, rentals or other charges for the services or facilities of the System shall remain unpaid for a period of 20 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and any rules and regulations promulgated by the PSC applicable thereto, fees, rates, rentals and other charges, if not paid when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that it will, to the full extent permitted by law and any rules and regulations promulgated by the PSC applicable thereto, discontinue and shut off the

services and facilities of the System to all delinquent users of the services and facilities of the System, and will not restore such services of the System until all delinquent charges for the services and facilities of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid, and shall take all further actions to enforce collections to the maximum extent permitted by law.

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

Section 7.15. Insurance and Construction Bonds. The Issuer hereby covenants and agrees that so long as the Series 2009 A Bonds remain Outstanding, the Issuer shall, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(A) **Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance,** to be procured prior to 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 insurable portions of the System, including machinery and equipment housed therein, 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 personal liability to protect the Issuer from claims for bodily injury and/or death and not less than \$500,000 from claims for damage to property of others which may arise from the operation of the System.

(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 for the benefit of the Issuer, with limits of not less than \$1,000,000 for personal liability to protect the Issuer from claims for bodily injury and/or death and not less than \$500,000 from claims for damage to property of others which may arise from such operation of vehicles.

(D) Workers' Compensation Coverage for All Employees of the System 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 contractor dealing directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with Chapter 38, Article 2, Section 39 of the Code of West Virginia, 1931, as amended.

(E) Fidelity Bonds will be provided as to every member, officer and employee of the Issuer having custody of the Revenue Fund or of any other funds or property of the System in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount required by the Government and to be increased thereafter as necessary to cover the maximum amount of funds under control of that position at any one time.

(F) Flood Insurance will be obtained by the Issuer if available; 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.

(G) Construction Bonds. The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction. The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project. The Issuer shall verify such insurance prior to commencement of construction.

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

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

The Issuer has obtained all permits required by State and federal laws necessary for the acquisition and construction of the Project, all requisite orders and approvals from the PSC and the West Virginia Infrastructure and Jobs Development Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for the issuance of the Series 2009 A Bonds required by State law, with all requisite appeal periods having expired without successful appeal.

Section 7.18. Compliance With Letter of Conditions and Law. The Issuer shall comply with, perform and satisfy all terms and conditions of the Letter of Conditions, this Bond Legislation and the Act. The Issuer shall comply with all applicable laws, rules and regulations issued by the Government or other State, federal or local bodies in regard to the acquisition and construction of the Project and operation, maintenance and use of the System.

Section 7.19. Statutory Mortgage Lien. For the further protection of the Registered Owner of the Series 2009 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 delivery of the Series 2009 A Bonds.

Section 7.20. Contracts. The Issuer shall, simultaneously with the delivery of the Series 2009 A Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

ARTICLE VIII

INVESTMENT OF FUNDS

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

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

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments and shall distribute to the Issuer, at least once each year (or more often if requested by the Issuer), a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2009 A Bonds are outstanding.

Notwithstanding the foregoing, any investments made pursuant to this Bond Legislation shall comply with the guidelines of the Government.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an “Event of Default” with respect to the Series 2009 A Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest, if any, on the Series 2009 A Bonds; or

(B) If default occurs in the Issuer’s observance of any of the covenants, agreements or conditions on its part relating to the Series 2009 A Bonds set forth in this Bond Legislation, any supplemental resolution, or in the Series 2009 A Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Government or a Registered Owner of the Series 2009 A Bonds; or

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

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of the Series 2009 A Bonds may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding, enforce all rights of such Registered Owners, including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Series 2009 A Bonds, (iv) by action at law or bill in equity, require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Series 2009 A Bonds, and (v) by action or bill in equity, enjoin any acts in violation of the Bond Legislation with respect to the Series 2009 A Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Registered Owners of the Series 2009 A Bonds shall be on a parity with the Registered Owners of the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of the Series 2009 A Bonds may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including the completion of the Project, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default, any Registered Owner shall, in addition to all other remedies or rights, have the right, by appropriate legal proceedings, to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the Bonds and any interest thereon, the deposits into the funds and accounts hereby established as herein provided and the payment of Operating Expenses of the System and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of the Bond Legislation and the Act.

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

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

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

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign,

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mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System, for the sole purpose of the protection of both the Issuer and Registered Owners, and the curing and making good of any default under the provisions of the Bond Legislation, and the title to and ownership of the System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Bonds. If the Issuer shall pay to the Registered Owners of the Series 2009 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in the Bond Legislation, then the pledge of Gross Revenues and any other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners shall thereupon cease, terminate and become void and be discharged and satisfied.

Except through direct payment of the entire outstanding principal of and all accrued interest on the Series 2009 A Bonds to the Registered Owners thereof, the Issuer may not defease the Series 2009 A Bonds or provide for payment thereof by escrow or other similar arrangements.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Modification or Amendment. Prior to the issuance of the Series 2009 A Bonds, this Bond Legislation may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2009 A Bonds, no material modification or amendment of this Bond Legislation or of any ordinance or resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Registered Owners of the Series 2009 A Bonds shall be made without the consent in writing of the Registered Owners of the Series 2009 A Bonds then Outstanding; provided that, no change shall be made in the maturity of the Series 2009 A Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the revenues of the System without the consent of the Registered Owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of the Series 2009 A Bonds required for consent to the above permitted amendments or modifications.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of this Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 2009 A Bonds and no change, variation or alteration of any kind of the provisions of this Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Bond Legislation should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Bond Legislation, the Supplemental Resolution and the Series 2009 A Bonds.

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

Section 11.05. Conflicting Provisions Repealed. All ordinances, resolutions and orders, or parts thereof, in conflict with this Bond Legislation are, to the extent of such conflict, repealed.

Section 11.06. Covenant of Due Procedure. 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 final enactment and passage of this Bond Legislation do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the Recorder and members of the Governing Body were at all times when any actions in connection with this Bond Legislation occurred, and are, duly in office and duly qualified for such office.

Section 11.07. Statutory Notice of Public Hearing. Upon adoption hereof, the abstract of this Bond Legislation in the form set forth in Exhibit B attached hereto and incorporated herein by reference, shall be published once a week for 2 successive weeks, with at least 6 full days intervening between each publication, in Williamson Daily News, one qualified newspaper of general circulation in the Issuer, together with a notice stating that this Bond Legislation has been adopted and that the Issuer contemplates the issuance of the Series 2009 A Bonds, and that any person interested may appear before the Issuer upon a certain date, not less than 10 days subsequent to the date of the first publication of such abstract of this Bond Legislation and notice, and present protests, and that a certified copy of this Bond Legislation is on file with the Issuer for review by interested persons during office hours of the Issuer. The Governing Body hereby determines that the Abstract contains sufficient information as to give notice of the contents hereof. At such hearing, all objections and suggestions shall be heard and the Issuer shall take such action as it shall deem proper in the premises.

Section 11.08. Effective Date. This Bond Legislation shall take effect immediately following the public hearing and final reading hereof.

First Reading: July 6, 2009

Second Reading: July 13, 2009

Public Hearing
and Third Reading: July 30, 2009


Mayor

CERTIFICATION

Certified a true copy of a Bond Ordinance duly passed by the Council of
THE TOWN OF GILBERT on July 13, 2009, and effective on July 30, 2009.

Dated this 3rd day of August, 2009.



[SEAL]

Mindy Fry

Recorder

EXHIBIT A

PROJECT DESCRIPTION

The Project consists of construction of additions and improvements necessary to upgrade and expand service to approximately 172 customers in the Slabtown, Tamcliff and Paynter Bottom areas along Routes 80 and 80/1 north of the Town of Gilbert, together with all related appurtenances.

EXHIBIT B

THE TOWN OF GILBERT

NOTICE OF PUBLIC HEARING AND ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on _____, 2009, the Council of The Town of Gilbert (the "Issuer") adopted an ordinance which, among other things:

1. Authorized the acquisition and construction of certain additions, betterments and improvements (the "Project") to the Issuer's existing waterworks system (the "System") and the financing of the cost thereof, not otherwise provided, through the issuance of not more than \$_____ in aggregate principal amount of Water Revenue Bonds, Series 2009 A (United States Department of Agriculture) (the "Bonds").

2. Directed that the Bonds be issued in such principal amounts, bear interest at such rate or rates, not exceeding the then legal maximum rate, payable monthly on such dates, mature on such dates and in such amounts and redeemable, in whole or in part, as prescribed in a supplemental resolution.

3. Directed the continuation of a revenue fund and the disposition of the revenues of the System; provided for the payment of operating expenses of the System and debt service on the Bonds; directed the creation of a sinking fund and a reserve account for the Bonds; directed the creation of a bond construction trust fund and the disbursement of Bond proceeds.

4. Provided that the Bonds shall not be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Gross Revenues of the System; pledged the Gross Revenues of the System to payment of the Bonds and established the rights of the registered owners of the Bonds to the Gross Revenues of the System; provided certain conditions for the issuance of additional bonds.

5. Provided for insurance coverage on the Project and the System, enforcement of collection of rates and other charges for the System, and other covenants of the Issuer in favor of the registered owners of the Bonds.

6. Established the events of default and the remedies of the registered owners of the Bonds; provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance.

The Issuer contemplates the issuance of the Bonds described in and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Council of The Town of Gilbert at a regular meeting on _____, 2009, at ___p.m., in the Council Chambers, Town Hall, Gilbert, West Virginia, and present protests and be heard as to whether the above described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council is on file with the Recorder for review by interested persons during the office hours of the Town Hall.

Recorder

**THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2009 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)**

2.8

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE TOWN OF GILBERT WATER REVENUE BONDS, SERIES 2009 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DESIGNATING A DEPOSITORY BANK AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Council (the "Governing Body") of The Town of Gilbert (the "Issuer") has duly and officially passed a Bond Ordinance on July 13, 2009, effective July 30, 2009 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATERWORKS SYSTEM OF THE TOWN OF GILBERT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$500,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 A (UNITED STATES DEPARTMENT OF AGRICULTURE); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Bond Ordinance provides for the issuance of the Water Revenue Bonds, Series 2009 A (United States Department of Agriculture), of the Issuer, in an aggregate principal amount not to exceed \$500,000 (the "Bonds"), all in accordance with Chapter 8, Article 19 of the Code of West Virginia, 1931, as amended (the "Act"); and in the Bond Ordinance it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds should be established by a supplemental resolution, and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Bonds are proposed to be purchased by the Government pursuant to the Letter of Conditions; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE TOWN OF GILBERT, WEST VIRGINIA, AS FOLLOWS:

Section 1. It is hereby found and determined that:

(A) The Notice of Public Hearing and Abstract of Bond Ordinance (the "Notice") was duly published in the Williamson Daily News, one qualified newspaper of general circulation in the Issuer with the first publication thereof being not less than ten (10) days before the day set by the Bond Ordinance and the Notice for the public hearing, at which interested persons may appear before the Council and present protests and suggestions and with the last publication thereof being prior to said date set by the Bond Ordinance and the Notice for the public hearing, and a copy of the Affidavit of Publication reflecting such publications is incorporated herein by reference;

(B) In accordance with the Bond Ordinance and the Notice, the Recorder has maintained in his or her office a certified copy of the Bond Ordinance for review by interested persons during the regular office hours of such office;

(C) In Council chambers, Town Hall, Gilbert, West Virginia, on July 30, 2009, at 10:00 a.m., prevailing time, in accordance with the Bond Ordinance and the Notice, the Council met for the purpose of hearing protests and suggestions regarding whether the Bond Ordinance should be put into effect and heard all protests and suggestions with regard thereto;

(D) At the public hearing, no significant reasons were presented that would require modification or amendment of the Bond Ordinance and no written protest with regard thereto was filed by 30 percent or more of the freeholders of the Issuer; and

(E) The Bond Ordinance shall be put into effect as of the date hereof and the Bonds contemplated thereby shall be issued, all as provided in the Bond Ordinance and this Supplemental Resolution.

Section 2. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Water Revenue Bonds, Series 2009 A (United States Department of Agriculture), of the Issuer, in the original principal amount of \$472,000. The Bonds shall be issued in the form of one Bond, shall be dated the date of delivery, shall mature forty years from the date thereof, shall be numbered AR-1, and the principal amount advanced under the Bonds shall bear interest at the rate of 4.125% per annum. Monthly installments of interest only on the amounts advanced under the Bonds are payable 30 days following the date of delivery of the Bonds and on the corresponding day of each month thereafter for the first 24 months after the date of delivery of the Bonds, and thereafter, monthly installments of principal of and interest on the Bonds, in the aggregate amount of \$2,054, are payable on the corresponding day of each month, except that the final installment on the Bonds shall be paid at the end of 40 years from the date of the Bonds in the sum of the unpaid principal and interest due on the date thereof. The Bonds are subject to prepayment as set forth in the Bond Ordinance and the Bonds. All principal and interest payments on the Bonds will be paid by the Issuer directly to the order of the United States of America at its National Finance Office, 1520 Market Street, St. Louis, Missouri 63103.

Section 3. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Bond Ordinance.

Section 4. The Issuer hereby approves and accepts the offer of the Government to purchase the Bonds. The execution and delivery of the Bonds by the Mayor and the Recorder and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 5. The Issuer hereby appoints and designates Branch Banking and Trust, Gilbert, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 6. The proceeds of the Bonds, as advanced from time to time, shall be deposited in or credited to the Series 2009 A Bonds Construction Trust Fund, as

received by the Issuer for payment of costs of the Project, including costs of issuance of the Bonds.

Section 7. The Mayor and Recorder are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered to the Government pursuant to the Letter of Conditions on or about August 3, 2009.

Section 8. The acquisition and construction of the Project and the financing thereof with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 9. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer. Moneys in the Series 2009 A Bonds Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 10. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project.

Section 11. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 12. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 30th day of July, 2009.


Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of THE TOWN OF GILBERT on the 30th day of July, 2009.

Dated this 3rd day of August, 2009.

[SEAL]



Michelle [Signature]

Recorder



United States Department of Agriculture
Rural Development
West Virginia State Office

THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 B
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

CONSENT TO ISSUANCE OF PARITY BONDS

The undersigned duly authorized representative of the United States of America, acting through the United States Department of Agriculture, Rural Development, the registered owner of the Prior Bonds, hereinafter defined and described, hereby (i) consents to the issuance of the Water Revenue Bonds, Series 2012 A (United States Department of Agriculture), in the original aggregate principal amount not to exceed \$662,000, the Water Revenue Bonds, Series 2012 B (United States Department of Agriculture), in the original aggregate principal amount not to exceed \$1,200,000 and the Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund), in the original aggregate principal amount not to exceed \$983,500 (the "Series 2012 Bonds"), by the Town of Gilbert (the "Issuer"), under the terms of the Bond Ordinance authorizing the Series 2012 Bonds (the "Bond Ordinance"), on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Water Revenue Bonds, Series 2009 A (United States Department of Agriculture) dated August 3, 2009, and issued in the original aggregate principal amount of \$472,000 (the "Prior Bonds"); (ii) waives any requirements imposed by the Prior Bonds or the ordinance authorizing the Prior Bonds (the "Prior Ordinance"), regarding the issuance of parity bonds which are not met by the Series 2012 Bonds or the Bond Ordinance; and (iii) consents to any amendments made to the Prior Ordinance by the Bond Ordinance.

WITNESS my signature on this 27th day of July, 2012.

UNITED STATES OF AMERICA,
UNITED STATES DEPARTMENT OF
AGRICULTURE, RURAL DEVELOPMENT

Acting State Director

1550 Earl Core Road • Suite 101 • Morgantown, WV 26505
Phone: 304.284.4860 • 1.800.295.8228 • Fax: 304.284.4893 • TTY/TDD: 304.284.4836 • Web: <http://www.rurdev.usda.gov/wv>

Committed to the future of rural communities.

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

THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 B
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

3.1

GENERAL CERTIFICATE ON:

1. TERMS AND AWARD OF BONDS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES AND DELIVERY
6. RATES
7. INCUMBENCY AND OFFICIAL NAME
8. MEETINGS
9. INSURANCE
10. SPECIMEN BONDS
11. LOAN AGREEMENT
12. BOND PROCEEDS; GRANTS
13. PUBLICATION AND PUBLIC HEARING ON ORDINANCES
14. LAND AND RIGHTS-OF-WAY
15. PUBLIC SERVICE COMMISSION ORDER
16. CONFLICTS OF INTEREST
17. USERS
18. PROCUREMENT OF ENGINEERING SERVICES
19. VERIFICATION OF SCHEDULE
20. WETLANDS COVENANT
21. COUNTERPARTS

On this 27th day of July, 2012, we, the undersigned MAYOR and the undersigned RECORDER of The Town of Gilbert in Mingo County, West Virginia (the "Issuer"), and the undersigned ATTORNEY for the Issuer, hereby certify in connection with The Town of Gilbert's Water Revenue Bonds, Series 2012 A (United States Department of Agriculture) (the "Series 2012 A Bonds"), Water Revenue Bonds, Series 2012 B (United States Department of Agriculture) (the "Series 2012 B Bonds") and Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund) (the "Series 2012 C Bonds" and collectively with the Series 2012 A Bonds and Series 2012 B Bonds, the "Bonds" or the "Series 2012 Bonds")), dated the date hereof, as follows:

1. **TERMS AND AWARD OF BONDS:** The entire issue of the Series 2012 A Bonds and the Series 2012 B Bonds has been duly awarded to the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), pursuant to a Letter of Conditions dated April 9, 2009, and a Letter of Conditions dated July 14, 2008, and all amendments thereto (collectively, the "Letter of Conditions"), and the Series 2012 C Bonds are being purchased by the West Virginia Water Development Authority (the "Authority") pursuant to a loan agreement entered into between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council, dated July 27, 2012 (the "Loan Agreement"). The Bonds are authorized to be issued pursuant to the Series 2012 A Bond Ordinance duly passed by the Issuer on April 17, 2012, effective May 14, 2012, as supplemented by a Supplemental Resolution duly adopted by the Issuer on July 25, 2012, and the Series 2012 B and C Bond Ordinance duly passed by the Issuer on April 17, 2012, effective May 14, 2012, as supplemented by a Supplemental Resolution duly adopted by the Issuer on July 25, 2012 (collectively, the "Ordinances"). All capitalized words and terms used in this Certificate and not otherwise defined herein shall have the same meanings as set forth in the Ordinances.

2. **NO LITIGATION:** Other than two matters where the Town of Gilbert has filed for condemnation and received a right of entry but the defendants in these matters have answered and the merits will be addressed by the Circuit Court of Mingo County (Town of Gilbert v. Gavin Smith, Civil Action No. 12-C-32, and Town of Gilbert v. Clifford Ellis, Civil Action No. 12-C-192), no controversy or litigation of any nature is now pending or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the authorization, issuance, sale and delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection or use of the Gross Revenues, or the pledge and security of the Gross Revenues for the Bonds; nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the Issuer or the title of the members or officers of the Issuer or the Council thereof to their respective offices; nor questioning any proceedings of the Issuer taken with respect to the authorization, issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection or use of the Gross Revenues, or the pledge and security of the Gross Revenues for the Bonds.

3. **GOVERNMENTAL APPROVALS AND BIDDING:** All applicable and necessary approvals, permits, exemptions, consents, authorizations, registrations, licenses, orders and certificates required by law for the acquisition and construction of the Project, the operation of the System, the imposition of rates and charges and the issuance of the Bonds have been duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the Code of

West Virginia, 1931, as amended, which bids remain in full force and effect. The undersigned Mayor hereby certifies that the Project has been properly approved as required by law and that the Project is an appropriate use of taxpayer dollars.

The Issuer has received the Drug Free Workplace affidavits from the successful bidders required by Chapter 21, Article 1D of the West Virginia Code of 1931, as amended.

4. **NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS:** There has been no adverse change in the financial condition of the Issuer since the approval and acceptance of the Letter of Conditions by the Issuer or the execution and delivery of the Loan Agreement. The Issuer has met all conditions set forth in the Letter of Conditions in the Loan Agreement and will provide the financial, institutional, legal and managerial capabilities necessary to complete and operate the Project.

There are outstanding bonds or obligations of the Issuer which will rank on a parity with the Bonds as to liens, pledges and sources of and security for payment being the Water Revenue Bonds, Series 2009 A (United States Department of Agriculture) dated August 3, 2009, and issued in the original principal amount of \$472,000 (the "Prior Bonds").

The Issuer has obtained (i) the certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; and (ii) the written consent of the Registered Owners of the Prior Bonds to the issuance of the Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by the revenues or the assets of the System. The Issuer is in compliance with all of the covenants of the Prior Bonds and the Prior Ordinance.

5. **SIGNATURES AND DELIVERY:** The undersigned Mayor and Recorder are the duly elected or appointed, qualified and acting officers of the Issuer as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bonds for the Issuer. The seal impressed upon the Bonds and this Certificate is the duly authorized, proper and only seal of the Issuer. On the date hereof, the undersigned Mayor did officially sign all of the Bonds, consisting upon original issuance of a single Bond, dated the date hereof, by his or her manual signature; the undersigned Recorder did officially cause the seal of the Issuer to be affixed upon the Bonds and to be attested by his or her manual signature; and the Mayor did deliver the Bonds to a representative of the Government as the original purchaser of the Bonds.

6. **RATES:** The PSC has duly approved the rates for the Issuer in a Recommended Decision of the Administrative Law Judge dated August 28, 2008, as

made final by the PSC on September 17, 2008, in case number 08-0786-W-MA, setting forth the rates and charges for the services of the System. The Issuer has duly enacted a water rate ordinance on September 19, 2011, setting forth the rates and charges for the services of the System. The Issuer has complied with all requirements of the Public Service Commission of West Virginia (the "PSC") to make the rates valid and effective. The time for appeal of such rate ordinance has expired and there has been no appeal thereto. Such rates are in full force and effect.

7. **INCUMBENCY AND OFFICIAL NAME:** The proper corporate title of the Issuer is "The Town of Gilbert." The Issuer is a municipal corporation and political subdivision of the State of West Virginia in Mingo County of said State. The governing body of the Issuer is its Council, consisting of five Council members, the Mayor and the Recorder, all duly elected or appointed, qualified and acting, whose names and dates of commencement and termination of their current terms of office are listed below:

<u>Office</u>	<u>Name</u>	<u>Date Of Commencement Of Office</u>	<u>Date Of Termination Of Office</u>
Mayor	Vivian Livingood	July 1, 2009	June 30, 2013
Recorder	Michael Fox	July 1, 2009	June 30, 2013
Council Member	Sharon Murphy	July 1, 2009	June 30, 2013
Council Member	Brian Todd Westfall	July 1, 2009	June 30, 2013
Council Member	Randy Livingood	July 1, 2009	June 30, 2013
Council Member	Jennifer Miller	September 19, 2011	June 30, 2013
Council Member	Curtis Lester	January 4, 2011	June 30, 2013

The duly appointed and acting Attorney for the Issuer is Glen R. Rutledge, Esquire, Williamson, West Virginia.

8. **MEETINGS:** All actions, ordinances, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds, the acquisition, construction and financing of the Project and the operation of the System were authorized or adopted at meetings of the Council duly and regularly or specifically called and held pursuant to all applicable statutes, including Chapter 6, Article 9A of the Code of West Virginia, 1931, as amended, and the rules of procedure of the Council, and a quorum of duly elected or appointed, qualified and acting members of the Council was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

9. **INSURANCE:** The Issuer will maintain or, as appropriate, will require all contractors to maintain workers' compensation, public liability and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Ordinances and the Letter of Conditions. All insurance for the System required by the Ordinances and the Letter of Conditions are in full force and effect.

10. **SPECIMEN BONDS:** Attached hereto as Exhibit A are specimens of the Bonds which, except as to execution, are identical in all respects with the Bonds this day delivered to the Government and the Authority and being substantially in the form prescribed in the Ordinances.

The Issuer will serve the additional customers at the location(s) as set forth in the Certificate of the Engineer. The Issuer will not reduce the amount of additional customers served by the Project without the prior written approval of the Board of the Authority. Following completion of the Project, the Issuer will certify to the Authority the number of customers added to the System.

11. **LOAN AGREEMENT:** As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not contain any untrue statements of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the Loan Agreement, which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading; and (iv) the Issuer is in compliance with the Loan Agreement.

12. **BOND PROCEEDS; GRANTS:** On the date hereof, the Issuer received: the sum of \$148,394.44 from the Government, being a portion of the principal amount of the Series 2012 A Bonds, the sum of \$516,053.39 from the Government being a portion of the principal amount of the Series 2012 B Bonds and the sum of \$41,288.10 from the Authority being a portion of the principal amount of the Series 2012 C Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer from time to time as acquisition and construction of the Project progresses. As of the date hereof, the grants from the Government in the amounts of \$824,000 and \$826,000, the grant from the West Virginia Infrastructure Jobs and Development Council in the amount of \$1,333,500 and the Small Cities Block Grant in the amount of \$1,500,000 is committed for the Project and in full force and effect.

13. PUBLICATION AND PUBLIC HEARING ON ORDINANCES:

Upon adoption of the Ordinances, abstracts thereof, determined by the Council to contain sufficient information as to give notice of the contents thereof, was published once each week for 2 successive weeks, with not less than 6 full days between each publication, the first such publication occurring not less than 10 days before the date stated below for the public hearing, in the Williamson Daily News, one qualified newspaper of general circulation in the Issuer, together with a notice to all persons concerned, stating that the Ordinances had been adopted and that the Issuer contemplated the issuance of the Bonds described in the Ordinances, stating that any person interested may appear before the Council at the public hearing held at a regular meeting of Council on May 14, 2012, at 7:00 p.m., prevailing time, in the Council chambers of the Town Hall in Gilbert, West Virginia, and present protests, and stating that certified copies of the Ordinances were on file at the office of the Recorder of the Issuer for review by interested parties during the office hours of the Issuer. At such hearing all objections and suggestions were heard by the Council and the Ordinances became finally adopted, enacted and effective as of the date of such public hearing and remains in full force and effect.

14. LAND AND RIGHTS-OF-WAY: All land, rights-of-way and easements necessary for the acquisition and construction of the Project and the operation and maintenance of the System have been acquired or can and will be acquired by purchase, or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

15. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the Recommended Decision of the Administrative Law Judge entered on January 3, 2012, as made final by the PSC on January 23, 2012, in Case No. 11-1353-W-CN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the PSC orders has not expired prior to the date hereof. However, the Issuer hereby states that it will not appeal such orders and the other parties thereto have stated that they do not intend to appeal such orders. Such orders remain in full force and effect.

16. CONFLICTS OF INTEREST: No member, officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land,

materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bonds, the Ordinances, and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a “substantial financial interest” shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

17. **USERS:** The Issuer will serve at least 821 bona fide users upon the completion of the Project, in full compliance with the Letter of Conditions.

18. **PROCUREMENT OF ENGINEERING SERVICES:** The Issuer has complied with all the requirements of Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended, in the procurement of the engineering services of the Consulting Engineer.

19. **VERIFICATION OF SCHEDULE:** The final amended Schedule B attached to the Certificate of Consulting Engineer, with the signature of the Chairperson and the Consulting Engineer, accurately represents the estimated costs of the Project, the sources of funds available to pay the costs of the Project and the costs of financing of the Bonds.

20. **WETLANDS COVENANT:** The Issuer hereby certifies that it will not use any proceeds of the Bonds for a purpose that will contribute to excessive erosion of highly erodible lands or to the conversion of wetlands to produce an agricultural commodity.

21. **COUNTERPARTS:** This Certificate may be executed in counterparts and all counterparts shall be deemed to be the Certificate.

WITNESS our signatures and the official corporate seal of THE TOWN OF GILBERT, as of the date first written above.

[SEAL]

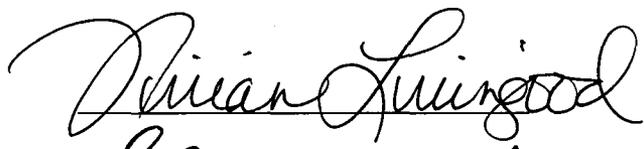
<u>Signature</u>	<u>Official Title</u>
	Mayor
	Recorder
	Attorney

EXHIBIT A

See Series 2012 A Specimen Bond (Tab No. 15 – 2012 A Transcript)
See Series 2012 B Specimen Bond (Tab No. 17(A) – 2012 B&C Transcript)
See Series 2012 C Specimen Bond (Tab No. 17(B) – 2012 B&C Transcript)

THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 B
(UNITED STATES DEPARTMENT OF AGRICULTURE)

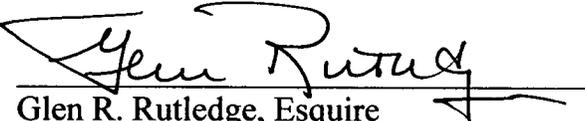
3.2

CERTIFICATE OF NO LITIGATION

On this 27th day of July, 2012, undersigned hereby certifies that as of the date hereof, other than two matters where the Town of Gilbert has filed for condemnation and received a right of entry but the defendants in these matters have answered and the merits will be addressed by the Circuit Court of Mingo County (Town of Gilbert v. Gavin Smith, Civil Action No. 12-C-32, and Town of Gilbert v. Clifford Ellis, Civil Action No. 12-C-192), no controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the authorization, issuance, sale or delivery of the above-captioned Bonds (the "Bonds"), the acquisition and construction of the Project, the operation of the System, the receipt of the Gross Revenues, or in any way contesting or affecting the validity of the Bonds or any proceedings of The Town of Gilbert (the "Issuer") taken with respect to the authorization, issuance, sale or delivery of the Bonds, the pledge or application of the Gross Revenues or any other moneys or security provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection of the Gross Revenues or the pledge of the Gross Revenues for payment of the Bonds.

All capitalized terms used herein shall have the same meaning set forth in the Bond Ordinance, authorizing the Bonds, duly passed by the Issuer on April 17, 2012, effective May 14, 2012.

WITNESS my signature on this 27th day of July, 2012.


Glen R. Rutledge, Esquire
Attorney for The Town of Gilbert

THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

CERTIFICATE AS TO USE OF PROCEEDS

On this 27th day of July, 2012, the undersigned Mayor of the Town of Gilbert in Mingo County, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of \$983,500 Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund), of the Issuer, dated July 27, 2012 (the "Bonds" or the "Series 2012 C Bonds"), hereby certify as follows:

1. I am one of the officers of the Issuer duly charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Ordinance duly passed by the Issuer on April 17, 2012, effective May 14, 2012, and Supplemental Resolution adopted on July 25, 2012 (the "Ordinance"), authorizing the Bonds.

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

3. This Certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on July 27, 2012, the date on which the Bonds are being physically delivered in exchange for a portion of the principal amount of the Bonds, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. The Series 2012 C Bonds were sold on July 27, 2012, to the West Virginia Water Development Authority (the "Authority"), pursuant to a loan agreement dated July 27, 2012, by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), for an aggregate purchase price of \$983,500 (100% of par), at which time, the Issuer received \$41,288.10 from the Authority, being the first advance of the principal amount of the Series 2012 C Bonds. No accrued interest has been or will be paid on the Bonds. The balance of the respective principal amounts of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

5. The Bonds are being delivered simultaneously with the delivery of this Certificate and are issued for the purposes of (i) permanently financing a portion of the costs of acquisition and construction of certain improvements and extensions to the

existing public water facilities of the Issuer (the “Project”); and (ii) paying certain costs of issuance of the Bonds and related costs.

6. The Issuer has previously entered into agreements which require the Issuer to expend at least 5% of the net sale proceeds of the Bonds for the acquisition and construction of the Project, constituting a substantial binding commitment. The acquisition and construction of the Project and the allocation of the net sale proceeds of the Bonds to expenditures of the Project shall commence immediately and shall proceed with due diligence to completion, and with the exception of proceeds deposited in the Reserve Accounts for the Bonds, if any, all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before September 1, 2013. The acquisition and construction of the Project is expected to be completed by June 1, 2013.

7. The total cost of the Project is estimated at \$7,329,000. Sources and uses of funds for the Project are as follows:

SOURCES

Proceeds of Series 2012 A Bonds	\$ 662,000
Proceeds of Series 2012 B Bonds	\$1,200,000
Proceeds of Series 2012 C Bonds	\$ 983,500
RUS Grant	\$1,650,000
Infrastructure Fund Grant	\$1,333,500
ARC Grant	<u>\$1,500,000</u>
Total Sources	\$7,329,000

USES

Costs of the Project	\$7,190,100
Costs of Issuance	<u>\$ 138,900</u>
Total Uses	\$7,329,000

8. Pursuant to Article V of the Ordinance, the following special funds or accounts have been created:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Series 2012 B and C Bonds Construction Trust Fund;

(4) Series 2012 C Bonds Sinking Fund; and

(5) Series 2012 C Bonds Reserve Account.

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

(1) Series 2012 C Bonds proceeds in the amount of \$0 will be deposited in the Series 2012 C Bonds Reserve Account.

(2) The balance of the proceeds of the Bonds will be deposited in the Series 2012 B and C Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of the Project, including costs of issuance of the Bonds and related costs.

10. Moneys held in the Series 2012 C Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Series 2012 C Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on moneys in the Series 2012 C Bonds Reserve Account (if fully funded) shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2012 B and C Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2012 C Bonds, respectively, and then to the next ensuing principal payment due thereon, all on a pro rata basis.

11. Work with respect to the acquisition and construction of the Project will proceed with due diligence to completion. The acquisition and construction of the Project is expected to be completed within 24 months of the date hereof.

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

13. With the exception of the amount deposited in the Series 2012 C Bonds Reserve Account all of the proceeds of the Series 2012 C Bonds will be expended on the Project within 20 months from the date of issuance thereof.

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

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

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

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

18. The original proceeds of the Bonds will not exceed the amount necessary for the purposes of the issue. The Issuer covenants that it shall maintain thorough and accurate accounting records, in conformance with generally accepted accounting principles, relative to the proceeds of the Bonds so that use of proceeds from each series of the Bonds can be accounted for.

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

20. The Bonds are not federally guaranteed.

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

22. The Issuer has either (a) funded the Series 2012 C Bonds Reserve Account at the maximum amount of principal and interest, if any, which will mature and become due on the Series 2012 C Bonds in the then current or any succeeding year with the proceeds of the Series 2012 C Bonds, or (b) created the Series 2012 C Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2012 C Bonds Reserve Account hold an amount equal to the maximum amount of principal and interest, if any, which will mature and become due on the Series 2012 C Bonds in the then current or any succeeding year. Moneys in the Series 2012 C Bonds Reserve Account and the Series 2012 C Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Series 2012 C Bonds and will not be available to pay costs of the Project.

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

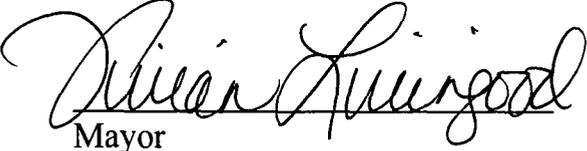
substantially the same sources of funds or will have substantially the same claim to be paid out of substantially the same sources of funds as the Bonds.

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

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

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

WITNESS my signature as of the date first written above.


Mayor

THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 B
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

3.3(A)/3.4(B&C)

CERTIFICATE OF RECORDER AS TO TRUTH
AND ACCURACY OF DOCUMENTS DELIVERED

On this 27th day of July, 2012, the undersigned duly elected Recorder of The Town of Gilbert (the "Issuer") hereby certifies that the copies of the following documents being delivered in connection with the closing of the sale of the Issuer's Water Revenue Bonds, Series 2012 A (United States Department of Agriculture), Water Revenue Bonds, Series 2012 B (United States Department of Agriculture) and Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund) are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the Issuer and delivered in the transcript of proceedings, that said documents have been duly adopted, enacted or entered by the Council of the Issuer, and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

1. Charter.
2. Oaths of Office of Mayor, Recorder and Council Members.
3. Rules of Procedure.
4. Public Service Commission Order.
5. USDA Letter of Conditions, Closing Letter and Loan Resolution.
6. Minutes of Council Meeting regarding Adoption of USDA Loan Resolution.
7. Infrastructure Council Approval Letter.

8. Rate Ordinance.
9. Infrastructure Council Loan Agreement.
10. Minutes of Council Meetings regarding All Readings and Public Hearing of the Rate Ordinance.
11. Affidavit of Publication of the Rate Ordinance and Notice of Public Hearing.
12. Bond Ordinance.
13. Supplemental Resolution.
14. Minutes of Council Meetings regarding All Readings and Public Hearing of the Bond Ordinance and Adoption of the Supplemental Resolution.
15. Affidavit of Publication of the Notice of Public Hearing and Abstract of Bond Ordinance.
16. Environmental Health Services Permit and NPDES Permit.
17. Insurance Certificates.
18. USDA Consent to Issuance of Bonds.
19. 2009 Bond Ordinance.
20. USDA Grant Agreements.
21. Infrastructure Council Grant Agreement.

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


Recorder

[SEAL]

THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 B
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

3.4(A)/3.5(B&C)

CERTIFICATE OF CONSULTING ENGINEER

On this 27th day of July, 2012, I, Charles R. Roberts, Jr., Registered Professional Engineer, West Virginia License No. 10424 of E. L. Robinson Engineering Co., Charleston, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain, additions, betterments and improvements (the "Project") to the existing waterworks system (the "System") of The Town of Gilbert (the "Issuer"), to be constructed primarily in Mingo County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. All capitalized words used herein and not defined herein shall have the same meaning set forth in the Series 2012 A Bond Ordinance passed by the Issuer on April 17, 2012, effective May 14, 2012, the Series 2012 B Bond Ordinance passed by the Issuer on April 17, 2012, effective May 14, 2012 (collectively, the "Ordinances"), the Letter of Conditions dated April 9, 2009, and all amendments thereto, the Letter of Conditions dated July 14, 2008, and all amendments thereto (collectively, the "Letter of Conditions"), from the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), and the loan agreement entered into between the Issuer and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), dated July 27, 2012 (the "Loan Agreement").

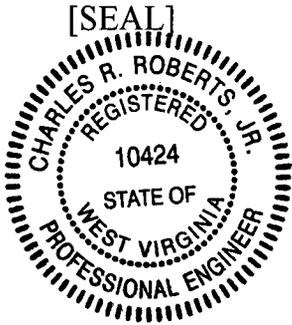
2. The Bonds are being issued for the purposes of (i) paying a portion of the costs of acquisition and construction of the Project and (ii) paying certain costs of issuance and related costs.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the

approved plans, specifications and designs prepared by my firm and approved by the West Virginia Bureau for Public Health (the “BPH”), and any change orders approved by the Issuer, the Government and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 40 years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in the Letter of Conditions and set forth in the Schedule B attached as Exhibit A, and in reliance upon the opinion of Glen Rutledge, Esquire, of even date herewith, all successful bidders have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the Government and the Council and the bid forms provided to the bidders contain all critical operational components of the Project including a requirement that the Project only use iron, steel and manufactured goods produced in the United States in accordance with Section 1605 of the American Recovery and Reinvestment Act of 2009; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) in reliance upon the certificate of Michael Griffith and Associates, CPA, of even date herewith, as of the effective date thereof, the rates and charges for the System as enacted by the Issuer will be sufficient to comply with the provisions of the Ordinance; (x) the net proceeds of the Bonds, together with all moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the Government and the Council; and (xi) all contractors to be awarded contracts for the construction of the Project have submitted affidavits indicating such contractor has a drug free workplace plan pursuant to Chapter 21, Article 1D of the West Virginia Code of 1931, as amended.

4. The Project will serve 354 new customers in the Horsepen, Gilbert Creek and Browning Fork areas.

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



E. L. ROBINSON ENGINEERING CO.

A handwritten signature in cursive script that reads "Charles R. Roberts, Jr." The signature is written over a horizontal line.

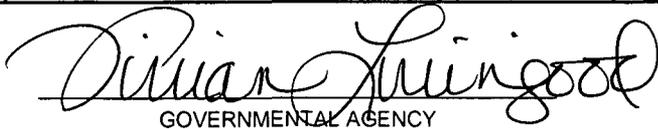
Charles R. Roberts, Jr., P.E.
West Virginia License No. 10424

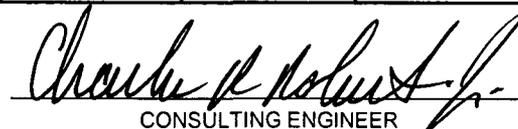
**WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL
2011W - 1269**

**SCHEDULE B
TOWN OF GILBERT**

**HORSEPEN/GILBERT CREEK/BROWNING FORK WATER MAIN EXTENSION PROJECT
FINAL TOTAL COST OF PROJECT, SOURCES OF FUNDS, AND COST OF FINANCING**

A. Cost of Project	Total	ARC Grant	RUS Grant	WVIJDC Grant	RUS Loan	WVIJDC Loan
1. Construction (Based on actual bids)						
a. Contract 1	\$2,627,994.90	\$59,071.90	\$300,063.30	\$1,252,409.70	\$179,200.00	\$837,250.00
b. Contract 2	\$1,064,962.90	\$862,712.90	\$100,000.00	\$0.00	\$102,250.00	\$0.00
c. Contract 3	\$1,071,437.80	\$0.00	\$461,337.80	\$0.00	\$610,100.00	\$0.00
d. Contract 4	\$687,000.00	\$187,000.00	\$276,450.00	\$0.00	\$223,550.00	\$0.00
2. Engineering Fees						
a. Basic Engineering	\$585,500.00	\$0.00	\$128,500.00	\$0.00	\$457,000.00	\$0.00
b. Inspection	\$372,000.00	\$300,000.00	\$72,000.00	\$0.00	\$0.00	\$0.00
3. Legal	\$168,562.20	\$0.00	\$64,812.20	\$0.00	\$50,000.00	\$53,750.00
4. Administration	\$100,000.00	\$0.00	\$20,000.00	\$0.00	\$0.00	\$80,000.00
5. Sites and Other Lands	\$165,000.00	\$0.00	\$95,000.00	\$0.00	\$70,000.00	\$0.00
6. Accountant	\$57,000.00	\$0.00	\$19,000.00	\$0.00	\$38,000.00	\$0.00
7. Construction Contingency	\$272,642.20	\$91,215.20	\$100,336.70	\$81,090.30	\$0.00	\$0.00
8. Project Contingency	\$18,000.00	\$0.00	\$12,500.00	\$0.00	\$5,500.00	\$0.00
9. Total Lines 1 Through 7	\$7,190,100.00	\$1,500,000.00	\$1,650,000.00	\$1,333,500.00	\$1,735,600.00	\$971,000.00
B. Sources of Funds						
10. ARC Grant	\$1,500,000.00	\$1,500,000.00				
11. RUS Grant	\$1,650,000.00		\$1,650,000.00			
12. WVIJDC Grant	\$1,333,500.00			\$1,333,500.00		
13. RUS Loan	\$1,862,000.00				\$1,862,000.00	
14. Net Proceeds Required from Bond Issue (Line 9 minus Lines 10 thru 13)	\$844,600.00					\$971,000.00
C. Cost of Financing						
15. Other Costs						
a. Bond Counsel	\$44,000.00				\$32,000.00	\$12,000.00
b. Accountant	\$0.00				\$0.00	\$0.00
c. Capitalized Interest	\$94,400.00				\$94,400.00	\$0.00
d. Registrar Fee	\$500.00				\$0.00	\$500.00
16. Total Cost of Financing (Lines 16a Through 16d)	\$138,900.00	\$0.00	\$0.00	\$0.00	\$126,400.00	\$12,500.00
17. Size of Bond Issue (Line 13 Plus Line 15)	\$983,500.00				\$1,862,000.00	\$983,500.00


GOVERNMENTAL AGENCY


CONSULTING ENGINEER

DATE: 7/25/12

DATE: 7/25/12



July 27, 2012

THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 B
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

The Town of Gilbert
Gilbert, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

United States Department of Agriculture
Rural Utilities Service
Parkersburg, West Virginia

West Virginia Infrastructure and Jobs
Development Council
Charleston, West Virginia

FINAL CPA CERTIFICATE

Ladies and Gentlemen:

We have reviewed the water rates of The Town of Gilbert, West Virginia (the "Issuer"), enacted by the Issuer pursuant to a water rate ordinance dated November 21, 2011, the projected operating expenses and the anticipated customer usage provided by the Issuer and E. L. Robinson Engineering Co. It is my opinion that such rates are sufficient (i) to provide for all operating expenses of the waterworks system of the Issuer (the "System"), and (ii) to leave a balance each fiscal year equal to at least 115% of the maximum amount required in any succeeding fiscal year for payment of principal of and interest on the Issuer's Water Revenue Bonds, Series 2012 A (United States Department of Agriculture) (the "Series 2012 A Bonds") in the aggregate principal amount of \$662,000, an interest rate of 2.75% and a term of 40 years, Water Revenue Bonds, Series 2012 B (United States Department of Agriculture) (the "Series 2012 B Bonds") in the aggregate principal amount of \$1,200,000, an interest rate of 3.625% and a term of 40 years and Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund) (the "Series 2012 C Bonds" and together with the Series

Michael D. Griffith, CPA, AFI
mgriffith@gcorp.wv.com

950 Little Coal River Road Alum Creek, WV 25003
Phone: (304) 756.3600 Facsimile: (304) 756.2911

2012 A Bonds and the Series 2012 B Bonds, the "Series 2012 Bonds") in the aggregate principal amount of \$838,000, an interest rate of 0% and a term of 40 years and Water Revenue Bonds, Series 2009 A (United States Department of Agriculture) (the "Prior Bonds"), issued on the date hereof, of the Issuer as set forth in the ordinances authorizing the Series 2012 Bonds.

It is further my opinion that the Net Revenues of the System for the fiscal year following the year in which the Series 2012 Bonds are issued, will not be less than 120% of the average annual debt service requirements on the Series 2012 A Bonds or the Series 2012 B Bonds.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael D. Griffith", written in a cursive style.

Michael D. Griffith, CPA, AFI
Griffith & Associates, PLLC

MDG/dk



PROJECT CPA - USDA CERTIFICATION

July 27, 2012

Town of Gilbert - Water

Town of Gilbert - Water
Gilbert, West Virginia

United States Department of Agriculture
Beckley, West Virginia

Ladies and Gentlemen:

I, Michael D. Griffith, a Certified Public Accountant, License No. WV 003909, West Virginia, have reviewed the books and records of the Town of Gilbert - Water. The Town is required by its prior bond covenants to fund reserve accounts at a minimum annual deposit of 1/12 of an amount equal to one year debt service. I hereby certify that the Town's debt service reserves are funded or being funded in accordance with USDA requirements. I also provide certification that the accounts and records of the Town have been established in accordance with West Virginia Public Service Commission requirements and these accounts and records are operational.

Very truly yours,

Michael D. Griffith, CPA, AFI
Griffith & Associates, PLLC

MDG/dk

THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 B
(UNITED STATES DEPARTMENT OF AGRICULTURE)

3.6(A)/3.7[A](B)

RECEIPT FOR BONDS

On this 27th day of July, 2012, the undersigned authorized representative of the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), for and on behalf of the Government, hereby certifies as follows:

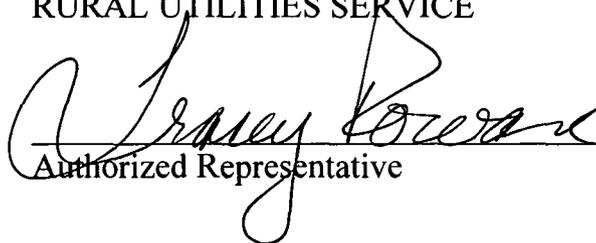
1. On the date hereof, the undersigned received for and on behalf of the Government, the Water Revenue Bonds, Series 2012 A (United States Department of Agriculture) (the "Series 2012 A Bonds"), of The Town of Gilbert (the "Issuer"), dated July 27, 2012, issued in the form of one bond in the principal amount of \$662,000, and numbered AR-1. The Series 2012 A Bonds bear interest at the rate of 2.125% per annum, payable in monthly installments on the amounts advanced thereunder, commencing 30 days following the date of delivery of the Series 2012 A Bonds and continuing on the corresponding day of each month for the first 24 months after the date of the Series 2012 A Bonds, and thereafter, on the corresponding day of each month in installments of principal and interest on the Series 2012 A Bonds in the aggregate amount of \$2,119, except that the final installment on the Series 2012 A Bonds shall be paid at the end of 40 years from the date of the Series 2012 A Bonds in the sum of the unpaid principal and interest due on the date thereof. The Series 2012 A Bonds represent the entire principal amount of the above-captioned bond issue.

2. On the date hereof, the undersigned received for and on behalf of the Government, the Water Revenue Bonds, Series 2012 B (United States Department of Agriculture) (the "Series 2012 B Bonds" and together with the Series 2012 A Bonds, the "Series 2012 Bonds"), of The Town of Gilbert (the "Issuer"), dated July 27, 2012, issued in the form of one bond in the principal amount of \$1,200,000, and numbered BR-1. The Series 2012 B Bonds bear interest at the rate of 2.75% per annum, payable in monthly installments on the amounts advanced thereunder, commencing 30 days following the date of delivery of the Series 2012 B Bonds and continuing on the corresponding day of each month for the first 24 months after the date of the Series 2012 B Bonds, and thereafter, on the corresponding day of each month in installments of principal and interest on the Series 2012 B Bonds in the aggregate amount of \$4,248, except that the final installment on the Series 2012 B Bonds shall be paid at the end of 40 years from the date of the Series 2012 B Bonds in the sum of the unpaid principal and interest due on the date thereof. The Series 2012 B Bonds represent the entire principal amount of the above-captioned bond issue.

3. At the time of such receipt of the Series 2012 Bonds, they had been executed by the Mayor of the Issuer and attested by the Recorder of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been impressed upon the Series 2012 Bonds.

WITNESS my signature as of the date first written above.

UNITED STATES OF AMERICA,
UNITED STATES DEPARTMENT OF AGRICULTURE,
RURAL UTILITIES SERVICE



Authorized Representative

THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

RECEIPT FOR BONDS

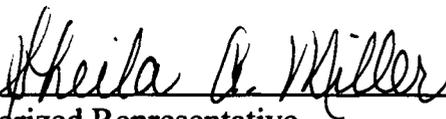
On this 27th day of July, 2012, the undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, hereby certifies as follows:

1. On the date hereof, in Charleston, West Virginia, the Authority received the Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund), of The Town of Gilbert (the "Issuer"), dated July 27, 2012, issued in the principal amount of \$983,500, in the form of one bond, fully registered to the Authority, and numbered CR-1 (the "Bonds").

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

WITNESS my signature as of the date first written above.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY



Authorized Representative

3.7(A)/3.8(B&C)

THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 B
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

RECEIPT FOR BOND PROCEEDS

On this 27th day of July, 2012, the undersigned Mayor of The Town of Gilbert (the "Issuer"), for and on behalf of the Issuer, hereby certifies that:

1. The Issuer has received on the date hereof from the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), the sum of \$148,394.44, being the first advance on the Issuer's Water Revenue Bonds, Series 2012 A (United States Department of Agriculture) and the sum of \$516,053.39, being the first advance on the Issuer's Water Revenue Bonds, Series 2012 B (United States Department of Agriculture) dated the date hereof (collectively, the "Series 2012 A & B Bonds").

2. The Issuer has received on the date hereof from the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council, the sum of \$41,288.10, being the first advance on the Issuer's Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund) dated the date hereof (together with the Series 2012 A & B Bonds, the "Series 2012 Bonds").

The Issuer understands that the remaining proceeds of the Series 2012 Bonds will be advanced to the Issuer by the Government and the Authority from time to time as construction progresses.

WITNESS my signature as of the date first written above.

THE TOWN OF GILBERT

Mayor

THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

REQUEST AND AUTHORIZATION TO
AUTHENTICATE AND DELIVER THE BONDS

United Bank, Inc., as Registrar
Charleston, West Virginia

Ladies and Gentlemen:

We herewith hand to you, duly executed, the \$983,500 Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund), in the form of one bond, numbered CR-1, dated July 27, 2012 (the "Bonds"), of the Town of Gilbert, West Virginia (the "Issuer"), authorized to be issued under and pursuant to a Bond Ordinance duly passed by the Issuer on April 17, 2012, effective May 14, 2012, and a Supplemental Resolution duly adopted by the Issuer on July 25, 2012.

You are hereby requested and authorized to register, authenticate and deliver the Bonds on behalf of the Issuer to the West Virginia Water Development Authority.

WITNESS my signature this 27th day of July, 2012.

TOWN OF GILBERT


Mayor

(SEAL)

Attest:


City Clerk

THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 27th day of July, 2012, by and between the TOWN OF GILBERT, WEST VIRGINIA, a municipal corporation (the "Issuer"), and UNITED BANK, INC., Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$983,500 Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund) (the "Bonds"), in the form of one bond, numbered CR-1, in fully registered form, pursuant to a Bond Ordinance duly passed by the Issuer on April 17, 2012, effective May 14, 2012, and a Supplemental Resolution duly adopted July 25, 2012 (collectively, the "Ordinance");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Ordinance, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Ordinance provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Ordinance and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Ordinance and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Ordinance, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest, if any, on the Bonds from gross income for federal income tax purposes, in accordance with any rules and regulations promulgated by

the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation for services rendered as provided in the annexed schedule.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Ordinance with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Ordinance, the terms of the Ordinance shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Ordinance will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective address:

ISSUER:

Town of Gilbert
P.O. Box 188
Gilbert, WV 25621
Attention: Mayor

REGISTRAR:

United Bank, Inc.
500 Virginia Street, East
Charleston, WV 25301-2135
Attention: Corporate Trust Department

The Issuer and the Registrar shall notify the other in writing of any change of address.

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Ordinance.

IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the date first above-written.

TOWN OF GILBERT



Mayor

UNITED BANK, INC.



Authorized Officer

EXHIBIT A

See Bond Ordinance (Tab No. 13)
See Supplemental Resolution (Tab No. 14)

THE TOWN OF GILBERT
WATER REVENUE BONDS, SERIES 2012 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

CERTIFICATE OF REGISTRATION OF BONDS

UNITED BANK, INC., Charleston, West Virginia, as Registrar (the “Registrar”), hereby certifies that on the date hereof, the single, fully registered Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund), of the Town of Gilbert, West Virginia (the “Issuer”), dated July 27, 2012, in the principal amount of \$983,500, and numbered CR-1, was registered as to principal and interest in the name of “West Virginia Water Development Authority” in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of the Registrar.

WITNESS my signature on this 27th day of July, 2012.

UNITED BANK, INC., as Registrar



Authorized Officer

THE TOWN OF GILBERT 3.8(A)/3.12(B&C)
WATER REVENUE BONDS, SERIES 2012 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 B
(UNITED STATES DEPARTMENT OF AGRICULTURE)
WATER REVENUE BONDS, SERIES 2012 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK FOR THE
SERIES 2012 A BONDS CONSTRUCTION TRUST FUND AND THE
SERIES 2012 B AND C CONSTRUCTION TRUST FUND

BRANCH BANKING AND TRUST COMPANY hereby accepts appointment as Depository Bank in connection with a Bond Ordinance of The Town of Gilbert (the "Issuer"), passed by the Issuer on April 17, 2012, effective May 14, 2012, and a Supplemental Resolution adopted by the Issuer on July 25, 2012 (collectively, the "2012 A Ordinance"), authorizing the issuance of the Issuer's Water Revenue Bonds, Series 2012 A (United States Department of Agriculture), in the aggregate principal amount of \$662,000, dated July 27, 2012, and a Bond Ordinance of the Issuer passed by the Issuer on April 17, 2012, effective May 14, 2012, and a Supplemental Resolution adopted by the Issuer on July 25, 2012 (collectively, the "2012 B and C Ordinance"), authorizing the issuance of the Issuer's Water Revenue Bonds, Series 2012 B (United States Department of Agriculture), in the aggregate principal amount of \$1,200,000 and Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund), in the aggregate principal amount of \$983,500, dated July 27, 2012, and agrees to serve as Depository Bank, all as set forth in the 2012 A Ordinance and the 2012 B and C Ordinance.

WITNESS my signature on this 27th day of July, 2012.

BRANCH BANKING AND TRUST COMPANY

SIGNATURE PENDING

Authorized Officer

WV MUNICIPAL BOND COMMISSION
Suite 401
1207 Quarrier Street, Charleston, WV 25301
(304) 558-3971

3.13(A)
NEW ISSUE REPORT FORM
Date of Report: July 27, 2012

ISSUE: <u>The Town of Gilbert Water Revenue Bonds, Series 2012 B (United States Department of Agriculture)</u>	
ADDRESS: <u>P.O. Box 188, Gilbert, WV 25621</u> COUNTY: <u>Mingo</u>	
PURPOSE OF ISSUE: New Money <input checked="" type="checkbox"/> Refunding <input type="checkbox"/> Refunds issue(s) dated: _____	
ISSUE DATE: <u>July 27, 2012</u>	CLOSING DATE: <u>July 27, 2012</u>
ISSUE AMOUNT: <u>\$1,200,000</u>	RATE: <u>2.75%</u>
1st DEBT SERVICE DUE: <u>N/A</u>	1st PRINCIPAL DUE: <u>N/A</u>
1st DEBT SERVICE AMOUNT: <u>N/A</u>	PAYING AGENT: <u>None (Town pays USDA directly)</u>
BOND COUNSEL: <u>Jackson Kelly PLLC</u> UNDERWRITERS COUNSEL: _____	
Contact Person: <u>Samme L. Gee, Esquire</u>	Contact Person: _____
Phone: <u>(304) 340-1318</u>	Phone: _____
CLOSING BANK: <u>Branch Banking & Trust Co.</u> ESCROW TRUSTEE: _____	
Contact Person: <u>Chris Hawks</u>	Contact Person: _____
Phone: <u>(304) 664-3555</u>	Phone: _____
KNOWLEDGEABLE ISSUER CONTACT: _____	OTHER: <u>USDA, Rural Utilities Service</u>
Contact Person: <u>Vivian Carter</u>	Contact Person: <u>Tracey Rowan</u>
Position: <u>Recorder</u>	Function: <u>Rural Development Specialist</u>
Phone: <u>(304) 664-9625</u>	Phone: <u>(304) 776-5298, ext. 116</u>
<u>thetownofgilbert@verizon.net</u>	
DEPOSITS TO MBC AT CLOSE: _____	Accrued Interest: \$ _____
_____	Capitalized Interest: \$ _____
By _____ Wire _____	Reserve Account: \$ _____
_____ Check _____	Other: \$ _____
REFUNDS & TRANSFERS BY MBC AT CLOSE:	
By _____ Wire _____	To Escrow Trustee: \$ _____
_____ Check _____	To Issuer: \$ _____
_____ IGT _____	To Cons.Invest.Fund \$ _____
_____	To Other: \$ _____
NOTES: <u>The Bond Commission will only hold the Series 2012 B Bonds Reserve Account to be funded over 10 years. The Issuer will make debt service payments to USDA directly.</u>	
FOR MUNICIPAL BOND COMMISSION USE ONLY:	
Documents Required: _____	
Transfers Required: _____	

WEST VIRGINIA MUNICIPAL BOND COMMISSION

Suite 401
1207 Quarrier Street, Charleston, WV 25301
(304) 558-3971

3.13(B)

NEW ISSUE REPORT FORM

Date of Report: July 27, 2012

ISSUE: The Town of Gilbert Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund)

ADDRESS: P.O. Box 188, Gilbert, WV 25621 COUNTY: Mingo

PURPOSE OF ISSUE: New Money Refunding Refunds issue(s) dated: _____

ISSUE DATE: July 27, 2012 CLOSING DATE: July 27, 2012

ISSUE AMOUNT: \$983,500 RATE: 0 %

1st DEBT SERVICE DUE: Mar. 1, 2014 1st PRINCIPAL DUE: Mar. 1, 2014

1st DEBT SERVICE AMOUNT: \$6,387.00 PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Jackson Kelly PLLC UNDERWRITERS COUNSEL: _____

Contact Person: Samme L. Gee, Esquire Contact Person: _____

Phone: (304) 340-1318 Phone: _____

CLOSING BANK: Branch Banking & Trust Co. ESCROW TRUSTEE: _____

Contact Person: Chris Hawks Contact Person: _____

Phone: (304) 664-3555 Phone: _____

KNOWLEDGEABLE ISSUER CONTACT: OTHER: WV Infrastructure & Jobs Development Council

Contact Person: Vivian Carter Contact Person: Jim Ellars

Position: Recorder Function: Executive Director

Phone: (304) 664-9625 Phone: (304) 414-6501 , ext. 106

E-Mail: thetownofgilbert@verizon.net

DEPOSITS TO MBC AT CLOSE: _____ Accrued Interest: \$ _____

Capitalized Interest: \$ _____

By Wire Reserve Account: \$ _____

Check Other: _____

REFUNDS & TRANSFERS BY MBC AT CLOSE:

By _____ Wire To Escrow Trustee: \$ _____

_____ Check To Issuer: \$ _____

_____ IGT To Cons. Invest. Fund \$ _____

To Other: \$ _____

NOTES: _____

FOR MUNICIPAL BOND COMMISSION USE ONLY:

Documents Required: _____

Transfers Required: _____

State of West Virginia

OFFICE OF ENVIRONMENTAL HEALTH SERVICES

350 CAPITOL STREET, ROOM 313

CHARLESTON, WV 25301-3713

Telephone (304) 558-2981

PERMIT

PROJECT: (Water) Horsepen, Browning Fork & Gilbert Creek Water Line Extension **PERMIT NO.:** 18,873
New Pre-sedimentation Tank

LOCATION: Horsepen, Browning Fork **COUNTY:** Mingo **DATE:** 8-24-2011
Gilbert Creek

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

**Town of Gilbert
P. O. Box 188
Gilbert, West Virginia 25621**

is hereby granted approval to: install approximately 70,840 LF of 8", 9,905 LF of 6" and 15,780 LF of 2" water lines; one (1) 150 GPM duplex booster station with VFD; one (1) 300,000 gallon water storage tank; and all necessary valves, controls and appurtenances. Also to install a new 108,000 gallon spiral baffled pre-sedimentation tank at the Town of Gilbert water treatment plant.

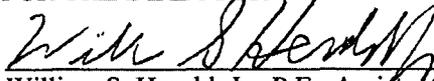
Water distribution facilities are to serve 564 new customers in the Horsepen, Browning Fork and Gilbert Creek areas.

NOTE: This permit is contingent upon: 1) All new water line and tank being disinfected, flushed and bacteriologically tested, prior to use; and 2) Enclosing the 300,000 gallon water storage tank with a minimum six (6) feet high fence with a locking gate.

The Environmental Engineering Division of the **OEHS-St. Albans District Office, (304) 722-0611**, is to be notified when construction begins.

Validity of this permit is contingent upon conformity with plans, specifications, application forms, and other information submitted to the West Virginia Bureau for Public Health.

FOR THE DIRECTOR


William S. Herold, Jr., P.E., Assistant Manager
Infrastructure and Capacity Development
Environmental Engineering Division

WSH:plk

pc: E. L. Robinson Engineering, Co.
Ingrid Ferrell, PSC
Amy Swann, PSC
Mingo County Health Department
OEHS-EED St. Albans District Office

EW-100
03/08/2005

Office Use Only

Date Received 7-18-11
Date Approved 8-23-11
Approved by WJD
Permit Number 10873

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Bureau for Public Health
Office of Environmental Health Services
Capitol and Washington Streets
1 Davis Square, Suite 200
Charleston, West Virginia 25301-1798
Telephone: 304-558-2981 Fax: 304-558-0691

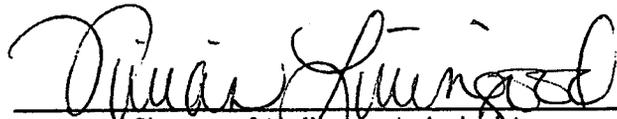
**PUBLIC WATER SUPPLY SYSTEM APPLICATION
FOR A PERMIT TO CONSTRUCT, ALTER, OR RENOVATE**
(Please Prepare in 4 Copies)

APPLICANT Town of Gilbert DATE April 6, 2011
STREET OR PO BOX P.O. Box 188 TELEPHONE (304) 664-9625
CITY Gilbert, WV COUNTY Mingo ZIP 25621
ENGINEERING FIRM E.L. Robinson Engineering Company
STREET OR PO BOX 5088 Wash. St. West TELEPHONE (304) 776-7473
CITY Charleston STATE WV ZIP 25313

LOCATION OF PLANT				LOCATION OF SOURCE WATER			
Latitude	_____°	_____'	_____"	Latitude	_____°	_____'	_____"
Longitude	_____°	_____'	_____"	Longitude	_____°	_____'	_____"

(If applying for water plant or water well permit)

IN ACCORDANCE WITH TITLE 64, SERIES 3, PUBLIC WATER SUPPLY REGULATIONS OF THE WEST VIRGINIA DIVISION OF HEALTH, WE HEREBY MAKE APPLICATION TO CONSTRUCT, ALTER, OR RENOVATE AS FOLLOWS:



Signature of Applicant or Authorized Agent

NOTE: A \$300 application fee must accompany a permit application (\$150 application fee for a water well permit application). Make check or money order payable to "West Virginia Department of Health and Human Resources". Cash not accepted. Permit applications which include both water and sewer systems require only a single \$300 fee.

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Bureau for Public Health
Office of Environmental Health Services
Capitol and Washington Streets
1 Davis Square, Suite 200
Charleston, West Virginia 25301-1798
Telephone: 304-558-2981 Fax: 304-558-0691

WATER SYSTEM DESIGN INFORMATION AND DATA SHEET

Complete all portions of the Design Data Sheet applicable to the project. Omission of required information will result in the application being denied. When both sewer system and water system are to be constructed, Design Data Sheets for both sewage and water must be completed and attached to the application.

Applicant Town of Gilbert

Project Location Horsepen, Browning Fork, Gilbert Creek

County Mingo

Number of customers 564 or Estimated population or population equivalent served _____

Number of home sites 564 Number of mobile home sites _____

Estimated peak flow 782 gpm

Minimum consumer pressure (static/residual) 95 / 21 psi

Source of Supply: Town of Gilbert
(name of utility)

Municipal Public Service District _____ Private Well _____

Other _____
(specify)

Pressure at connection to public supply (static/residual) 64 / 60 psi

Capacity of well, if applicable _____ gpm

Type of system Gravity Hydropneumatic _____

Other _____
(specify)

Length of water lines of each size 70,840' of 8", 9,905' of 6", 15,780' of 2"

YES	NO	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Details of well construction attached
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Fire hydrants to be installed (hydraulic calculations <u>must</u> be included)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Storage tank required Size of tank <u>300,000</u> gallons
<input type="checkbox"/>	<input type="checkbox"/>	Elevation of top and bottom of storage tank <u>1,433.01'</u> / <u>1,400.00'</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Booster station required Size of station <u>150</u> gpm
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Pressure reducing station required
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Details of water treatment equipment (if applicable)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Chlorination Contact time _____ minutes



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/3/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Bray & Oakley Insurance Agency 213 Main Street PO Box 386 Logan WV 25601		CONTACT NAME: Carrol Craft	
		PHONE (A/C No. Ext): (304) 752-6850	FAX (A/C No.): (304) 752-5380
		E-MAIL ADDRESS: cc@brayandoakley.com	
INSURED Town of Gilbert Box 188 Gilbert WV 25621		INSURER(S) AFFORDING COVERAGE	
		INSURER A National Union Fire Co.	NAIC # 19445
		INSURER B General Star National Ins. Co.	NAIC # 11967
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES

CERTIFICATE NUMBER: CL127301998

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY		X	L900000564	7/1/2012	7/1/2013	EACH OCCURRENCE \$ 1,000,000	
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000	
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ Excluded	
	<input checked="" type="checkbox"/> Wrongful Acts						PERSONAL & ADV INJURY \$ Included	
	<input checked="" type="checkbox"/> Professional						GENERAL AGGREGATE \$ N/A	
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG \$ 1,000,000	
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						\$	
A	AUTOMOBILE LIABILITY		X	L900000564	7/1/2012	7/1/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000	
	<input checked="" type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$	
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident) \$
								Underinsured motorist \$ 1,000,000
B	UMBRELLA LIAB		X	NXG400452G	7/1/2012	7/1/2013	EACH OCCURRENCE \$ 2,000,000	
	<input checked="" type="checkbox"/> EXCESS LIAB						AGGREGATE \$	
	DED	RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATUTORY LIMITS	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)		Y/N				E.L. EACH ACCIDENT \$	
	If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				E.L. DISEASE - EA EMPLOYEE \$	
							E.L. DISEASE - POLICY LIMIT \$	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Certificate holder is listed as an additional insured

CERTIFICATE HOLDER**CANCELLATION**

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

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Carrol Craft/CARROL

Carrol Craft

**WATER OR WASTE SYSTEM GRANT AGREEMENT
UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL UTILITIES SERVICE**

THIS AGREEMENT dated _____ between

Gilbert, Town of

a public corporation organized and operating under _____

Chapter 8 Article 19, West Virginia Code

(Authorizing Statute)

herein called "Grantee," and the United States of America acting through the Rural Utilities Service, Department of Agriculture, herein called "Grantor," WITNESSETH:

WHEREAS

Grantee has determined to undertake a project of acquisition, construction, enlargement, or capital improvement of a (water) (waste) system to serve the area under jurisdiction at an estimated cost of **\$5,843,000** and has duly authorized the undertaking of such project.

Grantee is able to finance not more than **\$3,517,000** of the development cost through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable user charge.

Said sum of **\$3,517,000** has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed **\$2,326,000** or **39.81%** percent of said development costs, whichever is the lesser, subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant.

As a condition of this grant agreement, the Grantee assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws, regulations, Executive orders and other generally applicable requirements, including those set out in 7 CFR 3015.205(b), which hereby are incorporated into this agreement by reference, and such other statutory provisions as are specifically set forth herein.

NOW, THEREFORE, In consideration of said grant by Grantor to Grantee, to be made pursuant to

Section 306 (a) of the Consolidated Farm and Rural Development Act the purpose only of defraying a part not to exceed **39.81%** percent of the development costs, as defined by applicable Rural Utilities Service Instructions. GRANTEE AGREES THAT GRANTEE WILL:

A. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any modifications thereof prepared by Grantee and approved by Grantor.

B. Permit periodic inspection of the construction by a representative of Grantor during construction.

C. Manage, operate and maintain the system, including this project if less than the whole of said system, continuously in an efficient and economical manner.

D. Make the services of said system available within its capacity to all persons in Grantee's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (possess capacity to enter into legal contract for services) at reasonable charges, including assessments, taxes, or fees in accordance with a schedule of such charges, whether for one or more classes of service, adopted by resolution dated _____, as may be modified from time to time by Grantee. The initial rate schedule must be approved by Grantor. Thereafter, Grantee may make such modifications to the rate system as long as the rate schedule remains reasonable and nondiscriminatory.

E. Adjust its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

F. Expand its system from time to time to meet reasonably anticipated growth or service requirements in the area within its jurisdiction.

G. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a representative of the Grantor.

H. To execute any agreements required by Grantor which Grantee is legally authorized to execute. If any such agreement has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another agreement of the same type need not be executed in connection with this grant.

I. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated herein above with the interest at the rate of 5 percentum per annum from the date of the default. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

J. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

K. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall vest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs or programs that have purposes consistent with those authorized for support by the Grantor.

3. When the real property is no longer needed as provided in 1 and 2 above, the Grantee shall request disposition instructions from the Grantor agency or its successor Federal agency. The Grantor agency shall observe the following rules in the disposition instructions:

(a) The Grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The Grantee may be directed to sell the property under guidelines provided by the Grantor agency. When the Grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.
[Revision 1, 04/17/1998]

(c) The Grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

This Grant Agreement covers the following described real property (use continuation sheets as necessary).

All real property currently owned or herein after acquired for the Town of Gilbert water system

L. Abide by the following conditions pertaining to equipment which is furnished by the Grantor or acquired wholly or in part with grant funds. Equipment means tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

[Revision 1, 04/17/1998]

1. Use of equipment.

(a) The Grantee shall use the equipment in the project for which it was acquired as long as needed. When no longer needed for the original project, the Grantee shall use the equipment in connection with its other Federally sponsored activities, if any, in the following order of priority:

(1) Activities sponsored by the Grantor.

(2) Activities sponsored by other Federal agencies.

(b) During the time that equipment is held for use on the property for which it was acquired, the Grantee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the equipment was originally acquired. First preference for such other use shall be given to Grantor sponsored projects. Second preference will be given to other Federally sponsored projects.

2. Disposition of equipment. When the Grantee no longer needs the equipment as provided in paragraph (a) above, the equipment may be used for other activities in accordance with the following standards:

(a) Equipment with a current per unit fair market value of less than \$5,000. The Grantee may use the equipment for other activities without reimbursement to the Federal Government or sell the equipment and retain the proceeds.

(b) Equipment with a current per unit fair market value of \$5,000 or more. The Grantee may retain the equipment for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value or proceeds from sale of the equipment. If the Grantee has no need for the equipment and the equipment has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

The Grantor agency shall determine whether the equipment can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the equipment shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the equipment exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee requests and the following procedures shall govern:

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the equipment and reimburse the Grantor agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share ten percent of the proceeds for Grantee's selling and handling expenses.

(2) If the Grantee is instructed to ship the equipment elsewhere the Grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the equipment, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for equipment shall also include:

(a) Records which accurately provide for: a description of the equipment; manufacturer's serial number or other identification number; acquisition date and cost; source of the equipment; percentage (at the end of budget year) of Federal participation in the cost of the project for which the equipment was acquired; location, use and condition of the equipment and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.

(b) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years to verify the existence, current utilization, and continued need for the equipment.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(e) Proper sales procedures shall be established for unneeded equipment which would provide for competition to the extent practicable and result in the highest possible return.

This Grant Agreement covers the following described equipment(use continuation sheets as necessary).

N/A

M. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.
2. Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.
3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.
4. Accounting records supported by source documentation.

N. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm or photo copies or similar methods may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's government which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts and transcripts.

O. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

P. Provide an audit report prepared in accordance with Grantor regulations to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

Q. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentality's of states shall not be held accountable for interest earned on grant funds pending their disbursement.

R. Not encumber, transfer or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item K above.

S. To include in all contracts for construction or repair a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

T. To include in all contracts in excess of \$100,000 a provision that the contractor agrees to comply with all the requirements of the Clean Air Act (42 U.S.C. §7414) and Section 308 of the Water Pollution Control Act (33 U.S.C. §1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. In so doing the Contractor further agrees:

[Revision 1, 11/20/1997]

1. As a condition for the award of contract, to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.
2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities pursuant to 40 CFR Part 32 as of the date of contract award.

[Revision 1, 11/20/97]

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

As used in these paragraphs the term "facility" means any building, plan, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operation contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

Grantor Agrees That It:

A. Will make available to Grantee for the purpose of this Agreement not to exceed 2,326,000.00 which it will advance to Grantee to meet not to exceed 39.81% percent of the project development costs of the project in accordance with the actual needs of Grantee as determined by Grantor.

B. Will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans for sewer and water and with any State or area plans for the area in which the project is located.

C. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (1) advisable to further the purpose of the grant or to protect Grantor's financial interest therein and (2) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Termination of This Agreement

This Agreement may be terminated for cause in the event of default on the part of the Grantee as provided in paragraph I above or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds.

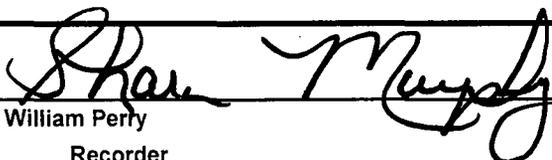
In witness whereof Grantee on the date first above written has caused these presence to be executed by its duly authorized

Mayor

and attested and its corporate seal affixed by its duly authorized

Recorder

Attest:

By: 
William Perly
(Title) Recorder

By: 
Vivian Livingood
(Title) Mayor

UNITED STATES OF AMERICA

RURAL UTILITIES SERVICE

By: 
(Title)

GRANT AGREEMENT
(2011W-1269)

This Grant Agreement entered into by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority"), at the direction of the WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL (the "Council"), and THE TOWN OF GILBERT (the "Governmental Agency").

R E C I T A L S

WHEREAS, the Council has authorized the Authority to make a grant to the Governmental Agency in the amount not to exceed \$1,333,500 (the "Grant") for the purposes of the design, acquisition or construction of a project for which a preliminary application has been submitted and approved by the Council;

WHEREAS, the Governmental Agency wishes to accept the Grant upon such terms and conditions as are hereinafter set forth for the purposes of designing, acquiring or constructing the project described in Exhibit A attached hereto and incorporated herein by reference (the "Project");

WHEREAS, this Grant Agreement sets forth the Council, the Authority and the Governmental Agency's understandings and agreements with regard to the Grant.

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

T E R M S

1. Prior to the distribution of the Grant, the Governmental Agency shall provide the Authority with a Project budget and an anticipated monthly draw schedule reflecting the receipt dates and amounts from other funding sources. The Project budget shall not be amended unless the Governmental Agency has received the prior written consent of the Council.

2. The Authority shall advance the Council's share of the Project costs from the Grant from time to time upon receipt of a requisition evidencing the costs incurred, which requisition must be satisfactory to the Authority. Unless agreed to by the Council prior to the commencement of construction, the Grant shall be the last dollars expended on the Project.

3. The monthly requisition will also set forth (i) the amounts requested for that requisition period from all other funding agencies, and (ii) the amounts advanced for the Project to date from all other funding agencies.

4. The Governmental Agency will use the proceeds of the Grant only for the purposes specifically set forth in Exhibit A.

5. The Authority shall wire the approved requisition amount using the wiring instructions provided in Exhibit B, unless the Council and Authority are provided replacement instructions in writing.

6. The Governmental Agency shall comply with and is bound by the Council's rules set forth as Title 167, Series 1 and more particularly Section 5.9 with respect to the sale of the Project.

7. The Governmental Agency acknowledges that the Grant may be reduced, from time to time, to reflect actual Project costs and availability of other funding.

8. The Governmental Agency shall list the Grant provided by the Authority and the Council in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any groundbreaking or dedication of the Project.

9. This Grant Agreement shall be governed by the laws of the State of West Virginia.

IN WITNESS WHEREOF, the parties hereto have caused this Grant Agreement to be executed by the respective duly authorized officers as of the date executed below by the Authority.

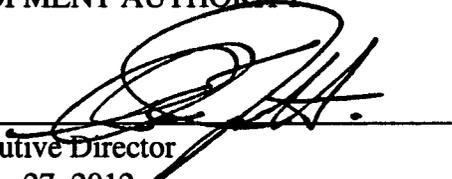
THE TOWN OF GILBERT

By: 
Its: Mayor
Date: July 27, 2012

(SEAL)

Attest: 
Its: Recorder

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

By: 
Its: Executive Director
Date: July 27, 2012

(SEAL)

Attest: 
Its: Authorized Officer

Exhibit A

Project Description

The Project consists of construction and acquisition of 18.3 miles of mains, 15 fire hydrants, one water storage tank of 300,000-gallon capacity with telemetry, one water station, small improvements to the existing water treatment plant including a new pre-sedimentation tank, and the installation of approximately 439 new customer services, and all necessary appurtenances thereto.

Number of Proposed New Customers to Be Served: 354

Location: Horsepin, Gilbert Creek and Browning Fork areas

[TO BE PLACED ON LETTERHEAD]

Exhibit B

Wiring Instructions

**The Town of Gilbert
P.O. Box 188
Gilbert, WV 25621**

Payor: West Virginia Water Development Authority
Source: Grant Proceeds
Amount: \$ _____
Date: _____
Form: Electronic Funds Transfer
Payee: The Town of Gilbert
P.O. Box 188, Gilbert, WV 25621
Contact Name: Vivian Livingood, Mayor
Telephone: (304) 664-9625
Bank Name: Branch Banking & Trust Company
Bank Street Address: Route 52 Main St., Gilbert, WV 25621
Bank Contact: Chris Hawks
Telephone: (304) 664-3555
ABA: 051503394
Account #: 0005176705258
Account: Series 2012 C Bonds Construction Trust Fund



3.13(A)/3.18(B&C)

CLOSING MEMORANDUM

**To: Vivian Carter
Vivian Livingood
Tracey Rowan**

From: Samme Gee

Date: July 27, 2012

**Re: Town of Gilbert Water Revenue Bonds,
Series 2012 A (United States Department of Agriculture)
Water Revenue Bonds, Series 2012 B
(United States Department of Agriculture)
Water Revenue Bonds, Series 2012 C
(West Virginia Infrastructure Fund)**

1. DISBURSEMENTS TO TOWN

A. Payor: United States Department of Agriculture
Source: Series 2012 A Bonds Proceeds
Amount: \$148,394.44
Date: July 27, 2012
Form: Electronic Funds Transfer
Payee: Town of Gilbert
Address: P.O. Box 188, Gilbert, WV 25621
Bank: Branch Banking & Trust Company
Route 52 Main St., Gilbert, WV 25621
ABA: 051503394
Account #: 0005176705258
Contact: Chris Hawks (304) 664-3555
Account: Series 2012 A Bonds Construction Trust Fund

{C1887660.1}

2. DISBURSEMENTS TO TOWN

A. Payor: United States Department of Agriculture
Source: Series 2012 B Bonds Proceeds
Amount: \$516,053.39
Date: July 27, 2012
Form: Electronic Funds Transfer
Payee: Town of Gilbert
Address: P.O. Box 188, Gilbert, WV 25621
Bank: Branch Banking & Trust Company
Route 52 Main St., Gilbert, WV 25621
ABA: 051503394
Account #: 0005176705258
Contact: Chris Hawks (304) 664-3555
Account: Series 2012 B and C Bonds Construction Trust Fund

3. DISBURSEMENTS TO TOWN

A. Payor: West Virginia Infrastructure and Jobs Development
Council
Source: Series 2012 C Bonds Proceeds
Amount: \$41,288.10
Date: July 27, 2012
Form: Electronic Funds Transfer
Payee: Town of Gilbert
Address: P.O. Box 188, Gilbert, WV 25621
Bank: Branch Banking & Trust Company
Route 52 Main St., Gilbert, WV 25621
ABA: 051503394
Account #: 0005176705258
Contact: Chris Hawks (304) 664-3555
Account: Series 2012 B and C Bonds Construction Trust Fund

SWEEP RESOLUTION

WHEREAS, the Town of Gilbert (the "Issuer") a municipal corporation and political subdivision of the State of West Virginia;

WHEREAS, the Issuer has issued bonds, as more specifically set forth on Exhibit A, attached hereto and incorporated herein by reference (the "Bonds");

WHEREAS, the Issuer makes or will make monthly debt service payments on and transfers reserve funds for the Bonds by check to the West Virginia Municipal Bond Commission (the "MBC") which in turn pays the owners of the Bonds and deposits funds in the reserve accounts;

WHEREAS, the MBC may accept such monthly payments by electronic funds transfer, thereby eliminating delay in payments and lost checks;

WHEREAS, the Issuer finds and determines that it is in the best interest of the Issuer, its citizens and the owners of the Bonds that the monthly debt service and reserve fund payments be made by electronic funds transfer with the State Treasurer sweeping the Issuer's account.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1) The monthly debt service payments on the Bonds, as set forth in Exhibit A, shall be made to the MBC by an electronic transfer by the State Treasurer from the accounts set forth in Exhibit A in such form and at such directions as are provided by the MBC.

2) The Mayor and Recorder are hereby authorized to sign and execute all such documents as are necessary to facilitate the electronic transfer of the Bond debt service and reserve fund payments.

3) This resolution shall be effective immediately upon adoption.

Adopted this 25th day of July, 2012.


(Authorized Officer)

EXHIBIT A

List each bond issue and the Bank account number from which the electronic transfer will be made.

<u>Bond Issue</u>	<u>Bank Account Information – Last 4 Digits</u>	<u>Monthly Amount</u>
<u>Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund)</u>	_____	<u>Debt Service: \$2129.00</u>
<u>Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund)</u>	_____	<u>Reserve: \$638.70</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
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_____	_____	_____
_____	_____	_____
_____	_____	_____

Required:
Email for main contact: thetownofgilbert@frontier.com



West Virginia Municipal Bond Commission

Suite 500
8 Capitol Street
Charleston, WV 25301
(304) 558-3971

Direct Debit Authorization Form

Please complete the following information

Entity Name The Town of Gilbert

Address PO Box 188, Gilbert, WV 25621

Phone Number (304) 664-9625

I hereby authorize the West Virginia State Treasurer's Office to remove funds from the bank accounts listed below in order to make payments to the West Virginia Municipal Bond Commission.
In the event of a change of bank account numbers, I will notify the West Virginia State Treasurer's Office and the Municipal Bond Commission as soon as possible. I will provide a reasonable amount of time for the change to occur. I understand that a transaction might be reversed or corrected in the event of an error.

Account Nickname	Bank Name	Bank Routing #	Bank Account#
<u>Revenue Account</u>	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Mayor

Title

, 2012

Date



July 27, 2012

The Town of Gilbert
Gilbert, West Virginia

United States Department of Agriculture
Rural Utilities Service
Cross Lanes, West Virginia

Re: The Town of Gilbert Water Revenue Bonds, Series 2012 B
(United States Department of Agriculture)

Ladies and Gentlemen:

We have served as bond counsel to The Town of Gilbert (“the Issuer”), a municipal corporation, in connection with the issuance of its Water Revenue Bonds, Series 2012 B (United States Department of Agriculture), dated the date hereof (the “Bonds”).

We have examined certified copies of proceedings and other papers relating to the issuance of the Bonds. The Bonds are issued in the principal amount of \$1,200,000, in the form of one bond, bearing interest from the date hereof, on the amount advanced thereunder, at the rate of 2.75% per annum.

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

We have also examined the applicable provisions of the Act and a Bond Ordinance duly passed by the Issuer on April 17, 2012, effective May 14, 2012, as supplemented by a Supplemental Resolution duly adopted by the Issuer on July 25, 2012 (collectively, the “Ordinance”), pursuant to and under which Act and Ordinance the Bonds are authorized and issued. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Ordinance when used herein.

{C2215293.1}

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

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

2. The Issuer has legally and effectively enacted the Ordinance and adopted all other necessary resolutions in connection with the issuance and sale of the Bonds. The Ordinance constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with their terms thereof.

3. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Government and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Gross Revenues of the System and secured by a first lien on and pledge of the Gross Revenues of the System on a parity with the Prior Bonds, the Series 2012 A Bonds and the Series 2012 C Bonds, all as defined in the Ordinance, all in accordance with the terms of the Bonds and the Ordinance.

4. Under the Act, the Bonds and any interest thereon are exempt from all taxation by the State of West Virginia, or any county, municipality, county commission, political subdivision or agency thereof.

5. The Bonds have not been issued on the basis that the interest 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.

No opinion is given herein as to the effect upon enforceability of the Bonds under any applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or in the exercise of judicial discretion or principles of equity in appropriate cases.

The Town of Gilbert
United States Department of Agriculture
July 27, 2012
Page 3

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

Very truly yours,

A handwritten signature in cursive script that reads "Jackson Kelly PLLC".

JACKSON KELLY PLLC



July 27, 2012

The Town of Gilbert
Gilbert, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: The Town of Gilbert Water Revenue Bonds, Series 2012 C
(West Virginia Infrastructure Fund)

Ladies and Gentlemen:

We have served as bond counsel to The Town of Gilbert (“the Issuer”), a municipal corporation, in connection with the issuance of its Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund), dated the date hereof (the “Bonds”).

We have examined certified copies of proceedings and other papers relating to the authorization of (i) a loan agreement for the Bonds, dated July 27, 2012, including all schedules and exhibits attached thereto (the “Loan Agreement”), by and between the Issuer and the West Virginia Water Development Authority (the “Authority”), on behalf of the West Virginia Infrastructure and Jobs Development Council (the “Council”), and (ii) the Bonds to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are issued in the principal amount of \$983,500, in the form of one bond, registered to the Authority, bearing no interest with principal quarterly on March 1, June 1, September 1, and December 1 of each year, commencing March 1, 2014, all as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 8,

{C2215447.1}

The Town of Gilbert
West Virginia Infrastructure and Jobs Development Council
West Virginia Water Development Authority
July 27, 2012
Page 2

Article 19 and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), for the purposes of (i) paying the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and a Bond Ordinance duly passed by the Issuer on April 17, 2012, effective May 14, 2012, as supplemented by a Supplemental Resolution duly adopted by the Issuer on July 25, 2012 (collectively, the "Ordinance"), pursuant to and under which Act and Ordinance the Bonds are authorized and issued, and the Loan Agreement is entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Ordinance and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Ordinance and in the Loan Agreement when used herein.

In connection with the issuance of the Bonds, the Issuer has executed a Certificate as to Use of Proceeds, dated as of the date hereof (the "Certificate as to Use of Proceeds"), which, among other things, sets forth restrictions on the investment and expenditure of the Bond proceeds and earnings thereon, to ensure that the arbitrage requirements of the Internal Revenue Code of 1986, as amended, and the regulations thereunder (collectively, the "Code"), necessary to establish and maintain the excludability of interest on the Bonds from gross income for federal income tax purposes, are and will continue to be met.

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

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

2. The Loan Agreement has been duly authorized by and executed on behalf of the Issuer and is a valid and binding special obligation of the Issuer, enforceable in accordance with the terms thereof.

3. The Loan Agreement inures to the benefit of the Authority and the Council and cannot be amended so as to affect adversely the rights of the Authority or the Council or diminish the obligations of the Issuer without the written consent of the Authority and the Council.

4. The Issuer has legally and effectively enacted the Ordinance and adopted all other necessary resolutions in connection with the issuance and sale of the Bonds. The Ordinance constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms thereof and contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Gross Revenues of the System and secured by a first lien on and pledge of the Gross Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Prior Bonds, Series 2012 A Bonds and Series 2012 B Bonds, as defined in the Ordinance, all in accordance with the terms of the Bonds and the Ordinance.

6. The Bonds have not been issued on the basis that the interest 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.

7. Under the Act, the Bonds and any interest thereon are exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof.

The Town of Gilbert
West Virginia Infrastructure and Jobs Development Council
West Virginia Water Development Authority
July 27, 2012
Page 4

No opinion is given herein as to the effect upon enforceability of the Bonds under any applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or in the exercise of judicial discretion or principles of equity in appropriate cases.

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

Very truly yours,

A handwritten signature in black ink that reads "Jackson Kelly PLLC". The signature is written in a cursive, flowing style.

JACKSON KELLY PLLC

GLEN R. RUTLEDGE
ATTORNEY AT LAW
P.O. Box 340
Williamson, WV 25661
E-mail: glen.rutledge@frontier.com

Telephone: (304) 235-8500
Fax: (304) 235-0900

July 27, 2012

The Town of Gilbert
Gilbert, West Virginia

United States Department of Agriculture
Rural Utilities Service
Parkersburg, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

Jackson Kelly PLLC
Charleston, West Virginia

Re: The Town of Gilbert Water Revenue Bonds, Series 2012 A
(United States Department of Agriculture)
Water Revenue Bonds, Series 2012 B
(United States Department of Agriculture)
Water Revenue Bonds, Series 2012 C
(West Virginia Infrastructure Fund)

Ladies and Gentlemen:

I am counsel to The Town of Gilbert in Mingo County, West Virginia (the "Issuer"). As such counsel, I have examined copies of the approving opinion of Jackson Kelly PLLC, as bond counsel, relating to the above-captioned bonds of the Issuer (the "Bonds"), the Letter of Conditions dated April 9, 2009, and all amendments thereto, the Letter of Conditions dated July 14, 2008, and all amendments thereto, from the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), a Bond Ordinance duly passed by the Issuer on April 17, 2012, effective May 14, 2012, as supplemented by a Supplemental Resolution duly adopted by the Issuer on July 25, 2012 (collectively, the "Ordinance"), a loan agreement (collectively, the

“Loan Agreement”), including all schedules and exhibits attached thereto, between the Issuer and the West Virginia Water Development Authority (the “Authority”) on behalf of the West Virginia Infrastructure and Jobs Development Council (the “Council”) and other documents relating to the Bonds and the Issuer. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Ordinance when used herein.

I am of the opinion that:

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

2. The members and officers of the Council of the Issuer have been duly, lawfully and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act in their respective capacities on behalf of the Issuer.

3. The Ordinance has been duly adopted and enacted by the Issuer and is in full force and effect.

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

5. The execution and delivery of the Bonds and the consummation of the transactions contemplated by the Bonds and the Ordinance, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach or default under any ordinance, order, resolution, agreement or other document to which the Issuer is a party or by which the Issuer or its properties are bound or any existing law, regulation, rule, order or decree to which the Issuer is subject.

6. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges, including,

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without limitation, all requisite permits, approvals, orders and certificates from the West Virginia Bureau for Public Health and the Public Service Commission of West Virginia (the "PSC"). The Issuer has taken all actions required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges. The Issuer has received the Recommended Decision of the Administrative Law Judge entered on January 3, 2012, as made final by the PSC on January 23, 2012, in Case No. 11-1353-W-CN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of such order has expired prior to the date hereof. Such orders remain in full force and effect.

7. To the best of my knowledge, other than two matters where the Town of Gilbert has filed for condemnation and received a right of entry but the defendants in these matters have answered and the merits will be addressed by the Circuit Court of Mingo County (Town of Gilbert v. Gavin Smith, Civil Action No. 12-C-32, and Town of Gilbert v. Clifford Ellis, Civil Action No. 12-C-192), there is no litigation, action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Bonds and the Ordinance, the acquisition and construction of the Project, the operation of the System, the validity of the Bonds or the collection or pledge of the Gross Revenues for the payment of the Bonds.

8. All successful bidders have made the required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy. Based upon my review of the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, I am of the opinion that such surety bonds and policies (1) are in compliance with the contracts; (2) are adequate in form, substance and amount to protect the various interest of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act and the Ordinance; and (5) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

9. The contracts contain language in the Project Manual informing the contractor of the requirements of Chapter 21, Article 1D of the West Virginia Code of 1931, as amended. The contractor has submitted a plan to implement the drug free

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workplace policy prior to the awarding of the contract pursuant to Chapter 21, Article 1D of the West Virginia Code of 1931, as amended.

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

Very truly yours,


Glen R. Rutledge

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July 27, 2012

The Town of Gilbert
P.O. Box 188
Gilbert, WV 25621

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

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

Re: Final Title Opinion for The Town of Gilbert

Ladies and Gentlemen:

I am counsel to The Town of Gilbert (the "Issuer") in connection with a proposed project to construct certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"). I provide this final title opinion on behalf of the Issuer to satisfy the requirements of the West Virginia Infrastructure and Jobs Development Council (the "Council") for the Project. Please be advised of the following:

1. I am of the opinion that the Issuer is a duly created and validly existing municipality possessed with all the powers and authority granted to municipalities under the laws of the State of West Virginia to construct, operate and maintain the Project as approved by the Council.

2. The Issuer has obtained all necessary permits and approvals for the construction of the Project.

3. I have investigated and ascertained the location of, and are familiar with the legal description of, the necessary sites, including easements and/or rights of way, required for the Project as set forth in the plans for the Project prepared by E. L. Robinson Engineering Co., the consulting engineers for the Project.

4. I have examined the records on file in the Office of the Clerk of the County Commission of Mingo County, West Virginia, the county in which the Project is to be located, and, in my opinion, the Issuer has acquired legal title or such other estate or interest in all of the necessary site components for the Project, including all easements and/or rights of way, with the exception of those listed in Paragraph 5, sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the Project.

5. The following listed properties are to be acquired by eminent domain and the necessary filings have been made in the Office of the Clerk of the Circuit Court of Mingo County, West Virginia, to permit the Issuer a right-of-entry for the purpose of construction, operation and maintenance of the Project on the subject properties. The Issuer's title thereto is defeasible in the event the Issuer does not satisfy any resulting judgment and/or award in the proceedings for acquisition of said properties, and my certification is subject to the following pending litigation:

Name	Tax Map	Parcel
Byron K. Smith, et al	474	14
Jimmy Harless, et al	474	14
Michael Trent, et al	474	14
Premium Energy, et al	473	25
Chilton Hatfield	452	59
Chilton Hatfield, et al	452	5 and 4
J.M. Vest, et al	472	16
Trevor Cline	433	3.16
Kenneth Ferrell, et al	453	23 and 24.2
Austin and Emma Musick	453	18
Mingo Wyoming Coal Land Company	454	1
Myrtle Maynard, et al	452	57
Gavin Smith	452	54 and 54.1

Clifford Ellis	3	35
	3	61
	3	307
Richard Ellis, et al	494	5
	1	37
	1	41

All deeds, easements and rights of way which have been acquired to date by the Issuer have been duly recorded in the Office of the Clerk of the County Commission of Mingo County to protect the legal title to and interest of the Issuer.

Very truly yours,


Glen R. Rutledge, Esquire

Ronald J. Flora

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Jennifer R. Smith / CEA
Lori R. Shirkey / Secretary

July 27, 2012

Town of Gilbert
P.O. Box 188
Gilbert, WV 25621

West Virginia Infrastructure and Jobs Development Council
180 Association Drive
Charleston, WV 25311

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

Jackson Kelly PLLC
P. O. Box 553
Charleston, WV 25322

Re: Town of Gilbert Water Revenue Bonds, Series 2012 A (United States Department of Agriculture), Water Revenue Bonds, Series 2012 B (United States Department of Agriculture) and Water Revenue Bonds, Series 2012 C (West Virginia Infrastructure Fund)

Ladies and Gentlemen:

We are special counsel to the Town of Gilbert, West Virginia (the "Issuer") in connection with certain matters before the Public Service Commission of West Virginia (the "PSC") and for the imposition of rates and charges. As such special counsel, we are of the opinion that:

The Issuer has received the Recommended Decision of the Administrative Law Judge entered on January 3, 2012, as made final by the PSC on January 23, 2012, in Case No. 11-1353-W-CN, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the PSC order has expired without any appeal. The order remains in full force and effect.

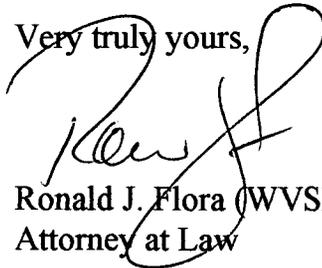
The Issuer duly enacted a water rate ordinance on September 19, 2011, setting forth the rates and charges for the services of the System. The Issuer has complied with all

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requirements of State law and the PSC to make the rates valid and effective. The time for appeal of such rate ordinance expired and there was no appeal thereof. The rates are therefore unappealable and are in full force and effect.

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

Very truly yours,

Ronald J. Flora (WVSB#1227)
Attorney at Law