

**THE NEW CREEK WATER ASSOCIATION INCORPORATED**

**Water Refunding Revenue Notes, Series 2004 A  
(Branch Banking and Trust Company),  
Water Revenue Bonds, Series 2004 B and Series 2004 C  
(West Virginia Infrastructure Fund)**

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**THE NEW CREEK WATER ASSOCIATION INCORPORATED**

**WATER REFUNDING REVENUE NOTES, SERIES 2004 A  
(BRANCH BANKING AND TRUST COMPANY),  
WATER REVENUE BONDS, SERIES 2004 B  
(WEST VIRGINIA INFRASTRUCTURE FUND)  
AND  
WATER REVENUE BONDS, SERIES 2004 C  
(WEST VIRGINIA INFRASTRUCTURE FUND)**

**BOND AND NOTE RESOLUTION**

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THE NEW CREEK WATER ASSOCIATION INCORPORATED

RESOLUTION AUTHORIZING THE REFUNDING OF THE GMAC COMMERCIAL MORTGAGE LOAN, SERIES 1972, OF THE NEW CREEK WATER ASSOCIATION INCORPORATED (THE "ISSUER") THROUGH THE ISSUANCE BY THE ISSUER OF NOT MORE THAN \$110,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REFUNDING REVENUE NOTES, SERIES 2004 A (BRANCH BANKING AND TRUST COMPANY); AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS, IMPROVEMENTS AND EXTENSIONS TO THE EXISTING WATERWORKS FACILITIES OF THE ISSUER AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE ISSUER OF NOT MORE THAN \$1,095,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND) AND NOT MORE THAN \$286,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2004 C (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH NOTES AND BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING LOAN AGREEMENTS RELATING TO SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A CREDIT LINE DEED OF TRUST, SECURITY AGREEMENTS AND OTHER DOCUMENTS AND INSTRUMENTS RELATING TO THE NOTES AND BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH NOTES AND BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE NEW CREEK WATER ASSOCIATION INCORPORATED:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Resolution. This Resolution (together with any order or resolution supplemental hereto or amendatory hereof, the "Resolution") is adopted pursuant to the provisions of Chapter 31E, Article 1 et seq. of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law.

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

A. The New Creek Water Association Incorporated (the "Issuer") is a non-stock, non-profit corporation organized under the laws of the State of West Virginia, and located in Mineral County, West Virginia.

B. The Issuer presently owns and operates a waterworks system. However, it is deemed necessary and desirable for the health and welfare of the customers of the Issuer that there be acquired and constructed certain additions, betterments, improvements and extensions to the existing waterworks facilities of the Issuer, consisting of approximately 46,000 feet of water line, 50 valves, 45 fire hydrants, 100 meter assemblies, installation of 33 hydrants on existing lines, a 107,500-gallon water tank, a 72,500 gallon water tank, a new 90-gpm pump station and the modification of the existing pump station, together with all appurtenant facilities (collectively, the "Project") (the existing waterworks facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The acquisition and construction of the System were financed in part by the proceeds of a loan to the Issuer, being the GMAC Commercial Mortgage Loan, Series 1972, dated July 10, 1972, in the original aggregate principal amount of \$262,000 (the "Series 1972 Bonds").

D. The Issuer hereby determines that it is in the best interests of the Issuer to refund the Series 1972 Bonds in order to relieve itself from the cumbersome loan covenants contained therein.

E. It is deemed necessary for the Issuer to issue its Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company) (the "Series 2004 A Notes" or "Notes"), in an aggregate principal amount of not more than \$110,000, to

currently refund the Series 1972 Bonds and to pay costs of issuance of the Series 2004 A Notes and related costs.

F. It is in the best interests of the Issuer that its Notes be sold to Branch Banking and Trust Company, Keyser, West Virginia (the "Purchaser") pursuant to the terms and provisions of a commitment letter dated March 4, 2004, by and between the Issuer and the Purchaser, in form satisfactory to the respective parties (the "Commitment Letter"), approved hereby if not previously approved by resolution of the Issuer.

G. The Issuer intends to permanently finance the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority"), which administers the West Virginia Infrastructure Fund pursuant to the Act.

H. It is deemed necessary for the Issuer to issue its (i) Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), in the total aggregate principal amount of not more than \$1,095,000 (the "Series 2004 B Bonds") and (ii) Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund), in the total aggregate principal amount of not more than \$286,000 (the "Series 2004 C Bonds" and together with the Series 2004 B Bonds, sometimes collectively referred to herein as the "Series 2004 Bonds"), to permanently finance the costs of acquisition and construction of the Project and costs of issuance of the Series 2004 Bonds and related costs. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, upon the Series 2004 Bonds prior to and during acquisition and construction of the Project and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the respective Series 2004 Bonds Reserve Accounts (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority, discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2004 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2004 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

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

J. It is in the best interests of the Issuer that its Series 2004 Bonds be sold to the Authority pursuant to the terms and provisions of loan agreements by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), in form satisfactory to the respective parties (collectively, the "Loan Agreements"), approved hereby if not previously approved by resolution of the Issuer.

K. The Notes will be secured by a Security Agreement by and between the Issuer and the Purchaser (the "Notes Security Agreement"), pursuant to which the Issuer shall grant the Purchaser a security interest in, among other things, the revenues and accounts receivable of the Issuer.

L. The Series 2004 Bonds will be secured by a Credit Line Deed of Trust, Security Agreement and Fixture Filing by and among the Issuer, the trustees named therein and the Authority (the "Deed of Trust"), and a Security Agreement by and between the Issuer and the Authority (the "Bonds Security Agreement"), pursuant to which the Issuer shall grant the Authority a security interest in, among other things, the revenues and accounts receivable of the Issuer.

M. There are outstanding obligations of the Issuer which will rank on a parity with the Notes and the Series 2004 Bonds as to liens, pledge and source of and security for payment, being the promissory note of the Issuer, dated October 20, 1992, issued in the original aggregate principal amount of \$183,000 (the "Prior Bonds").

Prior to the issuance of the Notes and the Series 2004 Bonds, the Issuer will obtain (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 Holders of the Prior Bonds to the issuance of the Notes and the Series 2004 Bonds on a parity with the Prior Bonds. Following the refunding of the Series 1972 Bonds and other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all the covenants of the Prior Bonds and the Prior Resolution.

N. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all costs of operation and maintenance of the System and the principal of and interest, if any, on the Prior Bonds, the Notes and the Series 2004 Bonds, and to make payments into all funds and accounts and other payments provided for herein.

O. The Issuer has complied with all requirements of West Virginia law and the Loan Agreements relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Notes and the Series 2004 Bonds, or will have so complied prior to issuance of any thereof, including, among other things and

without limitation, the approval of the refunding of the Series 1972 Bonds and the financing thereof by the Purchaser, the approval of the Project and the financing thereof by the Council and the obtaining of a certificate of public convenience and necessity and approval of this financing and necessary user rates and charges described herein from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Notes and the Series 2004 Bonds or such final order will not be subject to appeal.

P. The Project has been reviewed and determined to be technically and financially feasible by the Council as required under Chapter 31, Article 15A of the West Virginia Code of 1931, as amended.

Section 1.03. Resolution Constitutes Contract. In consideration of the acceptance of the Notes and the Series 2004 Bonds by those who shall be the respective Registered Owners of the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Issuer and such Holders, 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 Holders of any and all of such Notes or Series 2004 Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Note or Series 2004 Bond and any other Notes or Series 2004 Bonds, and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

"Act" means Chapter 31E, Article 1 et seq. of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2004 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.

"Authorized Officer" means the President of the Issuer.

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

"Bonds" shall mean, collectively, the Notes, the Series 2004 Bonds and the Prior Bonds and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another resolution of the Issuer.

"Bonds Security Agreement" means the Security Agreement by and between the Issuer and the Authority, dated November 18, 2004, pursuant to which the Issuer shall grant the Authority a security interest in, among other things, the revenues and accounts receivable of the Issuer to secure the Series 2004 Bonds.

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

"Closing Date" means the date upon which there is an exchange of the Notes and the Series 2004 Bonds for all or a portion of the proceeds of the Notes and the Series 2004 Bonds from the Purchaser and the Authority, respectively.

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

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

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

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

"Council" means the West Virginia Infrastructure and Jobs Development Council or any other agency of the State of West Virginia that succeeds to the functions of the Council.

"Deed of Trust" means the Credit Line Deed of Trust, Security Agreement and Fixture Filing, dated November 18, 2004, by and among the Issuer, the trustees named therein and the Authority securing the Series 2004 Bonds.

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

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

"Fiscal Year" means each 12-month period beginning on July 1 and ending on the succeeding June 31.

"Governing Body" or "Board" means the board of directors of the Issuer, as it may now or hereafter be constituted.

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

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

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

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

"Investment Property" means

(A) any security (within the meaning of Section 165(g)(2)(A) or (B) of the Code),

(B) any obligation,

(C) any annuity contract,

(D) any investment-type property, or

(E) in the case of a bond other than a private activity bond, any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan.

Except as provided in the following sentence, the term "Investment Property" does not include any tax-exempt bond. With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in section 57(a)(5)(C) of the Code), the term "Investment Property" includes a specified private activity bond (as so defined).

"Issuer" means The New Creek Water Association Incorporated, a West Virginia non-stock, non-profit corporation.

"Loan Agreements" means, collectively, the Loan Agreements heretofore entered, or to be entered, by and between the Issuer and the Authority, on behalf of the Council, providing for the purchase of the Series 2004 B Bonds and the Series 2004 C Bonds, respectively, from the Issuer by the Authority, the forms of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

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

"Notes" or "Series 2004 A Notes" means the Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company), of the Issuer authorized to be issued hereby.

"Notes Security Agreement" means the Security Agreement, dated November 18, 2004, by and between the Issuer and the Purchaser, pursuant to which the Issuer shall grant the Purchaser a security interest in, among other things, the revenues and accounts receivable of the Issuer to secure the Notes.

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

"Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered, except (i) any Bond canceled by the Bond Registrar at or prior to said date; (ii) any Bond for the

payment of which monies, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article X hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any Bonds registered to the Issuer.

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

"Paying Agent" means the Commission or other entity designated as such for the Notes and the Series 2004 Bonds in the Supplemental Resolution.

"Prior Bonds" means the Issuer's Promissory Note, dated October 20, 1992, as described in Section 1.02M hereof.

"Prior Resolution" means, collectively, the resolutions adopted by the Issuer, as supplemented by the supplemental resolutions of the Issuer, authorizing the issuance of the Prior Bonds.

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

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

(a) Government Obligations;

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

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

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

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

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

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

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

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

"Redemption Date" means the date fixed for redemption of the Series 1972 Bonds.

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

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by Section 5.01 hereof.

"Reserve Accounts" means, collectively, the respective reserve accounts established for the Series 2004 Bonds and the Prior Bonds.

"Reserve Requirement" means, collectively, the respective amount required to be on deposit in the Reserve Accounts for the Series 2004 Bonds and the Prior Bonds.

"Resolution" or "Bond and Note Resolution" means this Resolution and all orders and resolutions supplemental hereto or amendatory hereof.

"Revenue Fund" means the Revenue Fund previously established by the Prior Resolution and continued hereby.

"Secretary" means the Secretary of the Issuer.

"Security Agreements" means, collectively, the Notes Security Agreement and the Bonds Security Agreement.

"Series 2004 Bonds" means, collectively the Series 2004 B Bonds and the Series 2004 C Bonds.

"Series 2004 Bonds Construction Trust Fund" means the Series 2004 Bonds Construction Trust Fund established by Section 5.01 hereof.

"Series 2004 B Bonds" means the Issuer's Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), authorized to be issued hereby.

"Series 2004 B Bonds Reserve Account" means the Series 2004 B Bonds Reserve Account established by Section 5.02 hereof.

"Series 2004 B Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2004 B Bonds in the then current or any succeeding year.

"Series 2004 B Bonds Sinking Fund" means the Series 2004 B Bonds Sinking Fund established by Section 5.02 hereof.

"Series 2004 C Bonds" means the Issuer's Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund), authorized to be issued hereby.

"Series 2004 C Bonds Reserve Account" means the Series 2004 C Bonds Reserve Account established by Section 5.02 hereof.

"Series 2004 C Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2004 C Bonds in the then current or any succeeding year.

"Series 2004 C Bonds Sinking Fund" means the Series 2004 C Bonds Sinking Fund established by Section 5.02 hereof.

"Sinking Funds" means, collectively, the respective sinking funds established for the Series 2004 Bonds and the Prior Bonds.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution of the Issuer supplementing or amending this Resolution and, when preceded by the article "the," refers specifically to the supplemental resolution or resolutions authorizing the sale of the Notes and the Series 2004 Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Notes and the Series 2004 Bonds, and not so included, may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Resolution to be set aside and held for the payment of or security for the Notes, the Series 2004 Bonds, the Prior Bonds, or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund, the Sinking Funds and the Reserve Accounts.

"System" means the complete waterworks system of the Issuer, as presently existing in its entirety or any integral part thereof, and all waterworks facilities owned by the Issuer and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the waterworks system; and shall also include the Project and any and all extensions, additions, betterments and improvements thereto hereafter acquired or constructed for the waterworks system from any sources whatsoever.

"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 adoption hereof.

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

## ARTICLE II

### AUTHORIZATION OF REFUNDING; AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Refunding. All Series 1972 Bonds outstanding as of the date of issuance of the Series 2004 A Notes are hereby ordered to be paid in full. The proceeds of the Series 2004 A Notes shall be used to pay the entire outstanding principal balance of the Series 1972 Bonds and all accrued interest thereon, on the Redemption Date. Upon payment in full of the Series 1972 Bonds, the liens, pledge and security created by the Resolution authorizing the Series 1972 Bonds shall be terminated, released and discharged.

Section 2.02. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of \$1,381,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2004 Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids and has entered into or will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the Authority and the Council.

The cost of the Project is estimated to be \$1,381,000, all of which will be obtained from the proceeds of the Series 2004 Bonds.

### ARTICLE III

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

Section 3.01. Authority of Notes and Bonds. A. For the purposes of refunding the Series 1972 Bonds and paying certain costs of issuance of the Series 2004 A Notes and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued negotiable Series 2004 A Notes of the Issuer. The Series 2004 A Notes shall be issued as a single note, designated as "Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company)," in the principal amount of not more than \$110,000 and shall have such terms as set forth hereinafter and in the Supplemental Resolution.

B. For the purposes of paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2004 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued negotiable Series 2004 B and Series 2004 C Bonds of the Issuer. The Series 2004 B Bonds shall be issued as a single bond, designated as "Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund)," in the principal amount of not more than \$1,095,000 and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The Series 2004 C Bonds shall be issued as a single bond, designated as "Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund)," in the principal amount of not more than \$286,000 and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2004 Bonds shall be deposited in or credited to the Series 2004 Bonds Construction Trust Fund established by Section 5.01 hereof and applied as set forth in Article VI hereof.

Section 3.02. Terms of Notes and Bonds. A. The Series 2004 A Notes 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 monthly on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution.

B. The Series 2004 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 a Supplemental Resolution or as specifically provided in the respective Loan Agreements. The Series 2004 Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the

Series 2004 Bonds, if any, 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 2004 Bonds shall each 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 respective principal amount of the Series 2004 Bonds. The Series 2004 Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. Such Bonds shall be dated and bear interest, if any, and shall be dated as set forth in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2004 Bonds shall be executed in the name of the Issuer by the President, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed the Series 2004 Bonds shall cease to be such officer of the Issuer before the Series 2004 Bonds so signed and sealed have been actually sold and delivered, such Series 2004 Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Series 2004 Bonds had not ceased to hold such office. Any Series 2004 Bond may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 2004 Bonds shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication and Registration on such Bonds, 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 Bonds shall be conclusive evidence that such Bonds have been authenticated, registered and delivered under this Resolution. The Certificate of Authentication and Registration on the Series 2004 Bonds shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2004 Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting the Series 2004 Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 2004 Bonds remain outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain books for the registration and transfer of such Bonds.

The registered Series 2004 Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Series 2004 Bonds or transferring the registered Bonds are exercised, Bonds shall be delivered in accordance with the provisions of this Resolution. All Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Series 2004 Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be

canceled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. [Reserved].

Section 3.08. Bonds Secured by Pledge of Gross Revenues; Lien Position with Respect to Prior Bonds. The payment of the debt service of the Series 2004 Bonds and the Notes shall be secured by a first lien on the Gross Revenues derived from the System and the accounts receivable of the Issuer on a parity with the Holders of the Prior Bonds. Such Gross Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2004 Bonds, the Notes and the Prior Bonds, and to make all other payments provided for in the Resolution, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2004 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2004 Bonds to the original purchasers upon receipt of the documents set forth below:

- A. If other than the Authority, a list of the names in which the Series 2004 Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;
- B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2004 Bonds to the original purchasers;
- C. An executed and certified copy of the Resolution;
- D. An executed copy of the Loan Agreement; and
- E. The unqualified approving opinion of bond counsel on the Series 2004 Bonds.

Section 3.10. Form of Notes and Bonds. The text of the Notes and the Series 2004 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 2004 A NOTE)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE NEW CREEK WATER ASSOCIATION INCORPORATED  
WATER REFUNDING REVENUE NOTE, SERIES 2004 A  
(BRANCH BANKING AND TRUST COMPANY)

No. AR-1

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

KNOW ALL MEN BY THESE PRESENTS: That THE NEW CREEK WATER ASSOCIATION INCORPORATED, a West Virginia non-stock, nonprofit corporation in Mineral County, West Virginia (the "Issuer"), for value received, hereby promises to pay, solely from the sources and in the manner hereinafter set forth, to the order of

- \_\_\_\_\_ -

or registered assigns (the "Registered Owner"), on \_\_\_\_\_, 2006, the principal sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), together with interest at the rate of \_\_\_\_\_ % per annum. This Note is payable in 23 equal monthly installments of \$ \_\_\_\_\_ per month, with a final payment of the then aggregate amount of the unpaid principal balance together with interest accrued thereon due on \_\_\_\_\_, 2006, payable on the \_\_\_ day of each month, commencing \_\_\_\_\_, 2004, to and including \_\_\_\_\_, 2006. Each monthly installment shall consist of principal and interest.

The principal of and interest on this Note are payable in any coin or currency which on the date of payment thereof is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of \_\_\_\_\_, \_\_\_\_\_, West Virginia, as Registrar and Paying Agent.

This Note is subject to prepayment of principal and interest to the date of prepayment in whole or in part at any time, without penalty.

This Note is issued to pay in full the entire outstanding principal of and all accrued interest on the Issuer's GMAC Commercial Mortgage Loan, Series 1972, dated July 10, 1972 (the "Series 1972 Bonds"). The existing waterworks facilities of the Issuer and any further improvements or extensions thereto are herein called the "System". This Note is issued under the authority of and in full compliance with the Constitution and statutes of the

State of West Virginia, including particularly Chapter 31E, Article 1 et seq. of the West Virginia Code of 1931, as amended (the "Act"), and a Resolution duly adopted by the Issuer on \_\_\_\_\_, 2004, as supplemented by a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2004 (collectively, the "Notes Legislation"), and is subject to all the terms and conditions thereof.

THIS NOTE 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) PROMISSORY NOTE, DATED OCTOBER 20 1992 (THE "PRIOR BONDS"); (2) WATER REVENUE BONDS, SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND) (THE "SERIES 2004 B BONDS"); AND (3) WATER REVENUE BONDS, SERIES 2004 C (WEST VIRGINIA INFRASTRUCTURE FUND) (THE "SERIES 2003 C BONDS" AND TOGETHER WITH THE SERIES 2004 B BONDS, COLLECTIVELY REFERRED TO HEREIN AS THE "SERIES 2004 BONDS").

The principal of and interest on this Note are payable only from and secured by a first lien on the Gross Revenues of the System and accounts receivable of the Issuer, on a parity with the pledge of Gross Revenues in favor of the Holders of the Prior Bonds and the Series 2004 Bonds. The monies from these sources shall be deposited into the Notes Payment Fund established under the Notes Legislation for the prompt payment of the principal of and interest on this Note.

Under the Notes Legislation, the Issuer has entered into certain covenants with the Registered Owner, for the terms of which reference is made to said Notes Legislation. Remedies provided the Registered Owner are exclusively as provided in the Notes Legislation, to which reference is here made for a detailed description thereof.

Subject to the requirements for transfer set forth below, this Note is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia. This Note is transferable, as provided in the Notes Legislation, only by transfer of registration upon the books of the Registrar, to be made at the request of the Registered Owner hereof in person or by his attorney duly authorized in writing, and upon surrender hereof, together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or his duly authorized attorney.

All monies received from the sale of this Note shall be applied solely to the refunding of the Series 1972 Bonds and to pay costs of issuance of the Notes and related costs, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the Registered Owner of this Note.

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 wet lands 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 issuance of this Note do exist, have happened and have been performed in due time, form and manner as required by law, and that the Notes, together with all other obligations of the Issuer, do not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia.

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

This Note shall not be valid or obligatory unless authenticated and registered by the Registrar by the execution of the Registrar's Certificate of Authentication and Registration attached hereto and incorporated herein.

IN WITNESS WHEREOF, THE NEW CREEK WATER ASSOCIATION  
INCORPORATED has caused this Note to be signed by its President and its corporate seal  
to be hereunto affixed and attested by its Secretary, and has caused this Note to be dated  
\_\_\_\_\_, 2004.

[SEAL]

\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is to certify that this Note is one of the Notes described in and issued under the provisions of the within-mentioned Notes Legislation and has been duly registered in the name of the registered owner set forth above.

Date: \_\_\_\_\_, 2004.

\_\_\_\_\_  
as Registrar

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

(FORM OF)  
ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto \_\_\_\_\_ the within-mentioned Note and does hereby irrevocably constitute and appoint \_\_\_\_\_, attorney, to transfer said Note on the books of the Registrar on behalf of said Issuer with full power of substitution in the premises.

Dated: \_\_\_\_\_, 2004.

\_\_\_\_\_  
IN THE PRESENCE OF:

\_\_\_\_\_

(FORM OF SERIES 2004 B BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE NEW CREEK WATER ASSOCIATION INCORPORATED  
WATER REVENUE BOND, SERIES 2004 B  
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. BR-1

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

KNOW ALL MEN BY THESE PRESENTS: That THE NEW CREEK WATER ASSOCIATION INCORPORATED, a West Virginia non-stock, nonprofit corporation in Mineral County, West Virginia (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (THE "AUTHORITY") or registered assigns the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 200\_, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Council, dated \_\_\_\_\_, 2004.

This Bond is issued (i) to pay the costs of acquisition and construction of certain improvements and extensions to the existing waterworks facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing waterworks facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State

of West Virginia, including particularly Chapter 31E, Article 1 et seq. of the West Virginia Code of 1931, as amended (the "Act"), a Bond Resolution duly adopted by the Issuer on \_\_\_\_\_, 2004, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2004 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Resolution.

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) PROMISSORY NOTE, DATED OCTOBER 20, 1992 (THE "PRIOR BONDS"); (2) WATER REFUNDING REVENUE NOTES, SERIES 2004 A (BRANCH BANKING AND TRUST COMPANY) (THE "SERIES 2004 A NOTES"); AND (3) WATER REVENUE BONDS, SERIES 2004 C (WEST VIRGINIA INFRASTRUCTURE FUND) (THE "SERIES 2004 C BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Resolution) to be derived from the operation of the System and accounts receivable of the Issuer, and a lien on the System, on a parity with the pledge of Gross Revenues in favor of the holders of the Series 2004 A Notes, the Series 2003 C Bonds and the Prior Bonds, and from monies in the reserve account created under the Resolution for the Bonds (the "Series 2004 B Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest, if any, 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. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Series 2004 A Notes, the Series 2004 C Bonds and the Prior Bonds; provided however, that so long as there exists in the Series 2004 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Series 2004 A Notes, the Series 2004 C Bonds and the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Resolution. Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, 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 Resolution, only upon the books of The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the 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 Resolution, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Resolution, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

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 wet lands 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 Gross Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Resolution, 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 NEW CREEK WATER ASSOCIATION  
INCORPORATED has caused this Bond to be signed by its President and its corporate seal  
to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated  
\_\_\_\_\_, 2004.

[SEAL]

\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Series 2004 B Bond described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_, 2004.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

\_\_\_\_\_  
Authorized Officer



EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

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

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

(FORM OF SERIES 2004 C BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE NEW CREEK WATER ASSOCIATION INCORPORATED  
WATER REVENUE BOND, SERIES 2004 C  
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. CR-1

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

KNOW ALL MEN BY THESE PRESENTS: That THE NEW CREEK WATER ASSOCIATION INCORPORATED, a West Virginia non-stock, nonprofit corporation in Mineral County, West Virginia (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (THE "AUTHORITY") or registered assigns the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 200\_, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference, with interest on each installment at the rate per annum set forth on said EXHIBIT B. The interest shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_, as set forth on said EXHIBIT B attached hereto.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and 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 \_\_\_\_\_, 2004.

This Bond is issued (i) to pay the costs of acquisition and construction of certain improvements and extensions to the existing waterworks facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing waterworks facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 31E, Article 1 et seq. of the West Virginia Code of 1931, as amended (the "Act"), a Bond Resolution duly adopted by the Issuer on \_\_\_\_\_, 2004, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2004 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Resolution.

**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) PROMISSORY NOTE, DATED OCTOBER 20, 1992 (THE "PRIOR BONDS"); (2) WATER REFUNDING REVENUE NOTES, SERIES 2004 A (BRANCH BANKING AND TRUST COMPANY) (THE "SERIES 2004 A NOTES"); AND (3) WATER REVENUE BONDS, SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND) (THE "SERIES 2004 B BONDS").**

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Resolution) to be derived from the operation of the System and accounts receivable of the Issuer, and a lien on the System, on a parity with the pledge of Gross Revenues in favor of the holders of the Series 2004 A Notes, the Series 2004 B Bonds and the Prior Bonds, and from monies in the reserve account created under the Resolution for the Bonds (the "Series 2004 C Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest, if any, 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. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Series 2004 A Notes, the Series 2004 B Bonds and the Prior Bonds; provided however, that so long as there exists in the Series 2004 C Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Series 2004 A Notes, the Series 2004 B Bonds and the Prior Bonds, an amount at least equal to the

requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Resolution. Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, 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 Resolution, only upon the books of The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the 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 Resolution, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Resolution, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

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 wet lands 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 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 Resolution, 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 NEW CREEK WATER ASSOCIATION  
INCORPORATED has caused this Bond to be signed by its President and its corporate seal  
to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated  
\_\_\_\_\_, 2004.

[SEAL]

\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Series 2004 C Bond described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_, 2004.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

\_\_\_\_\_  
Authorized Officer

(Form of)

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 with full power of  
substitution in the premises.

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

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Series 2004 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the respective Loan Agreements. If not so authorized by previous resolution, the President is specifically authorized and directed to execute the Loan Agreements in the form attached hereto as "EXHIBIT A" and made a part hereof, and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreements to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The Loan Agreements, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Resolution. The Issuer hereby further approves the Security Agreements, the Deed of Trust, and any other documents and instruments necessary, incidental or appropriate to finance, acquire, construct, equip and complete the Project and the President and the Secretary are hereby authorized and directed to execute and seal, where appropriate, all such documents.

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

ARTICLE IV

[RESERVED]

## ARTICLE V

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

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

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

- (1) Revenue Fund (established by Prior Resolution as the General Account);
- (2) Renewal and Replacement Fund; and
- (3) Series 2004 Bonds Construction Trust Fund.

#### Section 5.02. Establishment of Funds and Accounts with Commission.

The following special funds or accounts are hereby created with and shall be held by the Commission separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

- (1) Series 2004 B Bonds Sinking Fund;
- (2) Series 2004 C Bonds Sinking Fund;
- (3) Series 2004 B Bonds Reserve Account; and
- (4) Series 2004 C Bonds Reserve Account.

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

Revenues derived from the operation of the System and all parts thereof shall be deposited upon receipt by the Issuer in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in the this Resolution and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All monies in the Revenue Fund shall be disposed of only in the following order of priority:

- (1) The Issuer shall first, each month, transfer from the Revenue Fund and simultaneously (i) make the interest payments on the Prior Bonds in the amounts and on the dates set forth in the Prior Bonds; (ii) make the interest payments on the Series 2004 A

Notes in the amounts and on the dates set forth in the Series 2004 A Notes; and (iii) remit to the Commission on the first day of each month, commencing 3 months prior to the first date of payment of interest on the Series 2004 C Bonds for which interest has not been capitalized or as required in the Loan Agreement, for deposit in the Series 2004 C Bonds Sinking Fund, an amount equal to 1/3rd of the amount of interest which will become due on the Series 2004 C Bonds on the next ensuing quarterly interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2004 C Bonds Sinking Fund and the next quarterly interest payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly interest payment date, the required amount of interest coming due on such date.

(2) The Issuer shall next, each month, transfer from the Revenue Fund and simultaneously (i) make the principal payments on the Prior Bonds in the amounts and on the dates set forth in the Prior Bonds; (ii) make the principal payments on the Series 2004 A Notes in the amounts and on the dates set forth in the Series 2004 A Notes; (iii) remit to the Commission on the first day of each month, commencing 3 months prior to the first date of payment of principal of the Series 2004 B Bonds, for deposit in the Series 2004 B Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2004 B 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 2004 B 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; and (iv) remit to the Commission on the first day of each month, commencing 3 months prior to the first date of payment of principal of the Series 2004 C Bonds, for deposit in the Series 2004 C Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2004 C 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 2004 C Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next

quarterly principal payment date, the required amount of principal coming due on such date.

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

(4) The Issuer shall next, each month, transfer from the Revenue Fund and simultaneously (i) make the reserve account payments on the Prior Bonds as required by the Prior Resolution; (ii) remit to the Commission on the first day of each month, commencing 3 months prior to the first date of payment of principal of the Series 2004 B Bonds, if not fully funded upon issuance of the Series 2004 B Bonds, for deposit in the Series 2004 B Bonds Reserve Account, an amount equal to 1/120th of the Series 2004 B Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2004 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 2004 B Bonds Reserve Requirement; and (iii) remit to the Commission on the first day of each month, commencing 3 months prior to the first date of payment of principal of the Series 2004 C Bonds, if not fully funded upon issuance of the Series 2004 C Bonds, for deposit in the Series 2004 C Bonds Reserve Account, an amount equal to 1/120th of the Series 2004 C Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2004 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 2004 C Bonds Reserve Requirement.

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

the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

Monies in the respective Series 2004 Bonds Sinking Funds shall be used only for the purposes of paying principal of and interest, if any, on the Series 2004 Bonds, as the same shall become due. Monies in the respective Series 2004 Bonds Reserve Accounts shall, during construction of the Project, be deposited in the Series 2004 Bonds Construction Trust Fund, and following completion of construction of the Project, shall be used only for the purposes of paying principal of and interest, if any, on the Series 2004 Bonds, as the same shall come due, when other monies in the Series 2004 Bonds Sinking Funds are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2004 Bonds Sinking Funds and the Series 2004 Bonds Reserve Accounts 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 2004 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 2004 Bonds, and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2004 B Bonds Reserve Account which result in a reduction in the balance therein to below the Series 2004 B 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. Any withdrawals from the Series 2004 C Bonds Reserve Account which result in a reduction in the balance therein to below the Series 2004 C 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 2004 Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve account in an amount equal to the requirement thereof.

The Issuer shall not be required to make any further payments into the Series 2004 B Bonds Sinking Fund or the Series 2004 B Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2004 B Bonds issued pursuant to this

Resolution then Outstanding and all interest, if any, to accrue until the maturity thereof. The Issuer shall not be required to make any further payments into the Series 2004 C Bonds Sinking Fund or the Series 2004 C Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2004 C Bonds issued pursuant to this Resolution then Outstanding and all interest, if any, to accrue until the maturity thereof.

Interest, principal or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Notes, Prior Bonds and the Series 2004 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 2004 Bonds Sinking Funds and the Series 2004 Bonds Reserve Accounts created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Authority at anytime, the Issuer shall make the necessary arrangements whereby required payments into said accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Monies in the Series 2004 Bonds Sinking Funds and the Series 2004 Bonds Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2004 Bonds Sinking Funds and the Series 2004 Bonds Reserve Accounts shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2004 Bonds, under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required principal, interest and reserve payments with respect to the Series 2004 Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Resolution.

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

D. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore

provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period as required by the Act, such excess shall be considered as surplus revenues (the "Surplus Revenues"). 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 Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay their respective charges and fees then due. In the case of payments to the Commission under this paragraph, the Issuer shall, if required by the Authority at anytime, make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

F. The monies in excess of the maximum amounts insured by FDIC in any of the 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 herein above provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03, and the Gross Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

H. All remittances made by the Issuer to the Commission 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.

J. All Tap Fees shall be deposited by the Issuer, as received, in the respective Series 2004 Bonds Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System.

## ARTICLE VI

### NOTE AND BOND PROCEEDS; DISBURSEMENTS

Section 6.01. Disposition of Notes Proceeds. Upon the issuance and delivery of the Series 2004 A Notes, the Issuer shall use the proceeds of the Series 2004 A Notes to pay in full the entire outstanding principal of and all accrued interest on the Series 1972 Bonds.

Section 6.02. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the monies received from the sale of the Series 2004 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2004 Bonds, there shall first be deposited with the Commission in the respective Series 2004 Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 2004 Bonds for the period commencing on the date of issuance of the Series 2004 Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 2004 Bonds, there shall be deposited with the Commission in the Series 2004 Bonds Reserve Accounts, the amount, if any, set forth in the Supplemental Resolution for funding the Series 2004 Bonds Reserve Accounts.

C. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2004 Bonds, such monies shall be deposited with the Depository Bank in the Series 2004 Bonds Construction Trust Fund and applied solely to payment of the costs of the acquisition and construction of the Project in the manner set forth in Section 6.03 and until so expended, are hereby pledged as additional security for the Series 2004 Bonds.

D. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2004 Bonds shall be applied as directed by the Council.

Section 6.03. Disbursements From the Bond Construction Trust Fund. 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 shall be made monthly.

Except as provided in Section 6.02 hereof, disbursements from the Series 2004 Bonds Construction Trust Fund shall be made only after submission to and approval from the Council, of a certificate, signed by an Authorized Officer and the Consulting Engineers, stating that:

- (a) None of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;
- (b) Each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;
- (c) Each of such costs has been otherwise properly incurred;  
and
- (d) Payment for each of the items proposed is then due and owing.

Pending such application, monies in the Series 2004 Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

The Issuer shall expend all proceeds of the Series 2004 Bonds within 3 years of the date of issuance of the Council's Bonds, the proceeds of which were used to make the loan to the Issuer.

## ARTICLE VII

### ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Resolution shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Bonds. In addition to the other covenants, agreements and provisions of this Resolution, the Issuer hereby covenants and agrees with the Holders of the Series 2004 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2004 Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Reserved.

Section 7.03. Bonds Secured by Pledge of Gross Revenues; Lien Position with Respect to Prior Bonds. The payment of the debt service of the Notes and the Series 2004 Bonds shall be secured by a first lien on the Gross Revenues derived from the System and the accounts receivable of the Issuer on a parity with the Holders of the Prior Bonds. The Gross Revenues in an amount sufficient to pay the principal of and interest, if any, on the Notes, the Series 2004 Bonds and the Prior Bonds and to make the payments into all funds and accounts and all other payments provided for in the Resolution are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Resolution.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreements. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth and approved and described in the Final Order of the Public Service Commission of West Virginia entered July 15, 2004, in Case No. 04-0031-W-CN.

So long as the Series 2004 Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Resolution and in compliance with the Loan Agreements. In the event the schedule of rates, fees and charges

initially established for the System in connection with the Series 2004 Bonds shall prove to be insufficient to produce the required sums set forth in this Resolution and the Loan Agreements, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Resolution and the Loan Agreements.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of or encumber the System, or any part thereof, except as provided in the Prior Resolution. Additionally, so long as the Series 2004 Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the Council, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2004 Bonds, immediately be remitted to the Commission for deposit in the Series 2004 Bonds Sinking Fund, and, with the written permission of the Authority and the Council, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Series 2004 Bonds. Any balance remaining after the payment of the Series 2004 Bonds and interest, if any, thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution 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, 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 in accordance with the laws of the State. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. The payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amount required to be paid into such account by other provisions of this Resolution. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in this Section 7.06 and 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 2004 Bonds. All obligations issued by the Issuer after the issuance of the Series 2004 Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, and source of and security for payment from such revenues and in all other respects, to the Series 2004 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts established by this Resolution have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2004 Bonds, and the interest thereon, if any, upon any or all of the income and revenues of the System pledged for payment of the Series 2004 Bonds and the interest thereon, if any, in this Resolution, or upon the System or any part thereof.

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

Section 7.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Resolution shall be applicable. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2004 Bonds pursuant to this Resolution, without the prior written consent of the Authority and the Council and without complying with the conditions and requirements herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2004 Bonds.

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

So long as the Prior Bonds held by the United States of America are Outstanding, no Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues for the Fiscal Year following the year in which such Parity Bonds are to be issued shall be at least 120% of the average annual debt service requirements on the following:

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

The foregoing limitation may be waived or modified by the written consent of the Holders of the Prior Bonds held by the United States of America, representing 75% of the then-outstanding principal indebtedness. In the event the foregoing limitation is waived or when the Prior Bonds held by the United States of America are no longer outstanding, the following parity requirement shall be met:

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 annual Net Revenues expected to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest, if any, on the following:

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

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

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Series 2004 Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2004 Bonds.

No Parity Bonds shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Resolution with respect to the

Bonds then Outstanding, and any other payments provided for in this Resolution, shall have been made in full as required to the date of delivery of the Parity Bonds, and the Issuer then be in full compliance with all the covenants, agreements and terms of this Resolution.

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

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

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

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Issuer. The Issuer shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Issuer shall be reported to such agent of the Issuer as the Issuer shall direct.

The Issuer shall file with the Council, the Authority, or any other original purchaser of the Series 2004 Bonds, and shall mail in each year to any Holder or Holders of the Series 2004 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 Resolution, and the status of all said funds and accounts.

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

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto, to the extent legally required, and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 2004 Bonds, and shall submit said report to the Council and the Authority, or any other original purchaser of the Series 2004 Bonds. Such audit report submitted to the Authority and the Council shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

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

The Issuer shall permit the Authority and the Council, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Authority and the Council, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the Council with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to the issuance of the Series 2004 Bonds, equitable rates or charges for the use of and service rendered by the System shall be established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and

continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2004 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2004 Bonds; provided that, in the event that amounts equal to or in excess of the Reserve Requirements are on deposit respectively in the Series 2004 Bonds Reserve Accounts and the reserve accounts for obligations on a parity with the Series 2004 Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2004 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2004 Bonds. In any event, the Issuer shall not reduce the rates or charges for services described in Section 7.04.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority and the Council within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a registered professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of a registered professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall within 30 days of adoption thereof mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and the Council and to any Holder of any Bonds, who shall file his or her address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him or her, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Authority and the Council and to any Holder of any Bonds, or anyone acting for and on behalf of such Holder of any Bonds.

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

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

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

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

Section 7.12. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

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

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

restore such services until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law.

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

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2004 Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

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

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

(3) **WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT OR COMPLETION BONDS**, such bonds to be in the amounts of not less than 100% of the amount of any construction contract and to be required of each contractor dealing directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of any additions, extensions or improvements for the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

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

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

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

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

The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project; provided that the amounts and terms of such coverage are satisfactory to the Authority and the Council. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear. 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 Public Service Commission of West Virginia, the Issuer shall require every owner, tenant or occupant of any house, dwelling or building intended to be served by the System to connect thereto.

Section 7.17. Completion, Operation and Maintenance 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 shall take all steps to properly operate and maintain the System and make the necessary replacements due to normal wear and tear so long as the Series 2004 Bonds are outstanding.

The Issuer has obtained all permits required by state and federal laws for the acquisition and construction of the Project, all orders and approvals from the Public Service Commission of West Virginia and the Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for issuance of the Series 2004 Bonds required by State law, with all requisite appeal periods having expired without successful appeal.

Section 7.18. Articles and Bylaws. The Issuer will not modify or amend its Articles of Incorporation or its Bylaws without the prior written consent of the Authority and the Council.

Section 7.19. Dissolution. The Issuer will not cause or permit any voluntary dissolution of the Issuer, merge or consolidate with any other organization, without obtaining the prior written consent of the Authority and the Council. In the event of a dissolution of the Issuer, all assets and property of the Issuer shall be distributed to any non-profit organization organized and operated for the same purposes as the Issuer.

Section 7.20. Compliance with Loan Agreements and Law. The Issuer shall perform, satisfy and comply with all the terms and conditions of the Loan Agreements and the Act. Notwithstanding anything herein to the contrary, the Issuer will provide the Council with copies of all documents submitted to the Authority.

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

Section 7.21. Securities Laws Compliance. The Issuer shall provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

Section 7.22. Contracts; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2004 Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the Council for written approval. The Issuer shall obtain the written approval of the Council before expending any proceeds of the Series 2004 Bonds held in "contingency" as set forth in the schedule attached to the Certificate of Consulting Engineer. The Issuer shall also obtain the written approval of the Council before expending any proceeds of the Series 2004 Bonds made available due to bid or construction or project underruns.

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

## ARTICLE VIII

### INVESTMENT OF FUNDS; USE OF PROCEEDS

Section 8.01. Investments. Any monies held as a part of the funds and accounts created by this Resolution 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 Resolution, the need for such monies for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

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

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2004 Bonds are Outstanding.

Section 8.02. Certificate as to the 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 the use of proceeds of the Series 2004 Bonds as a condition to issuance of the Series 2004 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 2004 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 2004 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 2004 Bonds are derived, to lose their status

as tax-exempt bonds; and (iii) to take such action or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority or the Council, to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Resolution.

The Issuer shall annually furnish to the Authority information with respect to the Issuer's use of the proceeds of the Series 2004 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 Notes and the Series 2004 Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest, if any, on the Notes and the Series 2004 Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Notes and the Series 2004 Bonds set forth in this Resolution, any supplemental resolution or in the Notes or the Series 2004 Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Registrar, or Paying Agent, or any other Paying Agent or a Holder thereof; or

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

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

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of the Notes or the Series 2004 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 Resolution relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Notes or the Series 2004 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 thereof, and (v) by action or bill in equity enjoin any acts in violation of the Resolution with respect to the Notes or the Series 2004 Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the holders of the Notes or the Series 2004 Bonds shall be on a parity with the Holders of the Prior Bonds.

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

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

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Resolution 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 Resolution shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any 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 herein above conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

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

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

ARTICLE X

PAYMENT OF NOTES AND BONDS

Section 10.01.      Payment of Notes and Bonds. If the Issuer shall pay or there shall otherwise be paid to the Holders of the Notes and the Series 2004 Bonds, the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, then the pledge of Gross Revenues and other monies and securities pledged under this Resolution and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Notes and the Series 2004 Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. Amendment or Modification of Resolution. Prior to issuance of the Series 2004 Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2004 Bonds, no material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2004 Bonds shall be made without the consent in writing of the Registered Owners of the Series 2004 Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest, if any, thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest, if any, out of the funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds, required for consent to the above-permitted amendments or modifications.

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

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution 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 Resolution, the Supplemental Resolution, or the Series 2004 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; Prior Resolution. All orders or resolutions, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed; provided that, in the event of any conflict between this Resolution and the Prior Resolution, the Prior Resolution shall control (unless less restrictive), so long as the Prior Bonds are outstanding.

Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required

by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the President, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office. The Governing Body has been authorized to adopt this Resolution and take all actions necessary to effectuate its intent by the members of the Issuer at a meeting duly held pursuant to proper notice thereof.

Section 11.07.      Reserved.

Section 11.08.      Effective Date.      This Resolution shall take effect immediately upon adoption.

Adopted this 9th day of November, 2004.

  
President

11/05/04  
658370.00001

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Board of Directors of  
THE NEW CREEK WATER ASSOCIATION INCORPORATED on the 9th day of  
November, 2004.

Dated: November 18, 2004.

[SEAL]

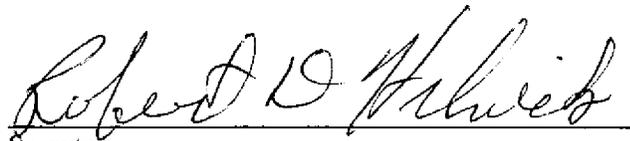
  
Secretary

EXHIBIT A

Loan Agreements included in bond transcript as Document 12A and 12B.

THE NEW CREEK WATER ASSOCIATION INCORPORATED

Water Refunding Revenue Notes, Series 2004 A  
(Branch Banking and Trust Company)  
and  
Water Revenue Bonds, Series 2004 B  
(West Virginia Infrastructure Fund)  
and  
Water Revenue Bonds, Series 2004 C  
(West Virginia Infrastructure Fund)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE WATER REFUNDING REVENUE NOTES, SERIES 2004 A (BRANCH BANKING AND TRUST COMPANY), WATER REVENUE BONDS, SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND), AND WATER REVENUE BONDS, SERIES 2004 C (WEST VIRGINIA INFRASTRUCTURE FUND) OF THE NEW CREEK WATER ASSOCIATION INCORPORATED; APPROVING AND RATIFYING THE LOAN AGREEMENTS RELATING TO THE BONDS; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF THE SERIES 2004 A NOTES TO BRANCH BANKING AND TRUST COMPANY; AUTHORIZING AND APPROVING THE SALE OF THE SERIES 2004 B BONDS AND SERIES 2004 C BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE SERIES 2004 A NOTES AND THE SERIES 2004 B BONDS AND SERIES 2004 C BONDS.

WHEREAS, the Board of Directors (the "Board") of The New Creek Water Association Incorporated (the "Issuer") has duly adopted a bond and notes resolution on November 9, 2004 (the "Resolution") entitled:

RESOLUTION AUTHORIZING THE REFUNDING OF THE GMAC COMMERCIAL MORTGAGE LOAN, SERIES 1972, OF THE NEW CREEK WATER ASSOCIATION INCORPORATED (THE "ISSUER") THROUGH THE ISSUANCE BY THE ISSUER OF NOT MORE THAN \$110,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REFUNDING REVENUE NOTES, SERIES 2004 A (BRANCH BANKING AND TRUST COMPANY); AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS, IMPROVEMENTS AND EXTENSIONS TO THE EXISTING WATERWORKS FACILITIES OF THE ISSUER AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE ISSUER OF NOT MORE THAN \$1,095,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND) AND NOT MORE THAN \$286,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2004 C (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH NOTES AND BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING LOAN AGREEMENTS RELATING TO SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A CREDIT LINE DEED OF TRUST, SECURITY AGREEMENTS AND OTHER DOCUMENTS AND INSTRUMENTS RELATING TO THE NOTES AND BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH NOTES AND BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Resolution provides for the issuance by the Issuer of its Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company) (the "Series 2004 A Notes" or "Notes"), in the aggregate principal amount not to exceed \$110,000, and has authorized the execution and delivery of a commitment letter, dated March 4, 2004, by and between the Issuer and Branch Banking and Trust Company (the "Commitment Letter"); and

WHEREAS, the Resolution provides for the issuance by the Issuer of its (i) Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), in an aggregate principal amount not to exceed \$1,095,000 (the "Series 2004 B Bonds"), and (ii) Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund), in an aggregate principal amount not to exceed \$286,000 (the "Series 2004 C Bonds" and together with the Series 2004 B Bonds, collectively referred to as the "Bonds"), and has authorized the execution and delivery of a loan agreement relating to the Series 2004 B Bonds and a loan agreement relating to the Series 2004 C Bonds, including all schedules and exhibits attached thereto (collectively, the "Loan Agreements"), each by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), all in accordance with Chapter 31E, Article 1 et seq. of the West Virginia Code of 1931, as amended (collectively, the "Act"); and

WHEREAS, in the Resolution it is provided that the form of the Loan Agreements and the exact principal amounts, dates, maturity dates, redemption provisions, interest rates, interest and principal payment dates, sale prices and other terms of the Notes and the Bonds should be established by a supplemental resolution pertaining to the Notes and the Bonds; and that other matters relating to the Notes and the Bonds be herein provided for; and

WHEREAS, the Loan Agreements have been presented to the Issuer at this meeting; and

WHEREAS, the Notes are proposed to be purchased by Branch Banking and Trust Company, Keyser, West Virginia (the "Purchaser" or the "Bank"), pursuant to the Commitment Letter; and

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE NEW CREEK WATER ASSOCIATION INCORPORATED:

Section 1. Pursuant to the Resolution, this Supplemental Resolution is adopted, and there are hereby authorized and ordered to be issued the Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company), of the Issuer, initially represented by a single Note, numbered AR-1, in the principal amount of \$81,682. The Notes shall be dated the date of delivery thereof, shall finally mature on November 18, 2006, and shall bear interest at the rate per annum set forth in the Note. The Issuer shall make twenty-three (23) monthly installments of principal and interest in an amount sufficient to fully amortize the loan over a period of sixty (60) months, commencing on December 18, 2004, with a final installment due on November 18, 2006, in an amount equal to the outstanding principal balance, together with accrued interest thereon. The Notes shall be subject to prepayment of principal and interest to the date of prepayment, in whole or in part, at any time, without penalty.

Section 2. Pursuant to the Resolution, there are hereby authorized and ordered to be issued as follows:

- A. Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single Bond, numbered BR-1, in the principal amount of \$1,095,000. The Series 2004 B Bonds shall be dated the date of delivery thereof, shall finally mature September 1, 2044, and shall bear no interest. The principal of the Series 2004 B Bonds shall be payable quarterly, on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2006 and maturing September 1, 2044, 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 2004 B Bonds. The Series 2004 B 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 for the Series 2004 B Bonds, so long as the Authority shall be the registered owner of the Series 2004 B Bonds.

- B. Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single Bond, numbered CR-1, in the principal amount of \$286,000. The Series 2004 C Bonds shall be dated the date of delivery thereof, shall finally mature June 1, 2026, and shall bear interest at the rate of 3% per annum. The principal of and interest on the Series 2004 C Bonds shall be payable quarterly, on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2006 and maturing on June 1, 2026, 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 2004 C Bonds. The Series 2004 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 for the Series 2004 C Bonds, as long as the Authority shall be the registered owner of the Series 2004 C Bonds.

Section 3. All other provisions relating to the Notes and the Bonds and the text of the Notes and the Bonds shall be in substantially the form provided in the Resolution.

Section 4. The Issuer does hereby authorize, approve, ratify and accept the Commitment Letter for the Notes, a copy of which is incorporated herein by reference, and the execution and delivery of the Commitment Letter by the President, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved.

Section 5. The Issuer hereby approves execution and delivery of the Credit Line Deed of Trust, Security Agreement and Fixture Filing, the Security Agreements, the UCC-1 financing statements and such other instruments and documents as shall be necessary or desirable to effect the transaction contemplated herein, and the President is hereby authorized and directed to execute such documents in the form approved by the Issuer, their execution thereof being deemed conclusive of their approval of such form, and no further approval by the Issuer is deemed necessary for such execution and delivery.

Section 6. The Notes shall be sold to Branch Banking and Trust Company, Keyser, West Virginia, and shall be registered in the name of such bank. The price of the Notes shall be 100% of par value, there being no interest accrued thereon.

Section 7. The Issuer does hereby authorize, approve, ratify and accept the Loan Agreements, including all schedules and exhibits attached thereto, copies of which are incorporated herein by reference, and the execution and delivery of the Loan Agreements by the President, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreements and in the applications to the Council and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 8. The Issuer hereby appoints and designates Branch Banking and Trust Company, Keyser, West Virginia, as the Paying Agent and Registrar for the Notes.

Section 9. The Issuer does hereby appoint and designate The Huntington National Bank, Charleston, West Virginia, to serve as Registrar for the Bonds under the Resolution and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the President, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 10. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds under the Resolution.

Section 11. The Issuer does hereby appoint and designate Branch Banking and Trust Company, Keyser, West Virginia to serve as Depository Bank under the Resolution for the Notes and the Bonds.

Section 12. Proceeds of the Notes in the amount of \$81,471.52 shall be used to pay in full the entire outstanding principal of and all accrued interest on the Issuer's GMAC Commercial Mortgage Loan, Series 1972 (the "Series 1972 Bonds"). The remaining proceeds of the Notes shall be used to pay costs of issuance of the Notes and related costs.

Section 13. Series 2004 B Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2004 B Bonds Sinking Fund, as capitalized interest. Series 2004 C Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2004 C Bonds Sinking Fund, as capitalized interest.

Section 14. Series 2004 B Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2004 B Bonds Reserve Account. Series 2004 C Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2004 C Bonds Reserve Account.

Section 15. The balance of the proceeds of the Bonds, as advanced from time to time, shall be deposited in or credited to the Series 2004 Bonds Construction Trust Fund for payment of the costs of the acquisition and construction of the Project, including, without limitation, costs of issuance of the Bonds and related costs.

Section 16. The President and Secretary are hereby authorized and directed to execute and deliver such other documents, agreements, instruments and certificates required or desirable in connection with the Notes and the Bonds to be issued hereby and by the Resolution approved and provided for, to the end that, on or about November 18, 2004, the Notes may be delivered to the Purchaser pursuant to the Commitment Letter and the Bonds may be delivered to the Authority pursuant to the Loan Agreement.

Section 17. The refunding of the Series 1972 Bonds with proceeds of the Notes, and the acquisition and construction of the Project and the financing thereof with proceeds of the Bonds, are in the public interest and serve a public purpose of the Issuer.

Section 18. The Issuer hereby determines that it is in the best interest of the Issuer to invest all monies in the funds and accounts established by the Resolution held by the Depository Bank until expended, subject to any limitation of the Purchaser with respect of the proceeds of the Bonds, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such monies to be invested in such repurchase agreements or time accounts, until further directed in writing by the Issuer. Monies in the respective Series 2004 Bonds Sinking Fund, including the respective Series 2004 Reserve Accounts therein, shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 19. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project.

Section 20. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 9th day of November, 2004.

THE NEW CREEK WATER ASSOCIATION  
INCORPORATED

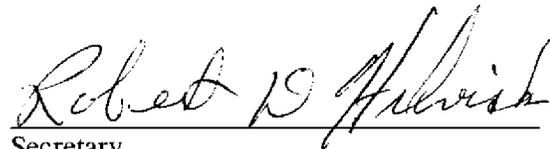
By: Virgil L. Schmedlen  
President

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Board of Directors of The New Creek Water Association Incorporated on the 9th day of November, 2004.

Dated: November 18, 2004.

[SEAL]

  
Secretary

11/05/04  
658370.00001

Mineral County Clerk  
DEED OF TRUST Clerk OS  
Date/Time: 11/18/2004 13:09  
Inst #: 44015  
Book/Page: 398- / 227-  
Recd/Tax: 55.00 .00

**CREDIT LINE DEED OF TRUST, SECURITY AGREEMENT  
AND FIXTURE FILING**

**THIS CREDIT LINE DEED OF TRUST, SECURITY AGREEMENT  
AND FIXTURE FILING**, effective as of the 18th day of November, 2004, by and among  
**THE NEW CREEK WATER ASSOCIATION INCORPORATED**, a West Virginia  
nonprofit corporation, hereinafter called "Grantor," to **DANIEL B. YONKOSKY**, a resident  
of Jackson County, West Virginia, as Trustee, hereinafter called "Trustee," and the **WEST  
VIRGINIA WATER DEVELOPMENT AUTHORITY**, hereinafter called "Authority" or  
"Lender," on behalf of the **WEST VIRGINIA INFRASTRUCTURE AND JOBS  
DEVELOPMENT COUNCIL**, hereinafter called "Council."

**WITNESSETH:** That for and in consideration of the indebtedness and trusts  
hereinafter set forth and of the sum of \$10.00, cash in hand paid, the receipt and sufficiency  
of which are hereby acknowledged, Grantor does hereby assign, grant and convey unto  
Trustee:

(a) That certain lot, tract or parcel of land, whether one or more,  
together with the improvements thereon and all appurtenances thereunto belonging, or in  
anyway appertaining, situate in New Creek District, Mineral County, West Virginia, and  
more particularly bounded and described in attached Schedule I, which is hereby incorporated  
in and made a part of this deed of trust;

(b) All right, title and interest of Grantor now owned or hereafter acquired in all underground pipe, sidewalks, alleys, streets, and all strips and gores of land adjacent to or used in connection with such real property and all easements and rights of way in connection therewith;

(c) All buildings, improvements and fixtures of every kind, and all machinery, equipment and property which are or shall be attached to, or be deemed to be fixtures and a part of the real property herein conveyed;

(d) All equipment, materials, supplies and other property of every kind or nature whatsoever, now or hereafter owned by Grantor or in which it has or shall have an interest, procured for incorporation in or to be affixed to buildings or other improvements on the above described real property or appurtenance thereto; and

(e) All rentals and other income and revenues from the aforesaid land and improvements or any part thereof. All property described above, together with the real estate described above, shall secure the indebtedness herein described and covered by this deed of trust; and all the foregoing property, interests in property and other rights and interests are herein sometimes referred to collectively as the "Property."

**TO HAVE AND TO HOLD** the Property unto Trustee and his successor in the trust forever; and Grantor hereby covenants to and with Trustee and Lender that Grantor will warrant generally the Property; that Grantor has the right to convey the Property to Trustee; that the same is free from any and all liens and encumbrances, other than (i) that certain Corporate Real Estate Deed of Trust For West Virginia dated October 20, 1992, executed by Grantor to William F. Patton, Trustee, for the benefit of the United States of

America, acting through the Farmers Home Administration, United States Department of Agriculture, of record in the Office of the Clerk of the County Commission of Mineral County, West Virginia in Trust Deed Book 262, at page 123 (the "1992 Deed of Trust") and (ii) real estate taxes assessed but not yet due and payable; that Trustee shall have quiet possession thereof and that Grantor will execute such further assurances of the Property as may be requisite, including, but not limited to, the execution and delivery of financing statements and such other instruments as Lender may require to impose the lien hereof more specifically upon any of the Property.

THIS DEED OF TRUST IS ON PARITY AND OF EQUAL PRIORITY AS TO LIEN AND SOURCE OF PAYMENT WITH THE OBLIGATION OF GRANTOR INCURRED PURSUANT TO THE TERMS OF THE 1992 DEED OF TRUST, WHICH 1992 DEED OF TRUST SECURES PAYMENT OF THE OBLIGATION INCURRED BY GRANTOR UNDER THE TERMS OF THAT CERTAIN LOAN AGREEMENT DATED OCTOBER 20, 1992, BY AND BETWEEN GRANTOR AND THE UNITED STATES OF AMERICA, ACTING THROUGH THE FARMERS HOME ADMINISTRATION, UNITED STATES DEPARTMENT OF AGRICULTURE ("USDA"), PURSUANT TO THE CONSENT OF THE USDA WHICH WILL BE RECORDED SIMULTANEOUSLY HEREWITH.

IN TRUST NEVERTHELESS to secure the payment of (i) that certain Water Revenue Bond, Series 2004 B (West Virginia Infrastructure Fund), dated November 18, 2004, in the principal sum of \$1,095,000, executed by Grantor and payable to the order of Lender, the beneficial owner and holder of said bond, at its principal office

at 180 Association Drive, Charleston, West Virginia 25311, and to secure also any and all extensions, modifications and renewals of said bond, or any part thereof, however changed in form, manner or amount (the "Series 2004 B Bond"); (ii) that certain Water Revenue Bond, Series 2004 C (West Virginia Infrastructure Fund), dated November 18, 2004, in the principal sum of \$286,000, executed by Grantor and payable to the order of Lender, the beneficial owner and holder of said bond, at its principal office at 180 Association Drive, Charleston, West Virginia 25311, and to secure also any and all extensions, modifications and renewals of said bond, or any part thereof, however changed in form, manner or amount (the "Series 2004 C Bond" and together with the Series 2004 B Bond, collectively referred to herein sometimes as the "Bonds"); and (iii) all other indebtedness of Grantor to Lender or Trustee, at any time and from time to time arising hereunder or under any commitment letter issued by Lender or any loan agreement with Lender pertaining to the loan evidenced by the Bonds, including interest thereon (any such commitment letter or loan agreement being hereinafter referred to as the "Loan Agreement") (all of which indebtedness, together with the interest thereon, is sometimes hereinafter collectively referred to as the "Secured Debt"). A copy of the Bonds are attached to and incorporated in this deed of trust as Exhibit A and Exhibit B. THIS IS A CREDIT LINE DEED OF TRUST FOR THE PURPOSES OF WEST VIRGINIA CODE SECTION 38-1-14. THIS CREDIT LINE DEED OF TRUST SECURES A MAXIMUM PRINCIPAL AMOUNT OF \$1,381,000, exclusive of interest, taxes, insurance premiums and other obligations undertaken by Lender or Trustee. This Credit Line Deed of Trust secures future advances which Lender has agreed to make in accordance with the terms and provisions of the aforementioned Loan Agreement, which FUTURE

ADVANCES are intended to be OBLIGATORY within the meaning of West Virginia Code Section 38-1-14.

Grantor covenants, warrants and agrees as follows:

1. Grantor will, so long as the Secured Debt, or any part thereof, remains unpaid: (a) pay as and when due and payable all taxes, assessments and other governmental charges and fees against the Property, and will furnish annually to Lender receipts showing payment; (b) keep the building and improvements and all other insurable property covered by this deed of trust constantly insured against loss or damage by fire and such other casualties, contingencies and hazards as Lender may require, with an insurer licensed in the State of West Virginia approved by Lender, and in such form and in an amount satisfactory to Lender, and will pay the premiums as and when required for such insurance and deliver all policies to Lender and that Lender may receive and apply all insurance proceeds at Lender's option either to the Secured Debt or to restore the Property; (c) keep the Property in good condition and repair and not abandon it or commit or allow waste, or permit any improvement to be removed, destroyed, demolished or structurally altered in whole or in part, and comply, and cause all occupants to comply, with all laws, ordinances, rules and regulations relating to the use or maintenance of the Property and with the requirements of any governmental agency; (d) permit Lender and its agents to enter and inspect the Property; and (e) reimburse Lender, upon demand, for all costs and expenses it may incur or expend in any proceeding that concerns the Property, including without limitation any eminent domain, lien validity, lien priority or foreclosure proceeding.

2. If Grantor fails to make any payment required herein or to perform any of the provisions of paragraph 1 hereof, Lender may (but is not obligated to), without notice to or demand upon Grantor or any other person, make any such payment, take any such action or do any such thing as, in the exercise of Lender's discretion, is necessary to protect the lien and security hereof. Without limiting the generality of the foregoing, Lender may (a) obtain insurance and pay the premiums thereon or pay any unpaid premiums on any insurance procured by Grantor; (b) pay said taxes, assessments and other governmental charges and fees together with any penalties and interest accrued thereon, and redeem the Property from a tax sale if it has been sold, and shall be subrogated to the lien of the governmental body to which such payment was made; (c) make and pay for all repairs to place or keep the Property in good condition and repair; (d) stop or mitigate waste or the removal, destruction, demolition or structural alteration of any improvements on the Property; (e) stop or prevent the violation of any law, ordinance, rule or regulation relating to the use or maintenance of the Property or of any requirement of any governmental agency; and (f) pay all sums due or payable under the provisions of paragraph 1 hereof; and Grantor hereby promises to pay to Lender, upon demand, all sums paid for any of the purposes set out in this paragraph 2, together with interest thereon at the rate per annum set forth in the Bonds, which amounts shall become part of the Secured Debt, all without waiver of any right arising from any such breach or default.

3. (a) In this deed of trust (i) "hazardous materials" means petroleum products, flammable explosives, radioactive materials, asbestos or any material containing asbestos, polychlorinated biphenyls or any hazardous, toxic or dangerous waste,

substance or material defined as such or defined as a hazardous substance or other similar term by, in or for the purposes of any environmental laws, and (ii) "environmental laws" means any "superfund" or "superlien" law or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree, regulating, relating to or imposing liability or standards of conduct concerning any hazardous materials as may now or at any time hereafter be in effect.

(b) Grantor and the Property are in compliance with all environmental laws.

(c) At any time during the term of the loan secured by this deed of trust, Grantor shall provide Lender, at the expense of Grantor, with such reports of inspection or audits of the Property as Lender may request, prepared by qualified consultants approved by Lender, certifying as to the presence or absence of hazardous materials on the Property, and Grantor shall permit Lender, its agents and employees, to inspect or audit the Property, and for such purpose to enter upon the Property and to conduct all such tests as Lender determines to be necessary.

(d) Grantor shall not place or allow on the Property any hazardous materials. If Lender determines that hazardous materials may be located on the Property, which under environmental laws require special handling in collection, storage, treatment or disposal, Grantor shall take at its sole expense such actions as may be necessary to comply with all applicable environmental laws. Lender has no obligation, however, to Grantor or any third person to inspect or assess conditions on the Property and has no authority to control hazardous materials handling practices on the Property.

(e) Grantor shall indemnify and hold Lender harmless from and against all loss, damage and expense, including without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims, that Lender may incur as the result of or in connection with the assertion against Lender of any claim directly or indirectly, related to the presence or removal of any hazardous materials whether prior to, during or after the term of the loan secured by this deed of trust, and whether such activity was carried on by Grantor or any other person. Grantor shall promptly notify Lender in writing of any order or pending or threatened action by any governmental body, or any claims made by any third party relating to environmental laws or hazardous materials on or emanations from the Property and shall promptly furnish Lender with copies of any correspondence or legal pleadings in connection therewith. Lender shall have the right, but absolutely no duty, to take any action it deems necessary or desirable, including without limitation appearing in or defending any such claims or actions, all at the cost of Grantor.

4. The occurrence of any of the following events shall constitute an event of default hereunder (hereinafter called an "Event of Default"), upon the occurrence of which the Secured Debt shall at the option of Lender, upon the expiration of any grace period allowed in the Bonds or the Loan Agreement, become due and payable without further notice to or demand on Grantor, or any other person: (a) if default is made in the payment as and when due of any installment or other payment required in the Bonds, or of any sum due under the provisions of this deed of trust; (b) if Grantor shall fail to pay as and when due any installment of principal or interest due on, or shall otherwise be in default under, any indebtedness or other obligation owed to any creditor of Grantor (other than the Lender)

relating to the Project; (c) if default is made in the payment, as and when due and payable, of any tax, assessment or other governmental charge or fee or any insurance premium, or if the required insurance is not effected by Grantor or the policies delivered to Lender as herein required; (d) if there is a breach of or default in the performance of any covenant, condition, agreement, warranty or provisions contained in this deed of trust or the Loan Agreement; (e) if Grantor or any obligor on the Bonds becomes insolvent or makes an assignment for the benefit of creditors, or if any petition for bankruptcy or arrangement pursuant to the Federal Bankruptcy Code, or any similar federal or state law, is filed by or against Grantor or any obligor on the Bonds; (f) if any representation or warranty made to Lender by Grantor or any obligor on the Bonds herein or in the application for the loan evidenced by the Bonds or to induce Lender to extend credit is incorrect or untrue; (g) if there now or hereafter exists upon the Property, any claim or encumbrance other than real estate taxes assessed but not yet due and payable or other liens and encumbrances, if any, mentioned above, which might be superior to the lien of this deed of trust; (h) if the Property or any part thereof or interest therein is conveyed or transferred (or if Grantor is dissolved, merged or reorganized) without Lender's prior written consent; or (i) if Grantor does or allows to be done any act or thing which would impair the security for the Secured Debt.

5. If any one or more Events of Default shall occur and be continuing, any one or more of the following rights and remedies shall exist, any two or more of which may be exercised concurrently:

(a) Trustee or Lender may forthwith, without notice, separately or jointly: (i) enter into and upon all of the Property, either in person or by agent, and take

possession of the Property without process of law, without liability to Grantor or other owner or owners of the Property, and manage and rent the same, or any part thereof, collect and receive the rents, issues and profits thereof (past due, due or become due) and apply the same to the payment of the Secured Debt, after first deducting the costs and expenses incurred in managing the Property and in collecting said rents, issues and profits (including a commission of 5% of the total amount collected, which shall be paid to Lender, or to Trustee, as the case may be, for managing the same and collecting and disbursing said rents, issues and profits accruing therefrom), and after deducting such further amount or amounts as may be necessary to pay or reimburse said holder and Trustee for any sum or sums of money paid by them, or any of them, under the provisions hereof, together with interest thereon at an annual rate which is two percent per annum above the rate applicable to principal balances outstanding under the Bonds (the "Default Rate") to the date of payment; (ii) have a receiver appointed by any court having jurisdiction to take charge of the Property and collect, receive and apply the rents, issues and profits thereof. In either case, any person or persons in possession of the Property, or any part thereof, shall be deemed a tenant at will and shall at once surrender such possession on demand of Lender or Trustee or a receiver. It is understood and agreed by and between the parties hereto that nothing herein contained shall be construed as a substitute for, or in derogation of, the right to foreclose this deed of trust or as imposing any duty or obligation upon Lender or upon Trustee, or any of them, to take charge of the Property or to collect said rents, issues or profit or to have a receiver appointed for such purposes; or (iii) exercise any or all of the rights and remedies provided for in paragraph 2 of this deed of trust.

(b) Without other notice to or demand on Grantor or any other person, Lender may as its option declare the Secured Debt to be immediately due and payable and upon the exercise of said option the Secured Debt may be collected by proper action, foreclosure of this deed of trust, or any other legal or equitable proceeding.

(c) At any time after the exercise by Lender of the option to declare the Secured Debt to be immediately due and payable, Trustee, upon the written request of Lender, shall foreclose upon and sell the Property to satisfy the Secured Debt at public auction at either the front door of the courthouse of the county in which the Property is situate or on the Property, as Lender may in its sole discretion determine, for cash in hand on the day of sale, after first giving notice of such sale by publishing such notice in some newspaper of general circulation published in the county wherein the Property is located, or if there be no such newspaper in a qualified newspaper of general circulation in said county, once a week for 2 successive weeks preceding the day of sale and after giving notice to Grantor and to any subordinate lienholder who has previously notified Lender of the existence of a subordinate lien, at least 20 days prior to the sale, and no other notice of such sale shall be required. Out of the proceeds of such sale Trustee shall pay, first, the costs and expenses of executing this deed of trust, including an amount equal to 2% of the gross proceeds of sale, or the sum of \$100, whichever amount shall be greater, to Trustee, or to the one so acting, as his or their commission hereunder; second to Lender and Trustee all moneys which they or any of them may have paid for taxes, assessments or other governmental charges or fees, insurance, repairs, court costs, and all other costs and expenses incurred or paid under the provisions of this trust, together with interest thereon at the Default Rate from the date

of payment; third to Lender the full amount due and unpaid on the Bonds and all other indebtedness hereby secured, together with all interest accrued thereon to date of payment; and fourth, the balance, if any, to Grantor, its successors or assigns, upon delivery of and surrender to the purchaser or purchasers of possession of the Property less the expense, if any, of obtaining such possession. This instrument shall, with respect to all items of personal property and fixtures subject to the lien hereof, be deemed to grant a security interest to the Lender under the Uniform Commercial Code of West Virginia (the "Code"). In the event of the occurrence of any Event of Default, in addition to the rights, remedies and powers hereinabove set forth, Lender and Trustee shall have as to any and all fixtures and personal property covered by this deed of trust, all rights, remedies and powers of a secured party under the Code. This instrument is to be filed for record in the real estate records of the county in which the property is located, so as to serve as a fixture filing pursuant to W. Va. Code § 46-9-502.

6. Grantor agrees that any sale made hereunder may be adjourned from time to time without notice other than oral proclamation of such adjournment at the time and place of sale, or at the time and place of any adjourned sale.

7. In the event that foreclosure proceedings are instituted hereunder but are not completed, Trustee shall be reimbursed for all costs and expenses incurred by them in commencing such proceedings, and, in addition, shall be entitled to, and paid a fee on an hourly basis for all time reasonably expended on such proceedings; and all costs and expenses so incurred by Trustee, and such commission, together with interest thereon until paid at the

Default Rate, shall be payable by Grantor on demand, and shall be and become a part of the Secured Debt and shall be collectible as such.

8. A copy of any notice of trustee's sale under this deed of trust shall be served on Grantor by certified mail, return receipt requested, directed to Grantor at the address stated below or such other address given to Lender in writing by Grantor, subsequent to the execution and delivery of this deed of trust. Any other notice shall be effective upon the deposit of such notice, in writing, in the regular United States mail, postage prepaid, addressed to the party or parties who receive such notice at the following addresses or at such other addresses any such party may give to the other parties in writing:

To Grantor:

The New Creek Water  
Association Incorporated  
General Delivery  
New Creek, WV 26743  
Attention: President

To Lender:

West Virginia Water  
Development Authority, on  
behalf of West Virginia  
Infrastructure and Jobs  
Development Council  
180 Association Drive  
Charleston, WV 25311  
Attention: Director

To Trustee:

Daniel B. Yonkosky  
180 Association Drive  
Charleston, WV 25311

9. If there is more than one trustee hereunder, either Trustee may act in the execution of this trust; the authority and power of any Trustee so acting shall be as full and complete as if the powers and authority granted to Trustees herein jointly had been granted to such Trustee alone; and either Trustee may act by agent or attorney. It is not necessary for either Trustee to be personally present at any foreclosure sale.

10. Lender may from time to time, for any reason or for no reason, substitute another Trustee or Trustees, corporations or persons, in place of any Trustee herein

named. Upon each such appointment, the substituted Trustee or Trustees shall be vested with all the rights, titles, interests, powers, duties and trusts conferred upon the Trustees herein named. Each appointment and substitution shall be evidenced by an instrument in writing, executed and acknowledged by Lender, which when recorded in the office of the Clerk of the County Commission of Mineral County, West Virginia, shall be conclusive proof of the proper substitution and appointment and notice to all parties in interest.

11. No failure of Lender or Trustee to exercise any right or remedy constitutes a waiver of any right or privilege herein given to them, and a waiver by Lender or Trustee of the right to exercise any option as to any breach or default does not constitute a waiver of the same option, or any other option herein contained, as to another or any continuing or subsequent breach or default.

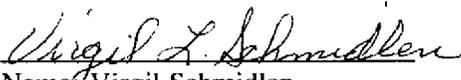
12. This Deed of Trust is governed by West Virginia law. If any provision of this deed of trust or of the Bonds conflicts with applicable law or regulation, such provision is amended to conform with such law.

13. All covenants, agreements, representations and warranties are made and given each by Grantor jointly and severally and shall extend to and bind its heirs, devisees, personal representatives, successors and assigns, and inure to the benefit of Lender and Trustee, and their successors and assigns.

BOOK 398 PAGE 240

**WITNESS** the following signature:

**THE NEW CREEK WATER ASSOCIATION  
INCORPORATED**

By:   
Name: Virgil Schmidlen  
Title: President

STATE OF WEST VIRGINIA,

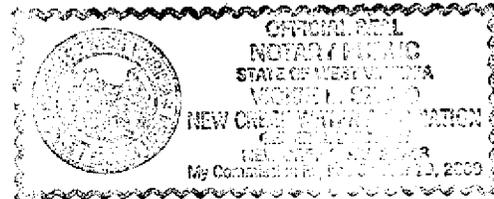
COUNTY OF MINERAL, TO-WIT:

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of November, 2004, by Virgil Schmidlen, the President of THE NEW CREEK WATER ASSOCIATION INCORPORATED, a West Virginia nonprofit corporation, on behalf of said corporation.

My commission expires October 19, 2009.

Orlene J. Salyo  
Notary Public

[NOTARIAL SEAL]



This Deed of Trust was prepared by John C. Stump, Steptoe & Johnson PLLC, P. O. Box 1588, Charleston, West Virginia 25326-1588.

11/05/04  
658370.00001

SCHEDULE I

PROPERTY DESCRIPTION

(Attached)

**Schedule I**

**PROPERTY DESCRIPTION**

PARCEL I

All that certain lot or parcel of real estate situate and lying west of U.S. Route 50, near the Community of Claysville, and adjacent to the Tanglewood Subdivision in New Creek District, Mineral County, West Virginia, being more fully described by metes and bounds as follows:

**BEGINNING** at a steel pin found, an original corner of tract of which this is a part, corner of Courtney, Deed Book 302, Page 174; thence, with Courtney and original line of tract of which this is a part,

S 44 deg. 51' E, 125.00' to a steel pin set, said pin located N 44 deg. 51' W from a found axle, another original corner of tract of which this is a part; thence, with division lines through tract of which this is a part,

S 45 deg. 09' W, 80.00' to a steel pin set; thence,

N 44 deg. 51' W' 125.00' to a steel pin set in line of aforementioned Courtney, original line of tract of which this is a part; thence, with Courtney and original line of tract of which this is a part,

N 45 deg. 09' E, 80.00' to the BEGINNING and containing 0.23 acre, more or less, as more fully shown on Plat of survey for New Creek Water Association, Inc. Tanglewood Water Tank Site & Access Road dated June 1, 2004, as prepared by Rummel, Klepper & Kahl, LLP, David G. Vanscoy, P.S. No. 1228, of record in the Office of the Clerk of the County Commission, Mineral County, West Virginia, in Deed Book 316, at Page 194.

**BEING** the same real estate conveyed unto New Creek Water Association, Inc. by Deed from Rodney W. Mangold and Krista A. Mangold, husband and wife, dated June 25, 2004 and recorded among the records in the Office of the Clerk of the County Commission of Mineral County, West Virginia, in Deed Book 316 at Page 192, and being a part of the same real estate conveyed unto Rodney W. Mangold by Deed from Ralph W. Mangold, Jr. and Beverly J. Mangold, husband and wife, dated September 5, 2001 and recorded among the records in the Office of the Clerk of County Commission of Mineral County, West Virginia, in Deed Book 305 at Page 782.

PARCEL II

That certain parcel of real estate located on the southern side of Old Pine Swamp Road, County Route 220/2, in New Creek District, Mineral County, West Virginia, and being more fully described by metes and bounds as follows:

**BEGINNING** at a steel pin set in a found stone pile corner of tract which this is a part said steel pin further located N 24 degrees 52'25" E, 92.13' from a set stone found 5<sup>th</sup> corner of track corner. Thence with third line of tract of which this is a part reversed to a steel pin set.

N 42 degrees 48' 39" E, 106.10' to a steel pin set on south side of Old Pine Swamp Road to a steel pin set line of tract of which this is a part; thence, with right of way of Old Pine Swamp Road,

S 65 deg 27' 43" E, 96.09' to a steel pin set in right of way; thence, leaving Road and running with division lines of tract of which this is a part,

S 15 deg 01' 42" W, 50.00' to a point; thence,

N 86 deg 26' 04" W, 143.72' to the BEGINNING and containing 0.19 acre, more or less, as more fully shown on Plat of survey for New Creek Water Association as prepared by Rummel, Klepper & Kahl, LLP, David G. Vanscoy, P.S. No. 1228, of record in the Office of the Clerk of the County Commission, Mineral County, West Virginia, in Deed Book 316, at Page 519.

**BEING** that same real estate conveyed unto New Creek Water Association, Inc. by Deed from Andrew Porter, dated July 28, 2004 and recorded among the records in the Office of the Clerk of the County Commission of Mineral County, West Virginia, in Deed Book 316 at Page 516, and being a part of that real estate conveyed unto James A. Porter, et al, by that certain deed from C. Reeves Taylor, Trustee, dated March 7, 1974 and recorded in the Office of the Clerk of the County Commission, Mineral County, West Virginia in Deed Book 191 at Page 816 and also being a part of the same real estate that was devised to Andrew Porter by way of the Last Will and Testament of James A. Porter. Said Will is recorded among the records of the Office of the Clerk of the County Commission, Mineral County, West Virginia in Will Book 36 at Page 368.

**PARCEL III**

**ALL** that parcel located on the eastern side of WV Route 972, and on the northern side of County Route 220/3 in New Creek District, Mineral County, West Virginia, and being more fully described by metes and bounds as follows:

**BEGINNING** at a steel pin set on the eastern side of New Creek, an original corner of tract of which this is a part; thence, with original line of tract and running into New Creek,

N 41 deg. 09'04"E, 200.00' to a point in New Creek; thence, leaving New Creek and with division line through tract of which this is a part,

S 23 Deg. 59'53"E, 364.18' to a steel pin set; thence, continuing with division lines through tract of which this is a part,

S 52 deg. 59'09"W, 183.92' to a steel pin set; thence,

N 75 deg. 29'21"W, 58.47' to a steel pin set in original line of tract of which this is a part; thence, with part of original line of tract,

N 42 deg. 00'29"W, 80.00' to a steel pin set, another original corner of tract of which this is a part; thence, continuing with original line of tract,

N 05 deg. 55'54"W, 192.44' passing two trees on line to a steel pin set next to the second tree; thence, continuing,

N 05 deg. 55'54"W, 27.47' to the BEGINNING and containing 1.71 acres, more or less, as more fully shown on Plat of Survey for New Creek Water Association as prepared by Vanscoy Engineering and Surveying, David G. Vanscoy, P.S. No. 1228, attached hereto as a part hereof.

**BEING** the same real estate conveyed unto New Creek Water Association, Inc. by Deed from The Mineral County Development Authority, a public corporation, dated March 9, 2000 and recorded among the records of the Clerk of County Commission for Mineral County, West Virginia in Deed Book 299 at Page 583.

**PARCEL IV**

**ALL** that certain tract or parcel of land lying and situate in New Creek District, Mineral County, West Virginia, and being more particularly described by metes and bounds as follows:

**BEGINNING** at a set steel pin located N. 36 deg. 04'52" W, 262.41' from a fence post, corner of Thomas Cooper Lot, Deed Book 197, Page 833; thence, N. 66 deg. 50'12"W, 120.00' to a set steel pin; thence, N 23 deg. 09'48" e, 120.00' to a set steel pin; thence, S 66 deg. 50'12" E, 120.00' to a set steel pin; thence, S 23 deg. 09'48" W, 120.00' to the BEGINNING and containing 0.33 acre, more or less, as more fully shown on Plat of Survey for New Creek Water Association Pine Swamp Water Tank as prepared by Vanscoy Engineering and Surveying, David G. Vanscoy, P.E. No. 6649, attached hereto as a part hereof.

**BEING** the same property conveyed unto New Creek Water Association, by Deed from Homer T. Cooper and Maxine L. Cooper, husband and wife, dated October 24, 1995 and recorded among the recorded among the records of the Clerk of County Commission for Mineral County, West Virginia in Deed Book 282 at Page 554 and by that Deed of Correction from Homer T. Cooper and Maxine L. Cooper, husband and wife, dated December 27, 1995 and recorded among the aforementioned clerk's office in Book 283 at Page 145.

#### PARCEL V

**ALL** that part of that tract of land situate on the East side of the U.S. Route 220, the "Cut-Off Road" near the top of Knobley Mountain, in New Creek District, Mineral County, West Virginia and being more particularly described by metes and bounds as follows:

**BEGINNING** at a steel pin, said pin being a corner to the New Creek Water Association existing lot, Deed Book 182, page 612; thence, with said lot, S. 89 deg. 57' 51" W. 60.00' to a steel pin found; thence, N. 00 deg. 02' 09" W. 20.00' to a steel pin set; thence by new division lines through tract of which this is a part, N. 89 deg. 57' 51" E., 35.00' to a steel pin set; thence, S. 00 deg. 02' 09" E. 70.00' to a steel pin set; thence, S. 89 deg. 57' 59" W. 95.00' to a steel pin set; thence, N. 00 deg. 02' 09" W. 50.00' to the BEGINNING and containing 0.125 acre, more or less, as more fully shown on Plat of Survey for New Creek Water Association as surveyed by Vanscoy Engineering and Surveying, David G. Vanscoy, P.E. No. 6649 attached hereto as a part hereof.

**BEING** the same property conveyed unto New Creek Water Association, by Deed from Dale E. Hoover, Jr. and Vicki S. Hoover, husband and wife, dated May 15, 1992 and recorded among the recorded among the records of the Clerk of County Commission for Mineral County, West Virginia in Deed Book 268 at Page 356.

#### PARCEL VI

**ALL** that certain lot or parcel of real estate situate, lying and being on the East side of U.S. Route No. 220, in the Village of New Creek, New Creek District, Mineral County, West Virginia, and more particularly bounded and described as follows, to-wit:

**BEGINNING** at an iron pin on the East side of U.S. Route No. 220, said point being at the end of the third line of the 0.05 acre lot now owned by The New Creek Water Association, Incorporated, a corporation; thence reversing the said third line South 36 deg. 25' East 28.50 feet to an iron pin on the West bank of New Creek; thence with the Creek South 57 deg. 30' West 148.96 feet to an iron pin on the North side of a run and the West side of New Creek; thence with the North side of the run North 62 deg. 01' West 88.37 feet to an iron pin on the East side of U.S. Route No. 220; thence with Route 220 North 70 deg. 47' East 95.83 feet to a power pole; thence North 72 deg. 41' East 100.79 feet to the place of BEGINNING, containing 0.20 of an acre, more or less, M. B. 1978.

**BEING** the same property conveyed unto New Creek Water Association, by Deed from Charles L. Swisher and Eloise V. Swisher, husband and wife, dated September 19, 1980 and recorded among the recorded among the records of the Clerk of County Commission for Mineral County, West Virginia in Deed Book 223 at Page 123.

#### PARCEL VII

**ALL** that lot or parcel of real estate situated, lying and being on the Easterly side of U.S. Route 220, in the Village of New Creek, New Creek District, Mineral County, West Virginia, and described by metes and bounds as follows:

**BEGINNING** at a marked locust on the East side of U.S. Route 220, said point located South 40 deg. 21' West 181.71 feet from a steel stake one foot from C. & P. Pole #1695, said steel stake being the beginning corner of a 10,139.25 square foot lot conveyed unto Russell E. and Betty L. Hanlin (D.B. 204, Page 437), said steel stake being pointed out as being at the end of the 18<sup>th</sup> line of the tract of which this is a part; thence, leaving the road by division lines South 16 deg. 44' East 30.24 feet to a metal stake on the West Bank of New Creek; thence, along the creek bank South 54

deg. 04' West 64.44 feet to a metal stake; thence, leaving the Creek North 36 deg. 25' West 28.50 feet to a metal stake located 38.0 feet from the centerline of U.S. Route 220; thence, North 54 deg. 02' East 74.59 feet to the place of the beginning, containing 0.05 of an acre, more or less, (M.B. 1978)

**BEING** the same property conveyed unto New Creek Water Association, by Deed from Charles L. Swisher and Eloise V. Swisher, husband and wife, dated May 22, 1978 and recorded among the recorded among the records of the Clerk of County Commission for Mineral County, West Virginia in Deed Book 210 at Page 877.

### PARCEL VIII

**ALL** that certain parcel of real estate situate in New Creek District, Mineral County, West Virginia, more particularly described as follows:

**BEGINNING** at an iron pin on the Jack Sanders' property, said iron pin being located from the westernmost corner of the said Jack Sanders' property, S. 10 deg. 15' E. 56.00 feet, thence S. 63 deg. 15' E. 162.10 feet, thence S. 63 deg. 15' E. 304.38 feet; said corner also being the corner of the F. T. Newkirk property which is in the eastern right of way of State Route 7; thence N. 87 deg. 32' E. 60.00 feet to an iron pin; thence S. 2 deg. 28' E. 50.00 feet to an iron pin; thence S. 87 deg. 32' W. 60.00 feet to an iron pin; thence N. 2 deg. 28' W. 50.00 feet to the point of BEGINNING, containing 0.069 acre and shown on Plat

**BEING** the same property conveyed unto New Creek Water Association, by Deed from John A. Sanders, single, dated July 10, 1972 and recorded among the recorded among the records of the Clerk of County Commission for Mineral County, West Virginia in Deed Book 182 at Page 612.

### PARCEL IX

**ALL** that certain real estate situate in New Creek District, Mineral County, West Virginia, described as follows:

**BEGINNING** at an iron pin which is located S. 67 deg. E. 18.90 feet from a deed stake between the Emory L. Hines property and the Fred Flannigan property, said iron pin being also S. 67 deg. E. 169.0 feet from the eastern right-of-way of State Route 7; thence N. 23 deg. 00' E. 50.00 feet to an iron pin; thence S. 67 deg. 00' E. 70.00 feet to an iron pin; thence S. 23 deg. 00' W. 50.00 feet to an iron pin; thence N. 67 deg. 00' W. 70.00 feet to the point of BEGINNING, containing 0.080 acre.

**BEING** the same property conveyed unto New Creek Water Association, by Deed from Emory L. Hines and Edna M. Hines, husband and wife, dated July 10, 1972 and recorded among the recorded among the records of the Clerk of County Commission for Mineral County, West Virginia in Deed Book 182 at Page 609.

### PARCEL X

**ALL** that certain parcel of real estate situate in New Creek District, Mineral County, West Virginia, more particularly described as follows:

**BEGINNING** at the southwesternmost corner of the Blair and Margaret Smith's property, also corner to the Junior Judy's property, said corner being in the northern right or way of State Route 220/1; thence with the common line of the said Smith and Judy property N. 55 deg. 07' W. 57.40 feet to an iron pin; thence N. 63 deg. 00' E. 76.78 feet to an iron pin; thence S. 27 deg. 00' E.

50.00 feet to an iron pin; thence S. 63 deg. 00' W. 50.00 feet to the point of BEGINNING, containing 0.073 acre.

**BEING** the same property conveyed unto New Creek Water Association, by Deed from Blair E. Smith and Margaret Smith, husband and wife, dated July 10, 1972 and recorded among the records of the Clerk of County Commission for Mineral County, West Virginia in Deed Book 182 at Page 606.

#### **PARCEL XI**

**ALL** that certain parcel of real estate situate in New Creek District, Mineral County, West Virginia, more particularly described as follows:

**BEGINNING** at the most northwesterly corner of the Ralph W. Mangold property, also corner to the Earl Roberts, Est. and Lola Roberts' property; thence N. 40 deg. 45' E. 60.00 feet to a point; thence S. 66 deg. 00' E. 60.00 feet to a point; thence S. 40 deg. 45' W. 60.00 feet to a point in the common Roberts and Mangold property line; thence with said line N. 66 deg. 00' W. 60.00 feet to the point of BEGINNING, containing 0.081 of an acre.

**BEING** the same property conveyed unto New Creek Water Association, by Deed from Ralph W. Mangold and Zelma Mangold, husband and wife, dated July 10, 1972 and recorded among the records of the Clerk of County Commission for Mineral County, West Virginia in Deed Book 182 at Page 599.

#### **PARCEL XII**

**ALL** that certain real estate situate in New Creek District, Mineral County, West Virginia, described as follows:

**BEGINNING** at an iron pin in the southern right-of-way of State Route 220/5 and 161 feet from the eastern corner of the Charles Blackburn property, which is also the corner of the Stagers' property; thence S. 45 deg. 45' E. 30.00 feet to an iron pin; thence S. 44 deg. 15' W. 30.00 feet to an iron pin; thence N. 45 deg. 45' W. 30.00 feet to an iron pin in the southern right-of-way of State Route 220/5; thence N. 44 deg. 15' E. 30.00 feet along said right-of-way to the point of BEGINNING, containing 0.021 acre.

**BEING** the same property conveyed unto New Creek Water Association, by Deed from Charles Blackburn and Martha L. Blackburn, husband and wife, dated July 10, 1972 and recorded among the records of the Clerk of County Commission for Mineral County, West Virginia in Deed Book 182 at Page 596.

Together with all rights of way and easements granted to The New Creek Water Association, Incorporated, located in the New Creek District of Mineral County, West Virginia along or adjacent to State Route 93.

**EXHIBIT A**

WATER REVENUE BOND, SERIES 2004 B  
(WEST VIRGINIA INFRASTRUCTURE FUND)

(Attached)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE NEW CREEK WATER ASSOCIATION INCORPORATED  
WATER REVENUE BOND, SERIES 2004 B  
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. BR-1

\$1,095,000

KNOW ALL MEN BY THESE PRESENTS: That THE NEW CREEK WATER ASSOCIATION INCORPORATED, a West Virginia non-stock, nonprofit corporation in Mineral County, West Virginia (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 ONE MILLION NINETY FIVE THOUSAND DOLLARS (\$1,095,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2006, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Council, dated November 18, 2004.

This Bond is issued (i) to pay the costs of acquisition and construction of certain improvements and extensions to the existing waterworks facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing waterworks facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 31E, Article 1 et seq. of the West Virginia

Code of 1931, as amended (the "Act"), a Bond Resolution duly adopted by the Issuer on November 9, 2004, and a Supplemental Resolution duly adopted by the Issuer on November 9, 2004 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Resolution.

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) PROMISSORY NOTE, DATED OCTOBER 20, 1992 (THE "PRIOR BONDS"); (2) WATER REFUNDING REVENUE NOTES, SERIES 2004 A (BRANCH BANKING AND TRUST COMPANY) (THE "SERIES 2004 A NOTES"); AND (3) WATER REVENUE BONDS, SERIES 2004 C (WEST VIRGINIA INFRASTRUCTURE FUND) (THE "SERIES 2004 C BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Resolution) to be derived from the operation of the System and accounts receivable of the Issuer, and a lien on the System, on a parity with the pledge of Gross Revenues in favor of the holders of the Series 2004 A Notes, the Series 2003 C Bonds and the Prior Bonds, and from monies in the reserve account created under the Resolution for the Bonds (the "Series 2004 B Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest, if any, 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. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Series 2004 A Notes, the Series 2004 C Bonds and the Prior Bonds; provided however, that so long as there exists in the Series 2004 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Series 2004 A Notes, the Series 2004 C Bonds and the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Resolution. Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, 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 Resolution, only upon the books of The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the 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 Resolution, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Resolution, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

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 wet lands 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 Gross Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Resolution, 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.

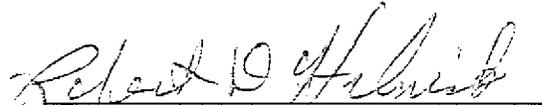
BOOK 398 PAGE 253

IN WITNESS WHEREOF, THE NEW CREEK WATER ASSOCIATION  
INCORPORATED has caused this Bond to be signed by its President and its corporate seal  
to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated  
November 18, 2004.

[SEAL]

  
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
Secretary

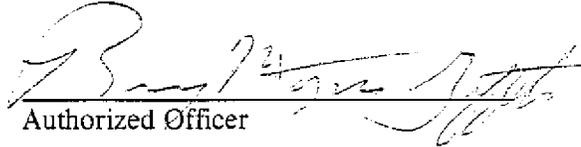
BOOK 398 PAGE 254

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Series 2004 B Bond described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: November 18, 2004.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

  
Authorized Officer

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EXHIBIT A  
RECORD OF ADVANCES

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

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

EXHIBIT B

**\$1,095,000**

The New Creek Water Association Incorporated (West Virginia)

0% Interest Rate, 40 Years from Closing Date

Closing Date: November 18, 2004

**Debt Service Schedule**

Part 1 of 4

<u>Date</u>	<u>Principal</u>	<u>Coupon</u>	<u>Total P+I</u>
12/01/2004	-	-	-
03/01/2005	-	-	-
06/01/2005	-	-	-
09/01/2005	-	-	-
12/01/2005	-	-	-
03/01/2006	-	-	-
06/01/2006	-	-	-
09/01/2006	7,156.87	-	7,156.87
12/01/2006	7,156.87	-	7,156.87
03/01/2007	7,156.87	-	7,156.87
06/01/2007	7,156.87	-	7,156.87
09/01/2007	7,156.87	-	7,156.87
12/01/2007	7,156.87	-	7,156.87
03/01/2008	7,156.87	-	7,156.87
06/01/2008	7,156.87	-	7,156.87
09/01/2008	7,156.87	-	7,156.87
12/01/2008	7,156.87	-	7,156.87
03/01/2009	7,156.87	-	7,156.87
06/01/2009	7,156.87	-	7,156.87
09/01/2009	7,156.87	-	7,156.87
12/01/2009	7,156.87	-	7,156.87
03/01/2010	7,156.87	-	7,156.87
06/01/2010	7,156.87	-	7,156.87
09/01/2010	7,156.87	-	7,156.87
12/01/2010	7,156.87	-	7,156.87
03/01/2011	7,156.87	-	7,156.87
06/01/2011	7,156.87	-	7,156.87
09/01/2011	7,156.87	-	7,156.87
12/01/2011	7,156.87	-	7,156.87
03/01/2012	7,156.87	-	7,156.87
06/01/2012	7,156.87	-	7,156.87
09/01/2012	7,156.87	-	7,156.87
12/01/2012	7,156.87	-	7,156.87
03/01/2013	7,156.87	-	7,156.87
06/01/2013	7,156.87	-	7,156.87
09/01/2013	7,156.87	-	7,156.87
12/01/2013	7,156.87	-	7,156.87
03/01/2014	7,156.87	-	7,156.87
06/01/2014	7,156.87	-	7,156.87
09/01/2014	7,156.87	-	7,156.87
12/01/2014	7,156.87	-	7,156.87
03/01/2015	7,156.87	-	7,156.87
06/01/2015	7,156.87	-	7,156.87
09/01/2015	7,156.87	-	7,156.87

# Debt Service Schedule

Part 2 of 4

Date	Principal	Coupon	Total P+I
12/01/2015	7,156.87	-	7,156.87
03/01/2016	7,156.87	-	7,156.87
06/01/2016	7,156.87	-	7,156.87
09/01/2016	7,156.87	-	7,156.87
12/01/2016	7,156.87	-	7,156.87
03/01/2017	7,156.86	-	7,156.86
06/01/2017	7,156.86	-	7,156.86
09/01/2017	7,156.86	-	7,156.86
12/01/2017	7,156.86	-	7,156.86
03/01/2018	7,156.86	-	7,156.86
06/01/2018	7,156.86	-	7,156.86
09/01/2018	7,156.86	-	7,156.86
12/01/2018	7,156.86	-	7,156.86
03/01/2019	7,156.86	-	7,156.86
06/01/2019	7,156.86	-	7,156.86
09/01/2019	7,156.86	-	7,156.86
12/01/2019	7,156.86	-	7,156.86
03/01/2020	7,156.86	-	7,156.86
06/01/2020	7,156.86	-	7,156.86
09/01/2020	7,156.86	-	7,156.86
12/01/2020	7,156.86	-	7,156.86
03/01/2021	7,156.86	-	7,156.86
06/01/2021	7,156.86	-	7,156.86
09/01/2021	7,156.86	-	7,156.86
12/01/2021	7,156.86	-	7,156.86
03/01/2022	7,156.86	-	7,156.86
06/01/2022	7,156.86	-	7,156.86
09/01/2022	7,156.86	-	7,156.86
12/01/2022	7,156.86	-	7,156.86
03/01/2023	7,156.86	-	7,156.86
06/01/2023	7,156.86	-	7,156.86
09/01/2023	7,156.86	-	7,156.86
12/01/2023	7,156.86	-	7,156.86
03/01/2024	7,156.86	-	7,156.86
06/01/2024	7,156.86	-	7,156.86
09/01/2024	7,156.86	-	7,156.86
12/01/2024	7,156.86	-	7,156.86
03/01/2025	7,156.86	-	7,156.86
06/01/2025	7,156.86	-	7,156.86
09/01/2025	7,156.86	-	7,156.86
12/01/2025	7,156.86	-	7,156.86
03/01/2026	7,156.86	-	7,156.86
06/01/2026	7,156.86	-	7,156.86
09/01/2026	7,156.86	-	7,156.86

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Debt Service  
Schedule

Part 3 of 4

Date	Principal	Coupon	Total P+I
12/01/2026	7,156.86	-	7,156.86
03/01/2027	7,156.86	-	7,156.86
06/01/2027	7,156.86	-	7,156.86
09/01/2027	7,156.86	-	7,156.86
12/01/2027	7,156.86	-	7,156.86
03/01/2028	7,156.86	-	7,156.86
06/01/2028	7,156.86	-	7,156.86
09/01/2028	7,156.86	-	7,156.86
12/01/2028	7,156.86	-	7,156.86
03/01/2029	7,156.86	-	7,156.86
06/01/2029	7,156.86	-	7,156.86
09/01/2029	7,156.86	-	7,156.86
12/01/2029	7,156.86	-	7,156.86
03/01/2030	7,156.86	-	7,156.86
06/01/2030	7,156.86	-	7,156.86
09/01/2030	7,156.86	-	7,156.86
12/01/2030	7,156.86	-	7,156.86
03/01/2031	7,156.86	-	7,156.86
06/01/2031	7,156.86	-	7,156.86
09/01/2031	7,156.86	-	7,156.86
12/01/2031	7,156.86	-	7,156.86
03/01/2032	7,156.86	-	7,156.86
06/01/2032	7,156.86	-	7,156.86
09/01/2032	7,156.86	-	7,156.86
12/01/2032	7,156.86	-	7,156.86
03/01/2033	7,156.86	-	7,156.86
06/01/2033	7,156.86	-	7,156.86
09/01/2033	7,156.86	-	7,156.86
12/01/2033	7,156.86	-	7,156.86
03/01/2034	7,156.86	-	7,156.86
06/01/2034	7,156.86	-	7,156.86
09/01/2034	7,156.86	-	7,156.86
12/01/2034	7,156.86	-	7,156.86
03/01/2035	7,156.86	-	7,156.86
06/01/2035	7,156.86	-	7,156.86
09/01/2035	7,156.86	-	7,156.86
12/01/2035	7,156.86	-	7,156.86
03/01/2036	7,156.86	-	7,156.86
06/01/2036	7,156.86	-	7,156.86
09/01/2036	7,156.86	-	7,156.86
12/01/2036	7,156.86	-	7,156.86
03/01/2037	7,156.86	-	7,156.86
06/01/2037	7,156.86	-	7,156.86
09/01/2037	7,156.86	-	7,156.86

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Debt Service  
Schedule

Part 4 of 4

Date	Principal	Coupon	Total P+I
12/01/2037	7,156.86	-	7,156.86
03/01/2038	7,156.86	-	7,156.86
06/01/2038	7,156.86	-	7,156.86
09/01/2038	7,156.86	-	7,156.86
12/01/2038	7,156.86	-	7,156.86
03/01/2039	7,156.86	-	7,156.86
06/01/2039	7,156.86	-	7,156.86
09/01/2039	7,156.86	-	7,156.86
12/01/2039	7,156.86	-	7,156.86
03/01/2040	7,156.86	-	7,156.86
06/01/2040	7,156.86	-	7,156.86
09/01/2040	7,156.86	-	7,156.86
12/01/2040	7,156.86	-	7,156.86
03/01/2041	7,156.86	-	7,156.86
06/01/2041	7,156.86	-	7,156.86
09/01/2041	7,156.86	-	7,156.86
12/01/2041	7,156.86	-	7,156.86
03/01/2042	7,156.86	-	7,156.86
06/01/2042	7,156.86	-	7,156.86
09/01/2042	7,156.86	-	7,156.86
12/01/2042	7,156.86	-	7,156.86
03/01/2043	7,156.86	-	7,156.86
06/01/2043	7,156.86	-	7,156.86
09/01/2043	7,156.86	-	7,156.86
12/01/2043	7,156.86	-	7,156.86
03/01/2044	7,156.86	-	7,156.86
06/01/2044	7,156.86	-	7,156.86
09/01/2044	7,156.86	-	7,156.86
<b>Total</b>	<b>\$1,095,000.00</b>	<b>-</b>	<b>\$1,095,000.00</b>

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ASSIGNMENT

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

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

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

\_\_\_\_\_

11/05/04  
658370.0000X

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**EXHIBIT B**

WATER REVENUE BOND, SERIES 2004 C  
(WEST VIRGINIA INFRASTRUCTURE FUND)

(Attached)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE NEW CREEK WATER ASSOCIATION INCORPORATED  
WATER REVENUE BOND, SERIES 2004 C  
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. CR-1

\$286,000

KNOW ALL MEN BY THESE PRESENTS: That THE NEW CREEK WATER ASSOCIATION INCORPORATED, a West Virginia non-stock, nonprofit corporation in Mineral County, West Virginia (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (THE "AUTHORITY") or registered assigns the sum of TWO HUNDRED EIGHTY SIX THOUSAND DOLLARS (\$286,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2006, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference, with interest on each installment at the rate per annum set forth on said EXHIBIT B. The interest shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2006, as set forth on said EXHIBIT B attached hereto.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and 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 November 18, 2004.

CHECK 398 PAGE 263

This Bond is issued (i) to pay the costs of acquisition and construction of certain improvements and extensions to the existing waterworks facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing waterworks facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 31E, Article 1 et seq. of the West Virginia Code of 1931, as amended (the "Act"), a Bond Resolution duly adopted by the Issuer on November 9, 2004, and a Supplemental Resolution duly adopted by the Issuer on November 9, 2004 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Resolution.

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) PROMISSORY NOTE, DATED OCTOBER 20, 1992 (THE "PRIOR BONDS"); (2) WATER REFUNDING REVENUE NOTES, SERIES 2004 A (BRANCH BANKING AND TRUST COMPANY) (THE "SERIES 2004 A NOTES"); AND (3) WATER REVENUE BONDS, SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND) (THE "SERIES 2004 B BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Resolution) to be derived from the operation of the System and accounts receivable of the Issuer, and a lien on the System, on a parity with the pledge of Gross Revenues in favor of the holders of the Series 2004 A Notes, the Series 2004 B Bonds and the Prior Bonds, and from monies in the reserve account created under the Resolution for the Bonds (the "Series 2004 C Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest, if any, 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. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Series 2004 A Notes, the Series 2004 B Bonds and the Prior Bonds; provided however, that so long as there exists in the Series 2004 C Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds,

BOOK 398 PAGE 264

including the Series 2004 A Notes, the Series 2004 B Bonds and the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Resolution. Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, 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 Resolution, only upon the books of The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the 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 Resolution, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Resolution, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

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 wet lands to produce an agricultural commodity.

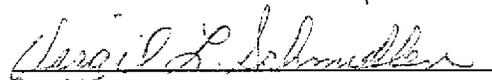
IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, 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 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 Resolution, 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.

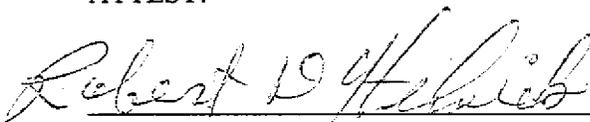
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IN WITNESS WHEREOF, THE NEW CREEK WATER ASSOCIATION  
INCORPORATED has caused this Bond to be signed by its President and its corporate seal  
to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated  
November 18, 2004.

[SEAL]

  
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
Secretary

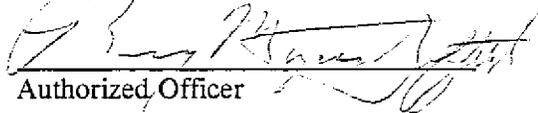
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CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Series 2004 C Bond described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: November 18, 2004.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

  
Authorized Officer

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EXHIBIT A  
RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	\$ 188,672	11/18/04	(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)	\$	

BOOK 398 PAGE 263 TOTAL \$ \_\_\_\_\_

EXHIBIT B

**\$286,000**

The New Creek Water Association Incorporated (West Virginia)

3% Interest Rate, 20 Years

Closing Date: November 18, 2004

**Debt Service Schedule**

Part 1 of 2

Date	Principal	Coupon	Interest	Total P+I
12/01/2004	-	-	-	-
03/01/2005	-	-	-	-
06/01/2005	-	-	-	-
09/01/2005	-	-	-	-
12/01/2005	-	-	-	-
03/01/2006	-	-	-	-
06/01/2006	-	-	-	-
09/01/2006	2,622.11	3.000%	2,145.00	4,767.11
12/01/2006	2,641.77	3.000%	2,125.33	4,767.10
03/01/2007	2,661.59	3.000%	2,105.52	4,767.11
06/01/2007	2,681.55	3.000%	2,085.56	4,767.11
09/01/2007	2,701.66	3.000%	2,065.45	4,767.11
12/01/2007	2,721.92	3.000%	2,045.18	4,767.10
03/01/2008	2,742.34	3.000%	2,024.77	4,767.11
06/01/2008	2,762.90	3.000%	2,004.20	4,767.10
09/01/2008	2,783.63	3.000%	1,983.48	4,767.11
12/01/2008	2,804.50	3.000%	1,962.60	4,767.10
03/01/2009	2,825.54	3.000%	1,941.57	4,767.11
06/01/2009	2,846.73	3.000%	1,920.38	4,767.11
09/01/2009	2,868.08	3.000%	1,899.03	4,767.11
12/01/2009	2,889.59	3.000%	1,877.52	4,767.11
03/01/2010	2,911.26	3.000%	1,855.85	4,767.11
06/01/2010	2,933.10	3.000%	1,834.01	4,767.11
09/01/2010	2,955.10	3.000%	1,812.01	4,767.11
12/01/2010	2,977.26	3.000%	1,789.85	4,767.11
03/01/2011	2,999.59	3.000%	1,767.52	4,767.11
06/01/2011	3,022.08	3.000%	1,745.02	4,767.10
09/01/2011	3,044.75	3.000%	1,722.36	4,767.11
12/01/2011	3,067.59	3.000%	1,699.52	4,767.11
03/01/2012	3,090.59	3.000%	1,676.52	4,767.11
06/01/2012	3,113.77	3.000%	1,653.34	4,767.11
09/01/2012	3,137.13	3.000%	1,629.98	4,767.11
12/01/2012	3,160.65	3.000%	1,606.45	4,767.10
03/01/2013	3,184.36	3.000%	1,582.75	4,767.11
06/01/2013	3,208.24	3.000%	1,558.87	4,767.11
09/01/2013	3,232.30	3.000%	1,534.80	4,767.10
12/01/2013	3,256.55	3.000%	1,510.56	4,767.11
03/01/2014	3,280.97	3.000%	1,486.14	4,767.11
06/01/2014	3,305.58	3.000%	1,461.53	4,767.11
09/01/2014	3,330.37	3.000%	1,436.74	4,767.11
12/01/2014	3,355.35	3.000%	1,411.76	4,767.11
03/01/2015	3,380.51	3.000%	1,386.60	4,767.11
06/01/2015	3,405.87	3.000%	1,361.24	4,767.11
09/01/2015	3,431.41	3.000%	1,335.70	4,767.11

Date	Principal	Coupon	Interest	Total P+I
12/01/2015	3,457.15	3.000%	1,309.96	4,767.11
03/01/2016	3,483.07	3.000%	1,284.03	4,767.10
06/01/2016	3,509.20	3.000%	1,257.91	4,767.11
09/01/2016	3,535.52	3.000%	1,231.59	4,767.11
12/01/2016	3,562.03	3.000%	1,205.08	4,767.11
03/01/2017	3,588.75	3.000%	1,178.36	4,767.11
06/01/2017	3,615.66	3.000%	1,151.44	4,767.10
09/01/2017	3,642.78	3.000%	1,124.33	4,767.11
12/01/2017	3,670.10	3.000%	1,097.01	4,767.11
03/01/2018	3,697.63	3.000%	1,069.48	4,767.11
06/01/2018	3,725.36	3.000%	1,041.75	4,767.11
09/01/2018	3,753.30	3.000%	1,013.81	4,767.11
12/01/2018	3,781.45	3.000%	985.66	4,767.11
03/01/2019	3,809.81	3.000%	957.30	4,767.11
06/01/2019	3,838.38	3.000%	928.72	4,767.10
09/01/2019	3,867.17	3.000%	899.94	4,767.11
12/01/2019	3,896.18	3.000%	870.93	4,767.11
03/01/2020	3,925.40	3.000%	841.71	4,767.11
06/01/2020	3,954.84	3.000%	812.27	4,767.11
09/01/2020	3,984.50	3.000%	782.61	4,767.11
12/01/2020	4,014.38	3.000%	752.73	4,767.11
03/01/2021	4,044.49	3.000%	722.62	4,767.11
06/01/2021	4,074.82	3.000%	692.28	4,767.10
09/01/2021	4,105.38	3.000%	661.72	4,767.10
12/01/2021	4,136.18	3.000%	630.93	4,767.11
03/01/2022	4,167.20	3.000%	599.91	4,767.11
06/01/2022	4,198.45	3.000%	568.66	4,767.11
09/01/2022	4,229.94	3.000%	537.17	4,767.11
12/01/2022	4,261.66	3.000%	505.44	4,767.10
03/01/2023	4,293.63	3.000%	473.48	4,767.11
06/01/2023	4,325.83	3.000%	441.28	4,767.11
09/01/2023	4,358.27	3.000%	408.84	4,767.11
12/01/2023	4,390.96	3.000%	376.15	4,767.11
03/01/2024	4,423.89	3.000%	343.22	4,767.11
06/01/2024	4,457.07	3.000%	310.04	4,767.11
09/01/2024	4,490.50	3.000%	276.61	4,767.11
12/01/2024	4,524.18	3.000%	242.93	4,767.11
03/01/2025	4,558.11	3.000%	209.00	4,767.11
06/01/2025	4,592.29	3.000%	174.81	4,767.10
09/01/2025	4,626.74	3.000%	140.37	4,767.11
12/01/2025	4,661.44	3.000%	105.67	4,767.11
03/01/2026	4,696.40	3.000%	70.71	4,767.11
06/01/2026	4,731.62	3.000%	35.49	4,767.11
<b>Total</b>	<b>\$286,000.00</b>	<b>-</b>	<b>\$95,368.66</b>	<b>\$381,368.66</b>

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Debt Service Schedule

ASSIGNMENT

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

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

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

11/05/04  
658370.00001

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State of West Virginia, \_\_\_\_\_  
do hereby certify that on this 18th  
day of November, 2007. The  
foregoing Seed of Trust was  
presented in the Office of the Clerk of County  
Commission and admitted to record.  
Carl C. Thomas *eg*  
Clerk of County Commission

MINERAL COUNTY W. VA.  
RECORDED IN BOOK

NO. 398 PAGE 227

CARL C. THOMAS CLERK

*Carl C. Thomas*

**SECURITY AGREEMENT**

**BORROWER:**

**THE NEW CREEK WATER ASSOCIATION  
INCORPORATED  
General Delivery  
New Creek, WV 26743**

**SECURED PARTY:**

**BRANCH BANKING AND TRUST COMPANY  
87 North Main Street  
Keyser, West Virginia 26726**

**THIS SECURITY AGREEMENT is effective as of the 18th day of November, 2004, between THE NEW CREEK WATER ASSOCIATION INCORPORATED, a West Virginia nonprofit corporation (referred to below as "Grantor"), and BRANCH BANKING AND TRUST COMPANY, a national banking association (referred to below as "Lender"). For valuable consideration, Grantor grants to Lender a security interest in the Collateral to secure the Indebtedness, on a parity as to liens, pledge and source of and security for payment with that certain promissory note of the Issuer, dated October 20, 1992 (the "Prior Bonds"), Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), dated November 18, 2004 (the "Series 2004 B Bonds"), and Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund), dated November 18, 2004 (the "Series 2004 C Bonds" and together with the Series 2004 B Bonds, collectively referred to as the "Series 2004 Bonds"), and agrees that Lender shall have the rights stated in this Agreement with respect to the Collateral, subject to the rights of the holders of the Prior Bonds and the Series 2004 Bonds, in addition to all other rights which Lender may have by law.**

**DEFINITIONS.** The following words shall have the following meanings when used in this Agreement. Terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Accounts Receivable.** The words "Accounts Receivable" means the money due from all customers and debtors of the Issuer.

**Agreement.** The word "Agreement" means this Security Agreement, as this Security Agreement may be amended or modified from time to time, together with all exhibits and schedules attached to this Security Agreement from time to time.

**Collateral.** The word "Collateral" means, collectively, the Revenues and the Accounts Receivable of Grantor, whether now owned or hereafter acquired, whether now existing or hereafter arising, and wherever located. In addition, the word "Collateral" includes all the following, whether now owned or hereafter acquired, whether now existing or hereafter arising, and wherever located:

- (a) All accessions, attachments, and accessories to any of the property described herein, whether added now or later.
- (b) All increases, and additions to and all replacements of and substitutions for any property described herein.
- (c) All products and produce of any of the property described herein.
- (d) All accounts, general intangibles, instruments, payment intangibles, rents, monies, payments, and

all other rights, arising out of a sale, lease, or other disposition of any of the property described herein.

- (e) All proceeds (including insurance proceeds) from the sale or other disposition of any of the property described herein.
- (f) All present and future records and data relating to any of the property described herein, whether in the form of a writing, photograph, microfilm, microfiche, or electronic media, together with all of Grantor's right, title, and interest in and to all computer software required to utilize, create, maintain, and process any such records or data on electronic media.

**Event of Default.** The words "Event of Default" mean and include without limitation any of the Events of Default set forth below in the section titled "Events of Default."

**Facilities.** The word "Facilities" means the waterworks system, together with all appurtenances and related facilities, of the Grantor located in Mineral County, West Virginia.

**Grantor.** The word "Grantor" means The New Creek Water Association Incorporated, its successors and assigns.

**Indebtedness.** The word "Indebtedness" means the indebtedness evidenced by the Notes, including all principal and interest, together with all other indebtedness and costs and expenses for which Grantor is responsible under this Agreement or under any of the Related Documents. In addition, the word "Indebtedness" includes all other obligations, debts and liabilities, plus interest thereon, of Grantor, to Lender, as well as all claims by Lender against Grantor, whether existing now or later; whether they are voluntary or involuntary, due or not due, direct or indirect, absolute or contingent, liquidated or unliquidated; whether Grantor may be liable individually or jointly with others; whether Grantor may be obligated as guarantor, surety, accommodation party or otherwise.

**Lender.** The word "Lender" means Branch Banking and Trust Company, its successors and assigns.

**Notes.** The word "Notes" means the Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company), dated November 18, 2004, and issued by the Grantor in the original aggregate principal amount of \$81,682.

**Prior Bonds.** The words "Prior Bonds" mean the promissory note of the Issuer, dated October 20, 1992, issued in the original aggregate principal amount of \$183,000.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, assignments, guaranties, security agreements, mortgages, deeds of trust, resolutions and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

**Revenues.** The word "Revenues" means all receipts, revenues, income and other monies derived from or related to the Facilities and received by or on behalf of the Grantor relative to the Facilities and all rights to receive the same, in whatever form, or other rights and the proceeds thereof.

**Series 2004 Bonds.** The words "Series 2004 Bonds" mean, collectively, the Series 2004 B Bonds and the Series 2004 C Bonds.

**Series 2004 Bonds Security Agreement.** The words "Series 2004 Bonds Security Agreement" mean that certain

Security Agreement of even date herewith by and between Grantor and West Virginia Water Development Authority, on behalf of West Virginia Infrastructure and Jobs Development Council, securing the Series 2004 Bonds.

**Series 2004 B Bonds.** The words "Series 2004 B Bonds" mean the Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Council), dated November 18, 2004, and issued by the Grantor in the original aggregate principal amount of \$1,095,000.

**Series 2004 C Bonds.** The words "Series 2004 C Bonds" mean the Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Council), dated November 18, 2004, and issued by the Grantor in the original aggregate principal amount of \$286,000.

**POSSESSION, ETC. AND RIGHT OF SETOFF.** Grantor hereby grants Lender a contractual possessory security interest in and hereby assigns, conveys, delivers, pledges, and transfers all of Grantor's right, title and interest in and to all of Grantor's property that may be in the possession of the Lender at any time and from time to time, including, but not limited to, money, instruments, documents of title, chattel paper, certificates of deposit, and Grantor's deposit accounts with Lender (whether checking, savings, or some other type of deposit account), including all deposit accounts held jointly with someone else and all deposit accounts Grantor may open in the future, excluding, however, all IRA and Keogh accounts and all trust accounts for which the grant of a security interest or setoff would be prohibited by law. Grantor authorizes Lender to charge or setoff all Indebtedness against any and all such certificates of deposit and deposit accounts, without notice, upon the occurrence of an Event of Default.

**OBLIGATIONS OF GRANTOR.** Grantor warrants and covenants to Lender as follows:

**Perfection of Security Interest.** Grantor agrees to and authorizes Lender to execute and file financing statements and to take whatever other actions are requested or desired by Lender to perfect and continue Lender's security interest in the Collateral. Upon request of Lender, Grantor will deliver to Lender any and all of the documents evidencing or constituting the Collateral. Grantor hereby appoints Lender and any of its authorized loan officers as its irrevocable attorney-in-fact for the purpose of executing any documents necessary to perfect or to continue the security interest granted in this Agreement. Lender may at any time, and without further authorization from Grantor, file a carbon, photographic or other reproduction of any financing statement or of this Agreement for use as a financing statement. Grantor will reimburse Lender for all expenses for the perfection and the continuation of the perfection of Lender's security interest in the Collateral. Grantor promptly will notify Lender before any change in Grantor's name including any change to the assumed business names of Grantor. **This is a continuing Security Agreement and will continue in effect until the Indebtedness is paid in full.**

**No Violation.** The execution and delivery of this Agreement will not violate any law or agreement governing Grantor or to which Grantor is a party, and its certificate or articles of incorporation and bylaws do not prohibit any term or condition of this Agreement.

**Enforceability of Collateral.** To the extent the Collateral consists of accounts, chattel paper or general intangibles, the Collateral is enforceable in accordance with its terms, is genuine, and complies with applicable laws concerning form, content and manner of preparation and execution, and all persons appearing to be obligated on the Collateral have authority and capacity to contract and are in fact obligated as they appear to be on the Collateral. At the time any account becomes subject to a security interest in favor of Lender, the account shall be a good and valid account representing an undisputed, bona fide indebtedness incurred by the account debtor, for merchandise held subject to delivery instructions or theretofore shipped or delivered pursuant to a contract of sale, or for services theretofore performed by Grantor with or for the account debtor; there shall be no setoffs or counterclaims against any such account; and no agreement under which any deductions or discounts may be claimed shall have been made

with the account debtor except those made by Grantor in the ordinary course of its business or disclosed to Lender in writing.

**Location of the Collateral.** Grantor, upon request of Lender, will deliver to Lender in form satisfactory to Lender a schedule of Collateral locations relating to Grantor's operations, including without limitation the following: (a) all storage facilities owned, rented, leased, or being used by Grantor; and (b) all other properties where Collateral is or may be located. Except in the ordinary course of its business, Grantor shall not remove the Collateral from its existing locations without the prior written consent of Lender.

**Removal of Collateral.** Grantor shall keep the Collateral (or to the extent the Collateral consists of intangible property such as accounts, the records concerning the Collateral) at Grantor's address shown above, or at such other locations as agreed to in writing by Lender. Except in the ordinary course of its business, Grantor shall not remove the Collateral from its existing locations without the prior written consent of Lender.

**Transactions Involving Collateral.** Except for accounts collected in the ordinary course of Grantor's business, or Inventory sold in the ordinary course of Grantor's business, Grantor shall not sell, offer to sell, or otherwise transfer or dispose of the Collateral. Grantor shall not pledge, mortgage, encumber or otherwise permit the Collateral to be subject to any lien, security interest, encumbrance, or charge, other than the security interest provided for in this Agreement, the security interest provided for in the Series 2004 Bonds Security Agreement, and the securing interest provided for in connection with the Prior Bonds, which liens shall be on parity with the lien provided for in this Agreement, without the prior written consent of Lender. This includes security interests even if junior in right to the security interests granted under this Agreement, the Series 2004 Bonds Security Agreement or granted pursuant to the Prior Bonds. Unless waived by Lender, all proceeds from any disposition of the Collateral (for whatever reason) shall be held in trust for Lender and shall not be commingled with any other funds; provided however, this requirement shall not constitute consent by Lender to any sale or other disposition. Upon receipt, Grantor shall immediately deliver any such proceeds to Lender.

**Title.** Grantor represents and warrants to Lender that it holds good and marketable title to the Collateral, free and clear of all liens and encumbrances except for the lien of this Agreement, the lien created pursuant to the Series 2004 Bonds Security Agreement and the lien created pursuant to the Prior Bonds, which liens shall be on parity with the lien provided for in this Agreement. No financing statement covering any of the Collateral is on file in any public office other than those which reflect the security interest created by this Agreement, the Series 2004 Bonds Security Agreement, the Prior Bonds or to which Lender has specifically consented. Grantor shall defend Lender's rights in the Collateral against the claims and demands of all other persons.

**Collateral Schedules and Locations.** As often as Lender shall reasonably require, and insofar as the Collateral consists of accounts and general intangibles, Grantor shall deliver to Lender schedules of such Collateral, including such information as Lender may reasonably require, including without limitation names and addresses of account debtors and agings of accounts. Such information shall be submitted for Grantor and each of its subsidiaries or related companies.

**Maintenance and Inspection of Collateral.** Grantor shall maintain all tangible Collateral, if any, in good condition and repair. Grantor will not commit or permit damage to or destruction of the Collateral or any part of the Collateral. Lender and its designated representatives and agents shall have the right at all reasonable times to examine, inspect, and audit the Collateral wherever located. Grantor shall immediately notify Lender of all cases involving the return, rejection, repossession, loss or damage of or to any Collateral; of any request for credit or adjustment or of any other dispute arising with respect to the Collateral; and generally of all happenings and events affecting the Collateral or the value or the amount of the Collateral.

**Taxes, Assessments and Liens.** Grantor will pay when due all taxes, assessments and liens upon the Collateral, its use or operation, upon this Agreement, upon any promissory note or notes evidencing the Indebtedness, or upon any of the other Related Documents. Grantor may withhold any such payment or may elect to contest any lien if Grantor is in good faith conducting an appropriate proceeding to contest the obligation to pay and so long as Lender's interest in the Collateral is not jeopardized in Lender's sole opinion. If the Collateral is subjected to a lien which is not discharged within fifteen (15) days, Grantor shall deposit with Lender cash, a sufficient corporate surety bond or other security satisfactory to Lender in an amount adequate to provide for the discharge of the lien plus any interest, costs, attorneys' fees or other charges that could accrue as a result of foreclosure or sale of the Collateral. In any contest Grantor shall defend itself and Lender and shall satisfy any final adverse judgment before enforcement against the Collateral. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

**Compliance with Governmental Requirements.** Grantor shall comply promptly with all laws, ordinances, rules and regulations of all governmental authorities, now or hereafter in effect, applicable to the ownership, production, disposition, or use of the Collateral. Grantor may contest in good faith any such law, ordinance or regulation and withhold compliance during any proceeding, including appropriate appeals, as long as Lender's interest in the Collateral, in Lender's opinion, is not jeopardized.

**Principal Place of Business.** The principal place of business and chief executive office of The New Creek Water Association Incorporated is General Delivery, New Creek, West Virginia 26743. Grantor is a West Virginia nonprofit corporation, duly organized and validly existing pursuant to the laws of the State of West Virginia. The Grantor shall advise the Lender, within thirty (30) days, of any new facts which, under applicable provisions of the law, would affect the priority of the security interest granted to the Lender by this instrument. Upon default, the Lender may at any time in its discretion notify all obligees on accounts to make payments thereon directly to the Lender.

**RIGHT TO POSSESSION.** Until default and except as otherwise provided below with respect to accounts, Grantor may have possession of the tangible personal property and beneficial use of all the Collateral and may use it in any lawful manner not inconsistent with this Agreement or the Related Documents, provided that Grantor's right to possession and beneficial use shall not apply to any Collateral where possession of the Collateral by Lender is required by law to perfect Lender's security interest in such Collateral or is one method of perfection of its interest in the Collateral. If Lender at any time has possession of any Collateral, whether before or after an Event of Default, Lender shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral if Lender takes such action for that purpose as Grantor shall request or as Lender, in Lender's sole discretion, shall deem appropriate under the circumstances, but failure to honor any request by Grantor shall not of itself be deemed to be a failure to exercise reasonable care. Lender shall not be required to take any steps necessary to preserve any rights in the Collateral against prior parties, nor to protect, preserve or maintain any security interest given to secure the Indebtedness.

**EXPENDITURES BY LENDER.** If not discharged or paid when due, Lender may (but shall not be obligated to) discharge or pay any amounts required to be discharged or paid by Grantor under this Agreement, including without limitation all taxes, liens, security interests, encumbrances, and other claims, at any time levied or placed on the Collateral. Lender also may (but shall not be obligated to) pay all costs for insuring, maintaining and preserving the Collateral. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses shall become a part of the Indebtedness and, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Note, or (c) be treated as a balloon payment which will be due and payable at the Note's maturity. This Agreement also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon the occurrence of an Event of Default.

**EVENTS OF DEFAULT.** Each of the following shall constitute an Event of Default under this Agreement:

**Default on Indebtedness.** Failure of Grantor to make any payment when due on the Indebtedness.

**Other Defaults.** Failure of Grantor to keep any written promise Grantor has made to Lender, failure of Grantor to comply with or to perform when due any other term, obligation, covenant or condition contained in this Agreement or in any of the Related Documents, or failure of Grantor to comply with or to perform any other material term, obligation, covenant or condition contained in any other agreement between Lender and Grantor, or the occurrence of any Event of Default under any such agreement or Related Document.

**Default in Favor of Third Parties.** The default by Grantor under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person, that may affect, in the sole opinion of Lender, any of Grantor's property or Grantor's ability to repay the Notes or perform its obligations under this Agreement or any of the Related Documents.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by or on behalf of or by Grantor under this Agreement or the Related Documents is false or misleading in any material respect either now or at the time made or furnished, or becomes false or misleading at any time thereafter.

**Defective Collateralization.** This Agreement or any of the Related Documents ceases to be in full force and effect (including failure of any Security Agreement to create a valid and perfected security interest or lien) at any time and for any reason.

**Insolvency.** The dissolution or termination of Grantor's existence as a going business, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against Grantor or the Collateral or any other collateral securing the Indebtedness. This includes a garnishment, attachment, or levy of any of Grantor's property with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in a reasonable amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for dispute.

**Adverse Change.** Any material adverse change occurs in Grantor's financial condition, or Lender reasonably believes the prospect of payment of the Indebtedness or performance of any of the Grantor's obligations under the Related Documents is impaired.

**Organization.** Any action by Grantor's members to wind-up the affairs of Grantor and dissolve Grantor or any action by Grantor to merge or consolidate Grantor with a third party.

**Chronic Events of Default.** The occurrence, in any twelve (12) month period, of three (3) Events of Default each which are cured within the applicable cure period.

**Other Events of Default.** The occurrence of any event of default set forth in any of the Related Documents.

**RIGHT TO CURE.** Any default, other than a default on Indebtedness or Chronic Event of Default, may be cured (and no Event of Default will have occurred) if Grantor, as the case may be, after receiving written notice from Lender demanding cure of such default: (i) cures the default within ten (10) days; or (ii) if the cure requires more than ten (10) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**RIGHTS AND REMEDIES ON DEFAULT.** If an Event of Default occurs under this Agreement, at any time thereafter, Lender shall have all the rights of a secured party under the West Virginia Uniform Commercial Code. In addition and without limitation, Lender may exercise any one or more of the following rights and remedies:

**Accelerate Indebtedness.** Lender may declare the entire Indebtedness, including any prepayment penalty which Grantor would be required to pay, immediately due and payable, without notice.

**Assemble Collateral.** If applicable, Lender may require Grantor to deliver to Lender all or any portion of the Collateral and any and all certificates of title and other documents relating to the Collateral. Lender may require Grantor to assemble the Collateral, if applicable, and make it available to Lender at a place to be designated by Lender. Lender also shall have full power to enter upon the property of Grantor to take possession of and remove the Collateral. If the Collateral contains other goods not covered by this Agreement at the time of repossession, Grantor agrees Lender may take such other goods, provided that Lender makes reasonable efforts to return them to Grantor after repossession.

**Sell the Collateral.** Lender shall have full power to sell, lease, transfer, or otherwise deal with the Collateral or proceeds thereof in its own name or that of Grantor. Lender may sell the Collateral at public auction or private sale. Unless the Collateral threatens to decline speedily in value or is of a type customarily sold on a recognized market, Lender will give Grantor reasonable notice of the time after which any private sale or any other intended disposition of the Collateral is to be made. The requirements of reasonable notice shall be met if such notice is given at least ten (10) days before the time of the sale or disposition. All expenses relating to the disposition of the Collateral, including without limitation the expenses of retaking, holding, insuring, preparing for sale and selling the Collateral, shall become a part of the Indebtedness secured by this Agreement and shall be payable on demand, with interest at the rate applicable to each of the Note from date of expenditure until repaid.

**Appoint Receiver.** To the extent permitted by applicable law, Lender shall have the following rights and remedies regarding the appointment of a receiver: (a) Lender may have a receiver appointed as a matter of right, (b) the receiver may be an employee of Lender and may serve without bond, and (c) all fees of the receiver and his or her attorney shall become part of the Indebtedness secured by this Agreement and shall be payable on demand, with interest at the rate applicable to each of the Note from date of expenditure until repaid.

**Collect Revenues, Apply Accounts.** Lender, either itself or through a receiver, may collect the payments, rents, income, and revenues from the Collateral. Lender may at any time in its discretion transfer any Collateral into its own name or that of its nominee and receive the payments, rents, income, and revenues therefrom and hold the same as security for the Indebtedness or apply it to payment of the Indebtedness in such order of preference as Lender may determine. Insofar as the Collateral consists of accounts, health care insurance receivables, general intangibles, insurance policies, instruments, chattel paper, choses in action, or similar property, Lender may demand, collect, receipt for, settle, compromise, adjust, sue for, foreclose, or realize on the Collateral as Lender may determine, whether or not Indebtedness or Collateral is then due. For these purposes, Lender may, on behalf of and in the name of Grantor, receive, open and dispose of mail addressed to Grantor; change any address to which mail and payments are to be sent; and endorse notes, checks, drafts, money orders, documents of title, instruments and items pertaining to payment, shipment, or storage of any Collateral. To facilitate collection, Lender may notify account debtors and obligors on any Collateral to make payments directly to Lender. The rights and remedies

granted to Lender in this paragraph are in addition to and in no way limit the rights and duties of the parties set forth in the paragraphs above titled "Right to Possession" and "Collection of Accounts."

**Obtain Deficiency.** If Lender chooses to sell any or all of the Collateral, Lender may obtain a judgment against Grantor for any deficiency remaining on the Indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this Agreement. Grantor shall be liable for a deficiency even if the transaction described in this subsection is a sale of accounts or chattel paper.

**Other Rights and Remedies.** Lender shall have all the rights and remedies of a secured creditor under the provisions of the Uniform Commercial Code, as may be amended from time to time. In addition, Lender shall have and may exercise any or all other rights and remedies it may have available at law, in equity, or otherwise.

**Cumulative Remedies.** All of Lender's rights and remedies, whether evidenced by this Agreement or the Related Documents or by any other writing, shall be cumulative and may be exercised singularly or concurrently. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Agreement, after Grantor's failure to perform, shall not affect Lender's right to declare a default and to exercise its remedies.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Agreement:

**Amendments.** This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Applicable Law.** This Agreement has been delivered to Lender and accepted by Lender in the State of West Virginia. If there is a lawsuit, Grantor agrees upon Lender's request to submit to the jurisdiction of the courts of the State of West Virginia. This Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia unless another State's laws must apply.

**Attorneys' Fees; Expenses.** Grantor agrees to pay upon demand all of Lender's reasonable costs and expenses, including reasonable attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Agreement. Lender may pay someone else to help enforce this Agreement, and Grantor shall pay the reasonable costs and expenses of such enforcement. Costs and expenses include Lender's reasonable attorneys' fees and legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and legal expenses for bankruptcy proceedings (and including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Grantor also shall pay all court costs and such additional fees as may be directed by the court.

**Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

**Notices.** All notices required to be given under this Agreement shall be given in writing, may be sent by telefacsimile, and shall be effective when actually delivered or when deposited with a nationally recognized overnight courier or deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the address shown above. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. To the extent permitted by applicable law, if there is more than one Grantor. Notice to any Grantor will constitute notice to all Grantors. For notice purposes, Grantor will keep Lender informed at all times

of Grantor's current address(es).

**Power of Attorney.** Grantor hereby appoints Lender as its true and lawful attorney-in-fact, irrevocably, with full power of substitution to do the following upon the occurrence of an Event of Default: (a) to demand, collect, receive, receipt for, sue and recover all sums of money or other property which may now or hereafter becomes due, owing or payable from the Collateral; (b) to execute, sign and endorse any and all claims, instruments, receipts, checks, drafts or warrants issued in payment for the Collateral; (c) to settle or compromise any and all claims arising under the Collateral, and, in the place and stead of Grantor, to execute and deliver its release and settlement for the claim; and (d) to file any claim or claims or to take any action or institute or take part in any proceedings, either in its own name or in the name of Grantor, or otherwise, which in the discretion of Lender may seem to be necessary or advisable. This power is given as security for the Indebtedness, and the authority hereby conferred is and shall be irrevocable and shall remain in full force and effect until renounced by Lender.

**Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.

**Successor Interests.** Subject to the limitations set forth above on transfer of the Collateral, this Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.

**Waiver.** Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**Applicability.** Each agreement, representation, warranty, and provision hereof shall be binding on each and every Grantor, singularly and collectively.

**Inconsistency.** To the extent that this Security Agreement is inconsistent or in conflict with any other agreement or assignment between the parties, the terms of this instrument shall govern.

*[Signature page follows]*

**GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS SECURITY AGREEMENT,  
AND GRANTOR AGREES TO ITS TERMS.**

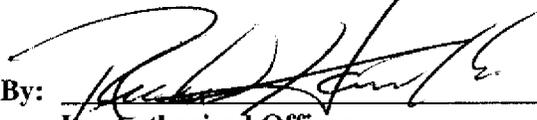
**GRANTOR:**

**THE NEW CREEK WATER ASSOCIATION INCORPORATED**

By:   
Its: President

**LENDER:**

**BRANCH BANKING AND TRUST COMPANY**

By:   
Its: Authorized Officer

STATE OF WEST VIRGINIA

COUNTY OF MINERAL, TO-WIT:

I, Vickie L Szabo, a notary public of said county, do certify that Virgil Schmidlen, the President of THE NEW CREEK WATER ASSOCIATION INCORPORATED, a West Virginia nonprofit corporation, who signed the writing hereto annexed, has this day in my said county, before me, acknowledged the same to be the act and deed of said corporation.

Given under my hand this 9th day of November, 2004.

My commission expires: October 19, 2009

(NOTARIAL SEAL)

Vickie L Szabo  
Notary Public



STATE OF WEST VIRGINIA

COUNTY OF MINERAL, TO-WIT:

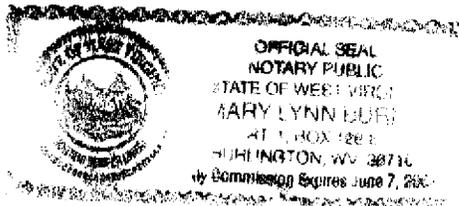
I, Mary Lynn Burns, a notary public of said county, do certify that Richard R. Hamblin, the City Executive & U.P. of BRANCH BANKING AND TRUST COMPANY, a national banking association, who signed the writing hereto annexed, has this day in my said county, before me, acknowledged the same to be the act and deed of said national banking association.

Given under my hand this 16th day of November, 2004.

My commission expires: June 7, 2005

(NOTARIAL SEAL)

Mary Lynn Burns  
Notary Public



11/05/04  
658370.00001

**SECURITY AGREEMENT**

Mineral County Clerk  
DEED OF TRUST Clerk CS  
Date/Time: 11/18/2004 13:14  
Inst #: 44016  
Book/Page: 398- / 272-  
Recd/Tax: 18.00 .00

**BORROWER:**

**THE NEW CREEK WATER ASSOCIATION  
INCORPORATED  
General Delivery  
New Creek, WV 26743**

**SECURED PARTY:**

**WEST VIRGINIA WATER DEVELOPMENT AUTHORITY  
On behalf of West Virginia Infrastructure and Jobs  
Development Council  
180 Association Drive  
Charleston, WV 25311**

**THIS SECURITY AGREEMENT is effective as of this 18th day of November, 2004, between THE NEW CREEK WATER ASSOCIATION INCORPORATED, a West Virginia nonprofit corporation (referred to below as "Grantor"), and WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, on behalf of West Virginia Infrastructure and Jobs Development Council (referred to below as "Lender"). For valuable consideration, Grantor grants to Lender a security interest in the Collateral to secure the Indebtedness, on a parity as to liens, pledge and source of and security for payment with that certain promissory note of the Issuer, dated October 20, 1992 (the "Prior Bonds"), and Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company) (the "Series 2004 A Notes"), and agrees that Lender shall have the rights stated in this Agreement with respect to the Collateral, subject to the rights of the holders of the Prior Bonds and the Series 2004 A Notes, in addition to all other rights which Lender may have by law.**

**DEFINITIONS.** The following words shall have the following meanings when used in this Agreement. Terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Accounts Receivable.** The words "Accounts Receivable" means the money due from all customers and debtors of the Issuer.

**Agreement.** The word "Agreement" means this Security Agreement, as this Security Agreement may be amended or modified from time to time, together with all exhibits and schedules attached to this Security Agreement from time to time.

**Bonds.** The word "Bonds" means, collectively, the Series 2004 B Bonds and the Series 2004 C Bonds.

**Collateral.** The word "Collateral" means, collectively, the Revenues and the Accounts Receivable of Grantor, whether now owned or hereafter acquired, whether now existing or hereafter arising, and wherever located. In addition, the word "Collateral" includes all the following, whether now owned or hereafter acquired, whether now existing or hereafter arising, and wherever located:

- (a) All accessions, attachments, and accessories to any of the property described herein, whether added now or later.
- (b) All increases, and additions to and all replacements of and substitutions for any property described herein.
- (c) All products and produce of any of the property described herein.

Return to: Elizabeth Gilbert  
Stephens & Johnson  
P.O. Box 1588  
Charleston, WV 25326-1588

- (d) All accounts, general intangibles, instruments, payment intangibles, rents, monies, payments, and all other rights, arising out of a sale, lease, or other disposition of any of the property described herein.
- (e) All proceeds (including insurance proceeds) from the sale or other disposition of any of the property described herein.
- (f) All present and future records and data relating to any of the property described herein, whether in the form of a writing, photograph, microfilm, microfiche, or electronic media, together with all of Grantor's right, title, and interest in and to all computer software required to utilize, create, maintain, and process any such records or data on electronic media.

**Event of Default.** The words "Event of Default" mean and include without limitation any of the Events of Default set forth below in the section titled "Events of Default."

**Facilities.** The word "Facilities" means the waterworks system, together with all appurtenances and related facilities, of the Grantor located in Mineral County, West Virginia.

**Grantor.** The word "Grantor" means The New Creek Water Association Incorporated, its successors and assigns.

**Indebtedness.** The word "Indebtedness" means the indebtedness evidenced by the Bonds, including all principal and interest, together with all other indebtedness and costs and expenses for which Grantor is responsible under this Agreement or under any of the Related Documents. In addition, the word "Indebtedness" includes all other obligations, debts and liabilities, plus interest thereon, of Grantor, to Lender, as well as all claims by Lender against Grantor, whether existing now or later; whether they are voluntary or involuntary, due or not due, direct or indirect, absolute or contingent, liquidated or unliquidated; whether Grantor may be liable individually or jointly with others; whether Grantor may be obligated as guarantor, surety, accommodation party or otherwise.

**Lender.** The word "Lender" means West Virginia Water Development Authority, on behalf of West Virginia Infrastructure and Jobs Development Council.

**Prior Bonds.** The words "Prior Bonds" mean the promissory note of the Issuer, dated October 20, 1992, issued in the original aggregate principal amount of \$183,000.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, assignments, guaranties, security agreements, mortgages, deeds of trust, resolutions and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

**Revenues.** The word "Revenues" means all receipts, revenues, income and other monies derived from or related to the Facilities and received by or on behalf of the Grantor relative to the Facilities and all rights to receive the same, in whatever form, or other rights and the proceeds thereof.

**Series 2004 A Notes.** The words "Series 2004 A Notes" mean the Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company), dated November 18, 2004, and issued by the Grantor in the original aggregate principal amount of \$81,682.

**Series 2004 B Bonds.** The words "Series 2004 B Bonds" mean the Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), dated November 18, 2004, and issued by the Grantor in the original aggregate

principal amount of \$1,095,000.

**Series 2004 C Bonds.** The words "Series 2004 C Bonds" mean the Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund), dated November 18, 2004, and issued by the Grantor in the original aggregate principal amount of \$286,000.

**Series 2004 A Notes Security Agreement.** The words "Series 2004 A Notes Security Agreement" mean that certain Security Agreement of even date herewith by and between Grantor and Branch Banking and Trust Company, securing the Series 2004 A Notes.

**POSSESSION, ETC. AND RIGHT OF SETOFF.** Grantor hereby grants Lender a contractual possessory security interest in and hereby assigns, conveys, delivers, pledges, and transfers all of Grantor's right, title and interest in and to all of Grantor's property that may be in the possession of the Lender at any time and from time to time, including, but not limited to, money, instruments, documents of title, chattel paper, certificates of deposit, and Grantor's deposit accounts with Lender (whether checking, savings, or some other type of deposit account), including all deposit accounts held jointly with someone else and all deposit accounts Grantor may open in the future, excluding, however, all IRA and Keogh accounts and all trust accounts for which the grant of a security interest or setoff would be prohibited by law. Grantor authorizes Lender to charge or setoff all Indebtedness against any and all such certificates of deposit and deposit accounts, without notice, upon the occurrence of an Event of Default.

**OBLIGATIONS OF GRANTOR.** Grantor warrants and covenants to Lender as follows:

**Perfection of Security Interest.** Grantor agrees to and authorizes Lender to execute and file financing statements and to take whatever other actions are requested or desired by Lender to perfect and continue Lender's security interest in the Collateral. Upon request of Lender, Grantor will deliver to Lender any and all of the documents evidencing or constituting the Collateral. Grantor hereby appoints Lender and any of its authorized loan officers as its irrevocable attorney-in-fact for the purpose of executing any documents necessary to perfect or to continue the security interest granted in this Agreement. Lender may at any time, and without further authorization from Grantor, file a carbon, photographic or other reproduction of any financing statement or of this Agreement for use as a financing statement. Grantor will reimburse Lender for all expenses for the perfection and the continuation of the perfection of Lender's security interest in the Collateral. Grantor promptly will notify Lender before any change in Grantor's name including any change to the assumed business names of Grantor. **This is a continuing Security Agreement and will continue in effect until the Indebtedness is paid in full.**

**No Violation.** The execution and delivery of this Agreement will not violate any law or agreement governing Grantor or to which Grantor is a party, and its certificate or articles of incorporation and bylaws do not prohibit any term or condition of this Agreement.

**Enforceability of Collateral.** To the extent the Collateral consists of accounts, chattel paper or general intangibles, the Collateral is enforceable in accordance with its terms, is genuine, and complies with applicable laws concerning form, content and manner of preparation and execution, and all persons appearing to be obligated on the Collateral have authority and capacity to contract and are in fact obligated as they appear to be on the Collateral. At the time any account becomes subject to a security interest in favor of Lender, the account shall be a good and valid account representing an undisputed, bona fide indebtedness incurred by the account debtor, for merchandise held subject to delivery instructions or theretofore shipped or delivered pursuant to a contract of sale, or for services theretofore performed by Grantor with or for the account debtor; there shall be no setoffs or counterclaims against any such account; and no agreement under which any deductions or discounts may be claimed shall have been made with the account debtor except those made by Grantor in the ordinary course of its business or disclosed to Lender in writing.

**Location of the Collateral.** Grantor, upon request of Lender, will deliver to Lender in form satisfactory to Lender a schedule of Collateral locations relating to Grantor's operations, including without limitation the following: (a) all storage facilities owned, rented, leased, or being used by Grantor; and (b) all other properties where Collateral is or may be located. Except in the ordinary course of its business, Grantor shall not remove the Collateral from its existing locations without the prior written consent of Lender.

**Removal of Collateral.** Grantor shall keep the Collateral (or to the extent the Collateral consists of intangible property such as accounts, the records concerning the Collateral) at Grantor's address shown above, or at such other locations as agreed to in writing by Lender. Except in the ordinary course of its business, Grantor shall not remove the Collateral from its existing locations without the prior written consent of Lender.

**Transactions Involving Collateral.** Except for accounts collected in the ordinary course of Grantor's business, or Inventory sold in the ordinary course of Grantor's business, Grantor shall not sell, offer to sell, or otherwise transfer or dispose of the Collateral. Grantor shall not pledge, mortgage, encumber or otherwise permit the Collateral to be subject to any lien, security interest, encumbrance, or charge, other than the security interest provided for in this Agreement, the security interest provided for in the Series 2004 A Notes Security Agreement, and the securing interest provided for in connection with the Prior Bonds, which liens shall be on parity with the lien provided for in this Agreement, without the prior written consent of Lender. This includes security interests even if junior in right to the security interests granted under this Agreement, the Series 2004 A Notes Security Agreement or granted pursuant to the Prior Bonds. Unless waived by Lender, all proceeds from any disposition of the Collateral (for whatever reason) shall be held in trust for Lender and shall not be commingled with any other funds; provided however, this requirement shall not constitute consent by Lender to any sale or other disposition. Upon receipt, Grantor shall immediately deliver any such proceeds to Lender.

**Title.** Grantor represents and warrants to Lender that it holds good and marketable title to the Collateral, free and clear of all liens and encumbrances except for the lien of this Agreement, the lien created pursuant to the Series 2004 A Notes Security Agreement and the lien created pursuant to the Prior Bonds, which liens shall be on parity with the lien provided for in this Agreement. No financing statement covering any of the Collateral is on file in any public office other than those which reflect the security interest created by this Agreement, the Series 2004 A Notes Security Agreement, the Prior Bonds or to which Lender has specifically consented. Grantor shall defend Lender's rights in the Collateral against the claims and demands of all other persons.

**Collateral Schedules and Locations.** As often as Lender shall reasonably require, and insofar as the Collateral consists of accounts and general intangibles, Grantor shall deliver to Lender schedules of such Collateral, including such information as Lender may reasonably require. Such information shall be submitted for Grantor and each of its subsidiaries or related companies.

**Maintenance and Inspection of Collateral.** Grantor shall maintain all tangible Collateral, if any, in good condition and repair. Grantor will not commit or permit damage to or destruction of the Collateral or any part of the Collateral. Lender and its designated representatives and agents shall have the right at all reasonable times to examine, inspect, and audit the Collateral wherever located. Grantor shall immediately notify Lender of all cases involving the return, rejection, repossession, loss or damage of or to any Collateral; of any request for credit or adjustment or of any other dispute arising with respect to the Collateral; and generally of all happenings and events affecting the Collateral or the value or the amount of the Collateral.

**Taxes, Assessments and Liens.** Grantor will pay when due all taxes, assessments and liens upon the Collateral, its use or operation, upon this Agreement, upon any promissory note or notes evidencing the Indebtedness, or upon any of the other Related Documents. Grantor may withhold any such payment or may elect to contest any lien if Grantor is in good faith conducting an appropriate proceeding to contest the obligation to pay and so long as

Lender's interest in the Collateral is not jeopardized in Lender's sole opinion. If the Collateral is subjected to a lien which is not discharged within fifteen (15) days, Grantor shall deposit with Lender cash, a sufficient corporate surety bond or other security satisfactory to Lender in an amount adequate to provide for the discharge of the lien plus any interest, costs, attorneys' fees or other charges that could accrue as a result of foreclosure or sale of the Collateral. In any contest Grantor shall defend itself and Lender and shall satisfy any final adverse judgment before enforcement against the Collateral. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

**Compliance with Governmental Requirements.** Grantor shall comply promptly with all laws, ordinances, rules and regulations of all governmental authorities, now or hereafter in effect, applicable to the ownership, production, disposition, or use of the Collateral. Grantor may contest in good faith any such law, ordinance or regulation and withhold compliance during any proceeding, including appropriate appeals, as long as Lender's interest in the Collateral, in Lender's opinion, is not jeopardized.

**Principal Place of Business.** The principal place of business and chief executive office of The New Creek Water Association Incorporated is General Delivery, New Creek, West Virginia 26743. Grantor is a West Virginia nonprofit corporation, duly organized and validly existing pursuant to the laws of the State of West Virginia. The Grantor shall advise the Lender, within thirty (30) days, of any new facts which, under applicable provisions of the law, would affect the priority of the security interest granted to the Lender by this instrument. Upon default, the Lender may at any time in its discretion notify all obligees on accounts to make payments thereon directly to the Lender.

**RIGHT TO POSSESSION.** Until default and except as otherwise provided below with respect to accounts, Grantor may have possession of the tangible personal property and beneficial use of all the Collateral and may use it in any lawful manner not inconsistent with this Agreement or the Related Documents, provided that Grantor's right to possession and beneficial use shall not apply to any Collateral where possession of the Collateral by Lender is required by law to perfect Lender's security interest in such Collateral or is one method of perfection of its interest in the Collateral. If Lender at any time has possession of any Collateral, whether before or after an Event of Default, Lender shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral if Lender takes such action for that purpose as Grantor shall request or as Lender, in Lender's sole discretion, shall deem appropriate under the circumstances, but failure to honor any request by Grantor shall not of itself be deemed to be a failure to exercise reasonable care. Lender shall not be required to take any steps necessary to preserve any rights in the Collateral against prior parties, nor to protect, preserve or maintain any security interest given to secure the Indebtedness.

**EXPENDITURES BY LENDER.** If not discharged or paid when due, Lender may (but shall not be obligated to) discharge or pay any amounts required to be discharged or paid by Grantor under this Agreement, including without limitation all taxes, liens, security interests, encumbrances, and other claims, at any time levied or placed on the Collateral. Lender also may (but shall not be obligated to) pay all costs for insuring, maintaining and preserving the Collateral. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Bonds from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses shall become a part of the Indebtedness and, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Bonds and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Bonds, or (c) be treated as a balloon payment which will be due and payable at the Bonds' maturity. This Agreement also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon the occurrence of an Event of Default.

**EVENTS OF DEFAULT.** Each of the following shall constitute an Event of Default under this Agreement:

**Default on Indebtedness.** Failure of Grantor to make any payment within ten (10) days of when due on the Indebtedness.

**Other Defaults.** Failure of Grantor to keep any written promise Grantor has made to Lender, failure of Grantor to comply with or to perform when due any other term, obligation, covenant or condition contained in this Agreement or in any of the Related Documents, or failure of Grantor to comply with or to perform any other material term, obligation, covenant or condition contained in any other agreement between Lender and Grantor, or the occurrence of any Event of Default under any such agreement or Related Document.

**Default in Favor of Third Parties.** The default by Grantor under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person, that may affect, in the sole opinion of Lender, any of Grantor's property or Grantor's ability to repay the Bonds or perform its obligations under this Agreement or any of the Related Documents.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by or on behalf of or by Grantor under this Agreement or the Related Documents is false or misleading in any material respect either now or at the time made or furnished, or becomes false or misleading at any time thereafter.

**Defective Collateralization.** This Agreement or any of the Related Documents ceases to be in full force and effect (including failure of any Security Agreement to create a valid and perfected security interest or lien) at any time and for any reason.

**Insolvency.** The dissolution or termination of Grantor's existence as a going business, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against Grantor or the Collateral or any other collateral securing the Indebtedness. This includes a garnishment, attachment, or levy of any of Grantor's property with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in a reasonable amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for dispute.

**Adverse Change.** Any material adverse change occurs in Grantor's financial condition, or Lender reasonably believes the prospect of payment of the Indebtedness or performance of any of the Grantor's obligations under the Related Documents is impaired.

**Organization.** Any action by Grantor's members to wind-up the affairs of Grantor and dissolve Grantor or any action by Grantor to merge or consolidate Grantor with a third party.

**Chronic Events of Default.** The occurrence, in any twelve (12) month period, of three (3) Events of Default each which are cured within the applicable cure period.

**Other Events of Default.** The occurrence of any event of default set forth in any of the Related Documents.

**RIGHT TO CURE.** Any default, other than a default on Indebtedness or Chronic Event of Default, may be cured (and no Event of Default will have occurred) if Grantor, as the case may be, after receiving written notice from Lender demanding cure of such default: (i) cures the default within ten (10) days; or (ii) if the cure requires more than ten (10) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**RIGHTS AND REMEDIES ON DEFAULT.** If an Event of Default occurs under this Agreement, at any time thereafter, Lender shall have all the rights of a secured party under the West Virginia Uniform Commercial Code. In addition and without limitation, Lender may exercise any one or more of the following rights and remedies:

**Accelerate Indebtedness.** Lender may declare the entire Indebtedness, including any prepayment penalty which Grantor would be required to pay, immediately due and payable, without notice.

**Assemble Collateral.** If applicable, Lender may require Grantor to deliver to Lender all or any portion of the Collateral and any and all certificates of title and other documents relating to the Collateral. Lender may require Grantor to assemble the Collateral, if applicable, and make it available to Lender at a place to be designated by Lender. Lender also shall have full power to enter upon the property of Grantor to take possession of and remove the Collateral. If the Collateral contains other goods not covered by this Agreement at the time of repossession, Grantor agrees Lender may take such other goods, provided that Lender makes reasonable efforts to return them to Grantor after repossession.

**Sell the Collateral.** Lender shall have full power to sell, lease, transfer, or otherwise deal with the Collateral or proceeds thereof in its own name or that of Grantor. Lender may sell the Collateral at public auction or private sale. Unless the Collateral threatens to decline speedily in value or is of a type customarily sold on a recognized market, Lender will give Grantor reasonable notice of the time after which any private sale or any other intended disposition of the Collateral is to be made. The requirements of reasonable notice shall be met if such notice is given at least ten (10) days before the time of the sale or disposition. All expenses relating to the disposition of the Collateral, including without limitation the expenses of retaking, holding, insuring, preparing for sale and selling the Collateral, shall become a part of the Indebtedness secured by this Agreement and shall be payable on demand, with interest at the rate applicable to each of the Bonds from date of expenditure until repaid.

**Appoint Receiver.** To the extent permitted by applicable law, Lender shall have the following rights and remedies regarding the appointment of a receiver: (a) Lender may have a receiver appointed as a matter of right, (b) the receiver may be an employee of Lender and may serve without bond, and (c) all fees of the receiver and his or her attorney shall become part of the Indebtedness secured by this Agreement and shall be payable on demand, with interest at the rate applicable to each of the Bonds from date of expenditure until repaid.

**Collect Revenues, Apply Accounts.** Lender, either itself or through a receiver, may collect the payments, rents, income, and revenues from the Collateral. Lender may at any time in its discretion transfer any Collateral into its own name or that of its nominee and receive the payments, rents, income, and revenues therefrom and hold the same as security for the Indebtedness or apply it to payment of the Indebtedness in such order of preference as Lender may determine. Insofar as the Collateral consists of accounts, health care insurance receivables, general intangibles, insurance policies, instruments, chattel paper, choses in action, or similar property, Lender may demand, collect, receipt for, settle, compromise, adjust, sue for, foreclose, or realize on the Collateral as Lender may determine, whether or not Indebtedness or Collateral is then due. For these purposes, Lender may, on behalf of and in the name of Grantor, receive, open and dispose of mail addressed to Grantor; change any address to which mail and payments are to be sent; and endorse notes, checks, drafts, money orders, documents of title, instruments and items pertaining to payment, shipment, or storage of any Collateral. To facilitate collection, Lender may notify

account debtors and obligors on any Collateral to make payments directly to Lender. The rights and remedies granted to Lender in this paragraph are in addition to and in no way limit the rights and duties of the parties set forth in the paragraphs above titled "Right to Possession" and "Collection of Accounts."

**Obtain Deficiency.** If Lender chooses to sell any or all of the Collateral, Lender may obtain a judgment against Grantor for any deficiency remaining on the Indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this Agreement. Grantor shall be liable for a deficiency even if the transaction described in this subsection is a sale of accounts or chattel paper.

**Other Rights and Remedies.** Lender shall have all the rights and remedies of a secured creditor under the provisions of the Uniform Commercial Code, as may be amended from time to time. In addition, Lender shall have and may exercise any or all other rights and remedies it may have available at law, in equity, or otherwise.

**Cumulative Remedies.** All of Lender's rights and remedies, whether evidenced by this Agreement or the Related Documents or by any other writing, shall be cumulative and may be exercised singularly or concurrently. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Agreement, after Grantor's failure to perform, shall not affect Lender's right to declare a default and to exercise its remedies.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Agreement:

**Amendments.** This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Applicable Law.** This Agreement has been delivered to Lender and accepted by Lender in the State of West Virginia. If there is a lawsuit, Grantor agrees upon Lender's request to submit to the jurisdiction of the courts of the State of West Virginia. This Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia unless another State's laws must apply.

**Attorneys' Fees; Expenses.** Grantor agrees to pay upon demand all of Lender's reasonable costs and expenses, including reasonable attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Agreement. Lender may pay someone else to help enforce this Agreement, and Grantor shall pay the reasonable costs and expenses of such enforcement. Costs and expenses include Lender's reasonable attorneys' fees and legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and legal expenses for bankruptcy proceedings (and including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Grantor also shall pay all court costs and such additional fees as may be directed by the court.

**Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

**Notices.** All notices required to be given under this Agreement shall be given in writing, may be sent by telefacsimile, and shall be effective when actually delivered or when deposited with a nationally recognized overnight courier or deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the address shown above. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. To the extent permitted by applicable law, if there is more than one Grantor. Notice to any

Grantor will constitute notice to all Grantors. For notice purposes, Grantor will keep Lender informed at all times of Grantor's current address(es).

**Power of Attorney.** Grantor hereby appoints Lender as its true and lawful attorney-in-fact, irrevocably, with full power of substitution to do the following upon the occurrence of an Event of Default: (a) to demand, collect, receive, receipt for, sue and recover all sums of money or other property which may now or hereafter becomes due, owing or payable from the Collateral; (b) to execute, sign and endorse any and all claims, instruments, receipts, checks, drafts or warrants issued in payment for the Collateral; (c) to settle or compromise any and all claims arising under the Collateral, and, in the place and stead of Grantor, to execute and deliver its release and settlement for the claim; and (d) to file any claim or claims or to take any action or institute or take part in any proceedings, either in its own name or in the name of Grantor, or otherwise, which in the discretion of Lender may seem to be necessary or advisable. This power is given as security for the Indebtedness, and the authority hereby conferred is and shall be irrevocable and shall remain in full force and effect until renounced by Lender.

**Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.

**Successor Interests.** Subject to the limitations set forth above on transfer of the Collateral, this Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.

**Waiver.** Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**Applicability.** Each agreement, representation, warranty, and provision hereof shall be binding on each and every Grantor, singularly and collectively.

**Inconsistency.** To the extent that this Security Agreement is inconsistent or in conflict with any other agreement or assignment between the parties, the terms of this instrument shall govern.

*[Signature page follows]*

**GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS SECURITY AGREEMENT,  
AND GRANTOR AGREES TO ITS TERMS.**

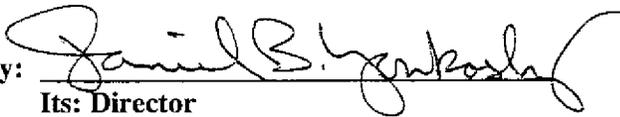
**GRANTOR:**

**THE NEW CREEK WATER ASSOCIATION INCORPORATED**

By:   
Its: **President**

**LENDER:**

**WEST VIRGINIA WATER DEVELOPMENT AUTHORITY**

By:   
Its: **Director**

BOOK 398 PAGE 281

STATE OF WEST VIRGINIA

COUNTY OF MINERAL, TO-WIT:

I, Vickie L Szabo, a notary public of said county, do certify that Virgil Schmidlen, the President of THE NEW CREEK WATER ASSOCIATION INCORPORATED, a West Virginia nonprofit corporation, who signed the writing hereto annexed, has this day in my said county, before me, acknowledged the same to be the act of said corporation.

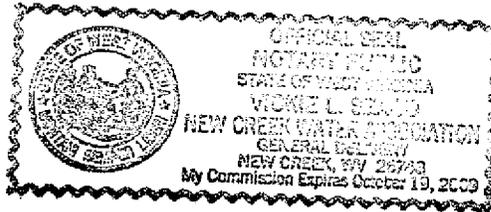
Given under my hand this 9th day of November, 2004.

My commission expires: October 19, 2009

(NOTARIAL SEAL)

Vickie L Szabo

Notary Public



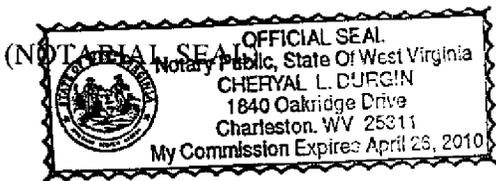
STATE OF WEST VIRGINIA

COUNTY OF Kanawha, TO-WIT:

I, Cheryal L. Durgin, a notary public of said county, do certify that Daniel B. Yonkosky, the Director of WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, who signed the writing hereto annexed, has this day in my said county, before me, acknowledged the same to be the act of said authority.

Given under my hand this 16th day of November, 2004.

My commission expires: April 26, 2010



Cheryal L Durgin

Notary Public

Prepared by: Elizabeth A. Gilbert  
Steproe & Johnson PLLC  
P. O. Box 1588  
Charleston, WV 25326-1588

11/05/04  
658370.00001

BOOK 398 PAGE 282

State of West Virginia, Mineral County, ss. I, Clerk of County Commission, do hereby certify that as is remembered that on this 16th day of November, 2004. The foregoing Security Agreement was presented in the Office of the Clerk of County Commission and admitted to record  
Carl G. Thomas  
Clerk of County Commission

MINERAL COUNTY W. VA.  
RECORDED IN BOOK

NO. 398 PAGE 272

**CARL C. THOMAS**

CLEIK

*Carl C. Thomas*

200400595581

Nov 18 2004 02:29PM

WV SECRETARY OF STATE

### UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT OF FILER [optional]
B. SEND ACKNOWLEDGMENT TO: (Name and Address)
Elizabeth A. Gilbert Steptoe & Johnson PLLC P. O. Box 1588 Charleston, WV 25326-1588

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME						
The New Creek Water Association Incorporated						
OR	1b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
1c. MAILING ADDRESS			CITY	STATE	POSTAL CODE	COUNTRY
General Delivery			New Creek	WV	26743	USA
1d. TAX ID #:	SSN OR EIN	ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION	1f. JURISDICTION OF ORGANIZATION	1g. ORGANIZATIONAL ID #, if any	
			Nonprofit Corp.	West Virginia	<input type="checkbox"/> NONE	

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME						
OR	2b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
2c. MAILING ADDRESS			CITY	STATE	POSTAL CODE	COUNTRY
						USA
2d. TAX ID #:	SSN OR EIN	ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID #, if any	
					<input type="checkbox"/> NONE	

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME						
West Virginia Water Development Authority o/b/o West Virginia Infrastructure and Jobs Development Council						
OR	3b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
3c. MAILING ADDRESS			CITY	STATE	POSTAL CODE	COUNTRY
180 Association Drive			Charleston	WV	25311	USA

4. This FINANCING STATEMENT covers the following collateral:

All property of Debtor described in Exhibit A attached hereto and made a part hereof, as security for the Debtor's Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund) (the "Series 2004 B Bonds") and Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund) (the "Series 2004 C Bonds" and together with the Series 2004 B Bonds, collectively referred to as the "Series 2004 Bonds"), on a parity as to liens, pledge and source of and security for payment with the Debtor's (i) outstanding promissory note, dated October 20, 1992, in accordance with the consent attached as Exhibit B hereto and made a part hereof, and (ii) Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company) (the "Series 2004 A Notes"), which Series 2004 A Notes are being issued by the Debtor simultaneously with the Series 2004 Bonds.

5. ALTERNATIVE DESIGNATION (if applicable):	<input type="checkbox"/> LESSEE/LESSOR	<input type="checkbox"/> CONSIGNEE/CONSIGNOR	<input type="checkbox"/> BAILEE/BAILOR	<input type="checkbox"/> SELLER/BUYER	<input type="checkbox"/> AG. LIEN	<input type="checkbox"/> NON-UCC FILING
6. This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. Attach Addendum (if applicable)	7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (optional)		<input type="checkbox"/> All Debtors	<input type="checkbox"/> Debtor 1	<input type="checkbox"/> Debtor 2	
8. OPTIONAL FILER REFERENCE DATA						

EXHIBIT A

UCC-1 FINANCING STATEMENT

DEBTOR:

The New Creek Water Association Incorporated  
General Delivery  
New Creek, West Virginia 26743

SECURED PARTY:

West Virginia Water Development Authority  
On behalf of West Virginia Infrastructure  
and Jobs Development Council  
180 Association Drive  
Charleston, West Virginia 25311

All right, title and interest in all Revenues and Accounts Receivable of the Debtor, whether now owned or hereafter acquired, whether now existing or hereafter arising, and wherever located, together with all the following, whether now owned or hereafter acquired, whether now existing or hereafter arising, and wherever located:

- (a) All accessions, attachments, and accessories to any of the property described herein, whether added now or later.
- (b) All increases, and additions to and all replacements of and substitutions for any property described herein.
- (c) All products and produce of any of the property described herein.
- (d) All accounts, general intangibles, instruments, payment intangibles, rents, monies, payments, and all other rights, arising out of a sale, lease, or other disposition of any of the property described herein.
- (e) All proceeds (including insurance proceeds) from the sale or other disposition of any of the property described herein.
- (f) All present and future records and data relating to any of the property described herein, whether in the form of a writing, photograph, microfilm, microfiche, or electronic media, together with all of Debtor's right, title, and interest in and to all computer software required to utilize, create, maintain, and process any such records or data on electronic media.

As used herein, the term "Accounts Receivable" shall mean the money due from all customers and debtors of the Debtor.

As used herein, the term "Revenues" shall mean all receipts, revenues, income and other monies derived from or related to the Facilities and received by or on behalf of the Debtor relative to the Facilities and all rights to receive the same, in whatever form, or other rights and the proceeds thereof.

As used herein, the term "Facilities" shall mean the waterworks system, together with all appurtenances and related facilities, of the Debtor located in Mineral County, West Virginia.

FILED

Nov 29 2004 04:54PM

WV SECRETARY OF STATE

# UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

---

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

Elizabeth A. Gilbert  
 Steptoe & Johnson PLLC  
 P. O. Box 1588  
 Charleston, WV 25326-1588

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE # **200400595581**

1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

2.  TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.  
 Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

CHANGE name and/or address: Give current record name in item 6a or 6b; also give new name (if name change) in item 7a or 7b and/or new address (if address change) in item 7c.  DELETE name: Give record name to be deleted in item 6a or 6b.  ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7d-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME

OR

6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

7c. MAILING ADDRESS

CITY	STATE	POSTAL CODE	COUNTRY
			USA

7d. TAX ID #, SSN OR EIN	ADDL INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID #, if any
				<input type="checkbox"/> NONE

8. AMENDMENT (COLLATERAL CHANGE): check only one box.  
 Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

Attached is Exhibit B referred to in the collateral description set forth in financing statement number 200400595581.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME

The New Creek Water Association Incorporated

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

10. OPTIONAL FILER REFERENCE DATA

EXHIBIT B

UCC-1 FINANCING STATEMENT

DEBTOR:

The New Creek Water Association Incorporated  
General Delivery  
New Creek, West Virginia 26743

SECURED PARTY:

West Virginia Water Development Authority  
On behalf of West Virginia Infrastructure  
and Jobs Development Council  
180 Association Drive  
Charleston, West Virginia 25311

[See Attached]



UNITED STATES DEPARTMENT OF AGRICULTURE  
**RURAL DEVELOPMENT**

Mineral County Clerk  
 LEASE/R/W CONTR Clerk 03  
 Date/Time: 11/18/2004 16:05  
 Inst #: 44014  
 Book/Page: 318- / 198-  
 Fee/Tax: 6.00 .00

75 High Street Federal Building, Suite 320, Morgantown, WV 26505-7500  
 304.284.4860 • 1.800.295.8228 • fax 304.284.4893 • TTY/TDD 304.284.4836

November 16, 2004

**THE NEW CREEK WATER ASSOCIATION INCORPORATED**  
 Water Refunding Revenue Notes, Series 2004 A  
 (Branch Banking & Trust Company)  
 and  
 Water Revenue Bonds, Series 2004 B  
 (West Virginia Infrastructure Fund)  
 and  
 Water Revenue Bonds, Series 2004 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 Rural Utilities Service, United States Department of Agriculture ("RUS"), the present holder of the Prior Bonds, hereinafter defined and described, hereby (i) consents to the issuance of the Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company) (the "Notes"), in the original aggregate principal amount of \$81,682, the Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund) (the "Series 2004 B Bonds"), in the original aggregate principal amount of \$1,095,000, and the Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund) (the "Series 2004 C Bonds" and together with the Series 2004 B Bonds, collectively referred to herein as the "Bonds"), in the original aggregate principal amount of \$286,000, by The New Creek Water Association Incorporated (the "Issuer"), on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's outstanding promissory note dated October 20, 1992 (the "Prior Bonds"), including, but not limited to, (a) the lien created by that certain Corporate Real Estate Deed of Trust for West Virginia, dated October 20, 1992, by and among the Issuer, the trustee named therein and the United States of America, of record in the Office of the Clerk of the County Commission of Mineral County, West Virginia in Trust Deed Book 262, at page 123, and (b) the security interest created by that certain Loan Agreement dated October 20, 1992, by and between the Issuer and the United States of America, as perfected by that certain UCC-1 Financing Statement number 365475 on file with the West Virginia Secretary of State; (ii) waives any requirements imposed by the Prior Bonds or the resolution authorizing the Prior Bonds (the "Prior Resolution"), regarding the issuance of parity bonds which are not met by the Notes, Bonds or the Resolution; and (iii) consents to any amendments made to the Prior Resolution by the Resolution or the Supplemental Resolution authorizing the Notes and the Bonds.

This consent shall be recorded simultaneously with the Credit Line Deed of Trust, Security Agreement and Fixture Filing to be recorded by the Issuer and shall be filed as an exhibit to

[Http://www.rurdev.usda.gov/wv](http://www.rurdev.usda.gov/wv)



USDA Rural Development is an Equal Opportunity Lender, Provider and Employer  
 Complaints of discrimination should be sent to: USDA Director, Office of Civil Rights, Washington, D.C. 20250-9410

**COMMITTED TO THE FUTURE OF RURAL COMMUNITIES**

the UCC-1 Financing Statements to be filed by the Issuer with the West Virginia Secretary of State to perfect the security interests of the secured parties named therein, all in connection with the issuance of the Notes and the Bonds.

IN WITNESS WHEREOF, the United States of America, acting through the Rural Utilities Service, United States Department of Agriculture, has caused its name to be signed by its duly authorized officer, this 16<sup>th</sup> day of November, 2004.

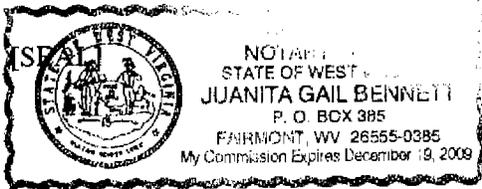
UNITED STATES OF AMERICA, ACTING THROUGH  
THE RURAL UTILITIES SERVICE, UNITED STATES  
DEPARTMENT OF AGRICULTURE

By Richard E. Satterfield  
Its Acting State Director

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

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of November, 2004, by Richard E. Satterfield, the <sup>Acting</sup> State Director of the United States of America, acting through the Rural Utilities Service, United States Department of Agriculture.

My commission expires December 19, 2009.



Juanita Gail Bennett  
Notary Public

200400595593

Nov 18 2004 02:30PM

WV SECRETARY OF STATE

### UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT OF FILER [optional]
B. SEND ACKNOWLEDGMENT TO: (Name and Address)
Elizabeth A. Gilbert Steptoe & Johnson PLLC P. O. Box 1588 Charleston, WV 25326-1588

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME			
The New Creek Water Association Incorporated			
OR	1b. INDIVIDUAL'S LAST NAME		
	FIRST NAME	MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS		CITY	STATE
General Delivery		New Creek	WV
	POSTAL CODE	COUNTRY	
	26743	USA	
1d. TAX ID #	SSN OR EIN	ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION
			Nonprofit Corp.
1f. JURISDICTION OF ORGANIZATION		1g. ORGANIZATIONAL ID #, if any	
West Virginia			
<input type="checkbox"/> NONE			

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME			
OR	2b. INDIVIDUAL'S LAST NAME		
	FIRST NAME	MIDDLE NAME	SUFFIX
2c. MAILING ADDRESS		CITY	STATE
			WV
	POSTAL CODE	COUNTRY	
		USA	
2d. TAX ID #	SSN OR EIN	ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION
2f. JURISDICTION OF ORGANIZATION		2g. ORGANIZATIONAL ID #, if any	
<input type="checkbox"/> NONE			

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME			
Branch Banking and Trust Company			
OR	3b. INDIVIDUAL'S LAST NAME		
	FIRST NAME	MIDDLE NAME	SUFFIX
3c. MAILING ADDRESS		CITY	STATE
87 North Main Street		Keyser	WV
	POSTAL CODE	COUNTRY	
	26726	USA	

4. This FINANCING STATEMENT covers the following collateral:

All property of Debtor described in Exhibit A attached hereto and made a part hereof, as security for the Debtor's Water Refunding Revenue Notes, Series 2004 A (the "Series 2004 A Notes"), on a parity as to liens, pledge and source of and security for payment with the Debtor's (i) outstanding promissory note, dated October 20, 1992, in accordance with the consent attached as Exhibit B hereto and made a part hereof, (ii) Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund) (the "Series 2004 B Bonds") and (iii) Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund) (the "Series 2004 C Bonds" and together with the Series 2004 B Bonds, collectively referred to as the "Bonds"), which Bonds are being issued by the Debtor simultaneously with the Series 2004 A Notes.

5. ALTERNATIVE DESIGNATION (if applicable):	<input type="checkbox"/> LESSEE/LESSOR	<input type="checkbox"/> CONSIGNEE/CONSIGNOR	<input type="checkbox"/> BAILEE/BAILOR	<input type="checkbox"/> SELLER/BUYER	<input type="checkbox"/> AG. LIEN	<input type="checkbox"/> NON-UCC FILING
6. This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum (if applicable)	7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (ADDITIONAL FEE) (optional)		<input type="checkbox"/> All Debtors <input type="checkbox"/> Debtor 1 <input type="checkbox"/> Debtor 2			
8. OPTIONAL FILER REFERENCE DATA						

EXHIBIT A

UCC-1 FINANCING STATEMENT

DEBTOR:

The New Creek Water Association Incorporated  
General Delivery  
New Creek, West Virginia 26743

SECURED PARTY:

Branch Banking and Trust Company  
87 North Main Street  
Keyser, West Virginia 26726

All right, title and interest in all Revenues and Accounts Receivable of the Debtor, whether now owned or hereafter acquired, whether now existing or hereafter arising, and wherever located, together with all the following, whether now owned or hereafter acquired, whether now existing or hereafter arising, and wherever located:

- (a) All accessions, attachments, and accessories to any of the property described herein, whether added now or later.
- (b) All increases, and additions to and all replacements of and substitutions for any property described herein.
- (c) All products and produce of any of the property described herein.
- (d) All accounts, general intangibles, instruments, payment intangibles, rents, monies, payments, and all other rights, arising out of a sale, lease, or other disposition of any of the property described herein.
- (e) All Proceeds (including insurance proceeds) from the sale or other disposition of any of the property described herein.
- (f) All present and future records and data relating to any of the property described herein, whether in the form of a writing, photograph, microfilm, microfiche, or electronic media, together with all of Debtor's right, title, and interest in and to all computer software required to utilize, create, maintain, and process any such records or data on electronic media.

As used herein, the term "Accounts Receivable" shall mean the money due from all customers and debtors of the Debtor.

As used herein, the term "Revenues" shall mean all receipts, revenues, income and other monies derived from or related to the Facilities and received by or on behalf of the Debtor relative to the Facilities and all rights to receive the same, in whatever form, or other rights and the proceeds thereof.

As used herein, the term "Facilities" shall mean the waterworks system, together with all appurtenances and related facilities, of the Debtor located in Mineral County, West Virginia.

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

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B. SEND ACKNOWLEDGMENT TO: (Name and Address)

Elizabeth A. Gilbert  
 Steptoe & Johnson PLLC  
 P. O. Box 1588  
 Charleston, WV 25326-1588

FILED 2004 04:54PM  
 WV SECRETARY OF STATE

A

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE # **200400595593**

1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

2.  TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes. Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

CHANGE name and/or address: Give current record name in item 6a or 6b; also give new name (if name change) in item 7a or 7b and/or new address (if address change) in item 7c.  DELETE name: Give record name to be deleted in item 6a or 6b.  ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7d-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME

OR

6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

7c. MAILING ADDRESS

CITY	STATE	POSTAL CODE	COUNTRY
			USA

7d. TAX ID #: SSN OR EIN	ADD'L INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID #, if any
				<input type="checkbox"/> NONE

8. AMENDMENT (COLLATERAL CHANGE): check only one box. Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

Attached is Exhibit B referred to in the collateral description set forth in financing statement number 200400595593.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME

The New Creek Water Association Incorporated

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

10. OPTIONAL FILER REFERENCE DATA

EXHIBIT B

UCC-1 FINANCING STATEMENT

DEBTOR:

The New Creek Water Association Incorporated  
General Delivery  
New Creek, West Virginia 26743

SECURED PARTY:

Branch Banking and Trust Company  
87 North Main Street  
Keyser, West Virginia 26726

[See Attached]



UNITED STATES DEPARTMENT OF AGRICULTURE  
**RURAL DEVELOPMENT**

Mineral County Clerk  
LEASE, R/W, CONTR Clerk 03  
Date/Time: 11/18/2004 16:05  
Last #: 44014  
Book/Page: 318- / 198-  
Recd/Tax: 6.00 .00

75 High Street Federal Building, Suite 320, Morgantown, WV 26505-7500  
304.284.4860 • 1.800.295.8228 • fax 304.284.4893 • TTY/TDD 304.284.4836

November 16, 2004

**THE NEW CREEK WATER ASSOCIATION INCORPORATED**  
Water Refunding Revenue Notes, Series 2004 A  
(Branch Banking & Trust Company)  
and  
Water Revenue Bonds, Series 2004 B  
(West Virginia Infrastructure Fund)  
and  
Water Revenue Bonds, Series 2004 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 Rural Utilities Service, United States Department of Agriculture ("RUS"), the present holder of the Prior Bonds, hereinafter defined and described, hereby (i) consents to the issuance of the Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company) (the "Notes"), in the original aggregate principal amount of \$81,682, the Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund) (the "Series 2004 B Bonds"), in the original aggregate principal amount of \$1,095,000, and the Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund) (the "Series 2004 C Bonds" and together with the Series 2004 B Bonds, collectively referred to herein as the "Bonds"), in the original aggregate principal amount of \$286,000, by The New Creek Water Association Incorporated (the "Issuer"), on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's outstanding promissory note dated October 20, 1992 (the "Prior Bonds"), including, but not limited to, (a) the lien created by that certain Corporate Real Estate Deed of Trust for West Virginia, dated October 20, 1992, by and among the Issuer, the trustee named therein and the United States of America, of record in the Office of the Clerk of the County Commission of Mineral County, West Virginia in Trust Deed Book 262, at page 123, and (b) the security interest created by that certain Loan Agreement dated October 20, 1992, by and between the Issuer and the United States of America, as perfected by that certain UCC-1 Financing Statement number 365475 on file with the West Virginia Secretary of State; (ii) waives any requirements imposed by the Prior Bonds or the resolution authorizing the Prior Bonds (the "Prior Resolution"), regarding the issuance of parity bonds which are not met by the Notes, Bonds or the Resolution; and (iii) consents to any amendments made to the Prior Resolution by the Resolution or the Supplemental Resolution authorizing the Notes and the Bonds.

This consent shall be recorded simultaneously with the Credit Line Deed of Trust, Security Agreement and Fixture Filing to be recorded by the Issuer and shall be filed as an exhibit to

[Http://www.rurdev.usda.gov/wv](http://www.rurdev.usda.gov/wv)



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Complaints of discrimination should be sent to: USDA Director, Office of Civil Rights, Washington, D.C. 20250-9410

**COMMITTED TO THE FUTURE OF RURAL COMMUNITIES**

the UCC-1 Financing Statements to be filed by the Issuer with the West Virginia Secretary of State to perfect the security interests of the secured parties named therein, all in connection with the issuance of the Notes and the Bonds.

IN WITNESS WHEREOF, the United States of America, acting through the Rural Utilities Service, United States Department of Agriculture, has caused its name to be signed by its duly authorized officer, this 16<sup>th</sup> day of November, 2004.

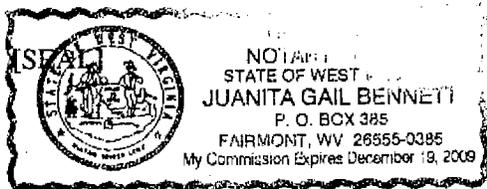
UNITED STATES OF AMERICA, ACTING THROUGH  
THE RURAL UTILITIES SERVICE, UNITED STATES  
DEPARTMENT OF AGRICULTURE

By Richard E. Satterfield  
Its Acting State Director

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

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of November, 2004, by Richard E. Satterfield, the Acting State Director of the United States of America, acting through the Rural Utilities Service, United States Department of Agriculture.

My commission expires December 19, 2009.



Juanita Gail Bennett  
Notary Public

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTONEntered: June 25, 2004

FINAL

7-15-04

CASE NO. 04-0031-W-CN

NEW CREEK WATER ASSOCIATION, INC.

Application for a certificate of convenience and necessity to construct a water line extension along U.S. Route 50 and Pine Swamp Road, improvements, etc., and to install fire hydrants.

RECOMMENDED DECISION

On January 8, 2004, the New Creek Water Association, Inc., (Applicant or Association) General Delivery, New Creek, Mineral County, West Virginia, filed an application for a certificate of convenience and necessity to construct a water line extension and install fire hydrants along U.S. Route 50 and Pine Swamp Road. The project is to consist of approximately forty-six thousand (46,000) feet of water line; fifty (50) valves; forty-five (45) fire hydrants; one hundred (100) meter assemblies; the installation of thirty-three (33) hydrants on the existing lines; a 107,500-gallon water tank; a 72,500-gallon water tank; a new 90-gpm pump station; and the modification of the Association's existing pump station. The Applicant estimated that construction would cost approximately \$2,190,000.00 and would be financed by a grant and a loan from the West Virginia Infrastructure Jobs and Development Council. The Applicant requested an approximate 10.5% increase in its rates and charges.

By Order issued January 8, 2004, the Applicant was directed to give notice of the filing of said application by publishing a copy of the January 8, 2004 Order once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Mineral County, making due return to the Commission of proper certification of publication immediately after publication. The Notice provided that anyone desiring to protest or intervene in the case should file a written protest or notice of intervention within 30 days following the date of the publication, unless otherwise modified by Commission Order. The Notice advised that, if no protests were received by the Public Service Commission within the thirty-day period, the Commission may waive formal hearing and grant the application based on the evidence submitted with the application and the Commission's review thereof.

On January 13, 2004, the Commission entered an order indicating that typographical errors existed in the January 8, 2004 Commission Order. A corrected Notice of Filing was attached to the January 13, 2004 Commission Order correcting, among other things, the construction cost of the project and the amounts of the loan and grant obtained to finance the project.

On January 29, 2004, the Association filed additional information in support of the application.

On February 2, 4 and 6 and March 22, 2004, protests were filed with the Commission against the project and proposed rate increase.

On February 4, 2004, a copy of Permit No 15,921 was filed with the Commission indicating that the Office of Environmental Health Services issued the Association a permit for a water line extension project near New Creek to serve approximately 120 new customers in Mineral County.

On February 5, 2004, Staff filed its Initial Joint Staff Memorandum indicating that additional information was needed before Staff could make its final recommendation regarding this application. Staff recommended that the matter be referred to the Division of Administrative Law Judges for final disposition.

On February 9, 2004, the Association filed an affidavit of publication from the News Tribune, a newspaper of general circulation in Mineral County, indicating that the Notice of Filing, as contained in the Commission Order of January 13, 2004, was published on January 26, 2004.

By Order entered February 17, 2004, this matter was referred to the Division of Administrative Law Judges for a decision to be rendered no later than August 5, 2004.

On February 19, 2004, the Board of Directors of the Healy Height Homeowners Association (Homeowners) filed a protest or motion to intervene in the filing. The Board's President indicated that the members of Homeowners are supplied water by the New Creek Water Association, Inc. Some members of Homeowners have complained about the Applicant's low water pressure. The Homeowners believe that the Applicant should meet the needs of its current customers before it tries to add new customers to its system.

On March 15, 2004, the Association responded to the protest from the Board of Directors of Homeowners.

On March 25, 2004, additional information was filed in support of the Association's application along with signed water user agreements for the project. A copy of a committal letter from Branch Bank & Trust Co., regarding the pay-off of the Association's existing loan with GMAC, was also filed.

By Order issued April 30, 2004, Staff was directed to file, no later than May 3, 2004, its substantive recommendation in this matter. The Healy Height Homeowners Association was granted Intervenor status. The matter was set for hearing to commence at 10:00 a.m., on Tuesday, May 18, 2004, in the Mineral County Courthouse, County Commission Room, 150 Armstrong Street, Keyser, West Virginia, at which time and place the parties and all interested persons were directed to appear and represent their interests as may be deemed appropriate. New Creek Water Association, Inc., was directed to provide public legal notice of the hearing by publishing the attached Notice of Hearing, once in a newspaper

duly qualified by the Secretary of State, published and of general circulation in Mineral County, with the publication being no later than May 7, 2004, and making due return to the Commission of proof of such public legal notice prior to the hearing scheduled to be held on May 18, 2004. The Applicant was directed to file its supporting documentation of compliance with Rule 10.3.d. of the Commission's Rules of Practice and Procedure no later than May 12, 2004. The Order provided that, in the event the Association had failed to provide its customers with the required individual notice of its rate increase, it must do so no later than May 7, 2004, or notify the Administrative Law Judge of its failure to provide said notice and not publish the attached notice, but await further order of the Commission. The Applicant was directed to post, in a conspicuous place near its business office, a copy of the attached Notice of Hearing, upon receipt of the Order.

On May 3, 2004, Staff filed its Final Joint Staff Memorandum recommending approval of the application. Staff noted that the Applicant still needed to verify for the record that the individual notices were provided to its customers. Since protests were filed to the application, Staff recommended that the matter be set for hearing. Staff advised that it and the Applicant's attorney would be available for hearing on May 18, 2004.

Technical Staff advised that the project will be divided into two contracts. Total project costs are estimated to be \$2,190,000. The project is to be financed by a West Virginia Infrastructure and Jobs Development Council (WVIJDC) grant in the amount of \$1,095,000, and a WVIJDC loan in the amount of \$1,095,000, for a period not to exceed 40 years at a 0% interest rate. The annual debt requirement is approximately \$28,816, with a 10% debt reserve of \$2,882. The Applicant proposed increased rates of 10.5%, as well as an increase in its tap fee from \$300 to \$450. Staff recommended approval of the approximately 10.5% increase in rates, but recommended additional minimum charges and changes in the delayed payment penalty, tap fee and leak adjustment provisions. Staff also recommended an increase in the returned check charge and a new reconnection fee.

The proposed project will serve approximately 120 customers and is designed to provide public water to residents who do not presently have good quality or an adequate supply of potable water. The project should make the area more attractive to residential, commercial and industrial development. The Association has acquired 99 user agreements for service connections. While Staff believes the cost per customer to be high, the cost is reasonable because a portion of the project is grant-funded and will provide fire protection to the extended area.

On May 6, 2004, the Association certified to the Commission that it mailed the Notice of Filing to each of its customers on January 26, 2004.

On May 12, 2004, the Applicant filed its affidavit of publication indicating that the Notice of Hearing was published on May 7, 2004, in the News-Tribune, a newspaper of general circulation in Mineral County.

The hearing convened as scheduled on May 18, 2004, in Keyser, Mineral County, West Virginia. Timothy Sirk, Esquire, appeared upon

behalf of New Creek Water Association, Inc. Staff Attorney Cecilia Jarrell represented the Commission. Gordon Brubaker, President of Healy Heights Homeowners Association, spoke on the Homeowners behalf. No other Protestants appeared at the hearing.

On June 1, 2004, a transcript of the May 18, 2004 hearing, consisting of 35 pages in addition to a Court Reporter's Certificate, was filed with the Commission. The transcript was mailed to the parties.

#### EVIDENCE

The matter was called to hearing and two (2) exhibits were appropriately marked and received into evidence. (Tr., pp. 5-9; Applicant's Exhibit No. 1; Staff's Exhibit No. 1). Mr. Gordon Brubaker, President of Healy Heights Homeowners Association, spoke upon behalf of the Homeowners. (Tr., pp. 9-10). Mike Plan, Coordinator from the Mineral County Commission, stated that the County Commission supports the project and has been working with the Association for more than ten years to obtain the funding for the project. (Tr., p. 33). Counsel for the Association announced that it accepted the Staff recommendation, as contained in its substantive recommendation, identified as Staff Exhibit No. 1. (Tr., pp. 12-13, 17). He also advised that the proposed project will not affect the water pressure in the Healy Heights Homeowners Association area of the system. (Tr., p. 21).

The Association called its Office Manager, Vickie Szabo, to testify. Upon receipt of the Commission's Procedural Order, Ms. Szabo posted, at the front door of the Association's office, a copy of the Order which set the application for hearing on May 18, 2004. (Tr., pp. 10-11; April 30, 2004 Procedural Order). The Association provided individual notice of the filing of the application to its customers. (Tr., pp. 11-12; Applicant's Exhibit No. 1).

The Public Service Commission's Staff Attorney reiterated that its Technical Staff recommends approval of the application for a certificate of convenience and necessity. Technical Staff believes that the project is necessary in order to eliminate the wells in the area and provide the customers with adequate water. The project will provide public water service to approximately 100 new customers and attract more residential, commercial and industrial customers into the area. The project is designed to provide additional fire hydrants on the existing system, as well as on the proposed extension. (Tr., pp. 13-14; Staff Exhibit No. 1).

The project is funded by loan and grant commitments. The West Virginia Infrastructure and Jobs Development Council has committed a grant in the amount of \$1,095,000, and a loan in the amount of \$1,095,000 at 0% interest for a period not to exceed 40 years. The existing GMAC loan is to be refinanced with a 5-year loan from BB&T. Staff believes the project will not be a financial burden on the Association's customers. Staff concluded that the project is both convenient and necessary. If the terms or conditions of the financing package or the scope of the project change, Staff recommended that the Association seek Commission approval of said changes. Staff requested that a copy of the

Association's bids be filed with the Commission and that the Association be required to notify the Commission upon substantial completion of the project. (Tr., pp. 14-16; Staff Exhibit No. 1).

Mr. Gordon Brubaker, President of the Healy Heights Homeowners Association, explained that the Homeowners does not wish to protest the actual project, but is concerned that the inadequate water pressure in the area will worsen with the addition of new customers to the system. Several of the Homeowners' members have complained about inadequate water pressure. While the Association has recently undertaken activities to improve the water pressure in the area, the activities have not increased the water pressure to the Homeowners. (Tr., pp. 17-18, 22 28-29). The Homeowners would like the Association to upgrade its system in order to improve the Homeowners' water pressure. (Tr., p. 19). Mr. Brubaker advised that he has spoken to someone at the Association who informed him that it would be too expensive to improve the water pressure in the area. However, there are rumors of new construction in the Healy Homeowners Association area. (Tr., p. 20).

Each Homeowners' member is a separate customer of the Association. (Tr., p. 22). Mr. Brubaker does not believe that he signed a waiver in order to receive low pressure water. He is not aware of anyone signing low pressure water agreements. (Tr., p. 20). Mr. Brubaker has not contacted the Public Service Commission about the water pressure problems. (Tr., p. 23). Some of the Homeowners have requested that the Association install water meter recorders on their meters. At least one recorder has been installed in the area to record pressure readings. (Tr., p. 23).

After Mr. Brubaker's statements of concern, David Vanscoy, a professional engineer with RK&K Engineers, the engineering firm retained for this project, testified. Mr. Vanscoy explained that the Healy Heights Homeowners Association was created in 1986. (Tr., p. 25). The Health Department issued a permit for the project area which served the Homeowners on February 20, 1986. (Tr., p. 31). The Developer built the subdivision and installed the lines. The lines in the development were turned over to the Association. There are approximately 62 lots in the area. (Tr., p. 25). Mr. Vanscoy testified that the proposed project will not affect the Homeowners line, other than the installation of a fire hydrant. The water tanks in the proposed project cannot serve the customers in the area of the Homeowners. (Tr., pp. 27-29).

Mr. Vanscoy acknowledged that Mr. Brubaker discussed the water pressure problems in the Homeowners area with him. (Tr., p. 25). A chart recorder was placed inside the home of the member of the Homeowners with the highest elevation. Mr. Vanscoy believes the recorder was placed 8-10 feet above the customer's water meter. The static pressure registered approximately 24 psi inside the residence. The readings reflected fluctuations in water pressure as low as 16 psi during the test period. Mr. Vanscoy explained that the Association recently looped together two of its end-lines which serve some of the customers of the Homeowners. The connection of the two end-lines did not improve the water pressure to the customers served by those lines. (Tr., p. 26). Mr. Vanscoy is aware that the members of the Homeowners are concerned that a Developer owns property behind the Homeowners and is proposing to develop the area in

the near future. He testified that the area located behind the Homeowners will have to be served from a different zone of the Association's system. (Tr., p. 26). Mr. Vanscoy did not know if any water pressure waivers were signed by any of the property owners in the Homeowners area. (Tr., p. 30). While Mr. Vanscoy could not officially speak for the Association, he believed that the Association will work with the Assistance Section of the Public Service Commission regarding the water pressure problems in the area of the Homeowners. (Tr., p. 31).

All parties waived their rights to file findings of fact, conclusions of law or other post-hearing filings in support of their respective positions. The matter was submitted for decision. (Tr., pp. 34-35).

#### FINDINGS OF FACT

1. On January 8, 2004, the New Creek Water Association, Inc., General Delivery, New Creek, Mineral County, West Virginia, filed an application for a certificate of convenience and necessity to construct a water line extension and install fire hydrants along U.S. Route 50 and Pine Swamp Road. The project is to consist of approximately forty-six thousand (46,000) feet of water line; fifty (50) valves; forty-five (45) fire hydrants; one hundred (100) meter assemblies; the installation of thirty-three (33) hydrants on the existing lines; a 107,500-gallon water tank; a 72,500-gallon water tank; a new 90-gpm pump station; and the modification of the Association's existing pump station. (See, application filed January 8, 2004).

2. The total project costs are estimated to be \$2,190,000. (See, application; Staff Exhibit No. 1).

3. The project is to be financed by a West Virginia Infrastructure and Jobs Development Council grant in the amount of \$1,095,000, and a WVIJDC loan in the amount of \$1,095,000, for a period not to exceed 40 years at a 0% interest rate. (See, application; Staff Exhibit No. 1).

4. The project will serve approximately 100 customers and is designed to provide public water to residents who do not presently have a good quality or adequate supply of potable water and is approved by the West Virginia Department of Environmental Protection, evidenced by Permit No. 15,921. (See, Staff Exhibit No. 1; Permit filed February 4, 2004).

5. The Association's proposed rate increase of 10.5% is sufficient to cover the debt service and operation and maintenance expenses generated by the project. The proposed rates will generate approximately \$47,596 in additional annual operating revenue and an annual surplus of approximately \$9,959. The proposed rates should provide a debt service coverage ratio of approximately 130.77%. (See, Staff Exhibit No. 1).

6. The Association gave proper notice of the filing of its application, rate increase and notice of hearing. (See, affidavit of publication received February 9, 2004; Association's May 6, 2004 filing; affidavit of publication filed May 12, 2004; Applicant's Exhibit No. 1; Tr., pp. 10-12).

7. Protests were received to the application, so the application was set for hearing. (See, filings received February 2, 4, and 6, 2004; April 30, 2004 Procedural Order).

8. The President of the Healy Heights Homeowners Association testified that Homeowners does not wish to protest the certificate, but wants to insure that the project would not further reduce the inadequate water pressure. No other Protestants appeared at the hearing. (See, Tr., pp. 9-10, 17-18, 22).

9. The Association accepted Staff's substantive recommendation in this matter, as contained in Staff's Final Joint Staff Memorandum. (See, Staff Exhibit No. 1).

10. The Association proposed refinancing its existing GMAC loan with an interest rate of 5% for a period not to exceed 5 years. The refinancing is designed to remove the restrictive bond covenants in the GMAC loan. (See, Staff Exhibit No. 1).

#### CONCLUSIONS OF LAW

1. The public convenience and necessity require this project for which the New Creek Water Association, Inc., has filed the application herein, in order to eliminate wells with quality and quantity problems in the project area, improve fire protection for its existing customers and make the area more attractive for residential and commercial development.

2. The project is economically feasible, since the proposed rates, which have been reviewed by Commission Staff, are sufficient, but not more than sufficient, to cover the necessary costs associated with the project, and the project financing will not be burdensome upon the Association's customers.

3. It is reasonable to adopt the Staff recommendations set forth by Commission Staff in its Final Joint Staff Memorandum, filed herein on May 3, 2004, since the Association did not object thereto; the Intervenor, Healy Height Homeowners Association, did not object to the project being built; and no other Protestants appeared at the hearing.

4. It is reasonable to approve the financing for the project, consisting of a West Virginia Infrastructure and Jobs Development Council grant in the amount of \$1,095,000, and a WVIJDC loan in the amount of \$1,095,000, for a period not to exceed 40 years at a 0% interest rate, and the refinancing of the GMAC loan by the borrowing of funds from BB&T at an interest rate of 5% for a period not to exceed 5 years.

#### ORDER

IT IS, THEREFORE, ORDERED that an application for a certificate of convenience and necessity be, and hereby is, granted to New Creek Water Association, Inc., for the construction of a water line extension and the installation of fire hydrants along U.S. Route 50 and Pine Swamp Road. The project is to consist of approximately forty-six thousand (46,000)

feet of water line; fifty (50) valves; forty-five (45) fire hydrants; one hundred (100) meter assemblies; the installation of thirty-three (33) hydrants on the existing lines; a 107,500-gallon water tank; a 72,500-gallon water tank; a new 90-gpm pump station; and the modification of the Association's existing pump station.

IT IS FURTHER ORDERED that the rates and charges attached hereto as Appendix A be, and they hereby are, approved for use by New Creek Water Association, Inc., for all service rendered on and after the date that this Order becomes a final Order of the Public Service Commission. New Creek Water Association, Inc., shall file an original and at least five (5) copies of a revised tariff setting forth the rates approved herein within thirty (30) days that this Order becomes final.

IT IS FURTHER ORDERED that the proposed funding for the project, consisting of a West Virginia Infrastructure and Jobs Development Council grant in the amount of \$1,095,000, and a WVIJDC loan in the amount of \$1,095,000, for a period not to exceed 40 years at a 0% interest rate and the refinancing of the GMAC loan from BB&T, at an interest rate not to exceed 5% for a period not to exceed 5 years, be, and hereby is, approved.

IT IS FURTHER ORDERED that, if there is any change in the plans, scope or financing of the project certificate herein, the New Creek Water Association, Inc., request the reopening of this proceeding for Commission approval prior to commencing construction.

IT IS FURTHER ORDERED that the New Creek Water Association, Inc., file a copy of its bids with the Commission to be made part of the file as soon as said bids are accepted.

IT IS FURTHER ORDERED that the New Creek Water Association, Inc., notify the Commission when the substantial completion inspection of this project has been performed.

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

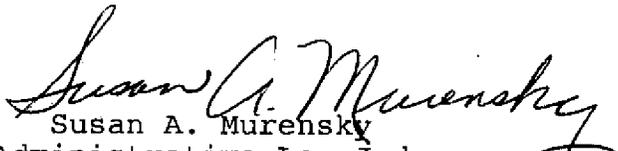
The Executive Secretary is hereby ordered to serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

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

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

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Order by filing an appropriate petition in

writing with the Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.

  
Susan A. Murensky  
Administrative Law Judge

SAM:pst  
040031aa.wpd

NEW CREEK WATER ASSOCIATION, INC.  
CASE NO. 04-0031-W-CN

APPROVED RATES

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial service.

RATE

First	3,000 gals. used per month	\$6.24 per 1,000 gals.
Next	3,000 gals. used per month	\$5.58 per 1,000 gals.
Next	4,000 gals. used per month	\$5.32 per 1,000 gals.
Next	10,000 gals. used per month	\$4.65 per 1,000 gals.
All Over	20,000 gals. used per month	\$4.25 per 1,000 gals.

MINIMUM CHARGE

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

5/8-inch connection	\$ 18.72 per month
1- inch connection	46.80 per month
1-1/2-inch connection	93.60 per month
2-inch connection	149.76 per month
4-inch connection	468.00 per month
6-inch connection	936.00 per month

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.

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 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 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.

RECONNECTION FEE - \$25.00

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

RETURNED CHECK CHARGE

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

LEAK ADJUSTMENT INCREMENT

\$3.15 per M. gallons. To be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such unusual consumption above the customer's historical average usage.

PRIVATE FIRE PROTECTION SERVICE

AVAILABILITY OF SERVICE

Available for private fire protection service.

RATE

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

		<u>Per Annum</u>
2-inch	Service line with hydrants, sprinklers, and/or hose connections	\$ 49.56
3-inch	Service line with hydrants, sprinklers, and/or hose connections	\$ 112.08
4-inch	Service line with hydrants, sprinklers, and/or hose connections	\$ 196.44
6-inch	Service line with hydrants, sprinklers, and/or hose connections	\$ 497.64
8-inch	Service line with hydrants, sprinklers, and/or hose connections	\$ 816.12
10-inch	Service line with hydrants, sprinklers, and/or hose connections	\$1,447.56
12-inch	Service line with hydrants, sprinklers, and/or hose connections	\$2,028.24

PROMPT PAYMENT DISCOUNT OR DELAYED PAYMENT PENALTY FOR FIRE PROTECTION SERVICE

None.

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 29<sup>th</sup> day of October, 2004.

CASE NO. 04-0031-W-CN

NEW CREEK WATER ASSOCIATION, INC.

Application for a certificate of convenience and necessity to construct U.S. Route 50 and Pine Swamp Road water line extension, new fire hydrants consisting of approximately 46,000 feet of water line, 50 valves, 45 fire hydrants, 100 meter assemblies, and to install 33 hydrants on existing lines, to install a 107,500 gallon tank and 72,500 gallon tanks, new 90 gpm pump station and modification of an existing pump station.

**COMMISSION ORDER**

On January 8, 2004, the New Creek Water Association, Inc., (Applicant or Association) General Delivery, New Creek, Mineral County, West Virginia, filed an application for a certificate of convenience and necessity to construct a water line extension and install fire hydrants along U.S. Route 50 and Pine Swamp Road. The project is to consist of approximately forty-six thousand (46,000) feet of water line; fifty (50) valves; forty-five (45) fire hydrants; one hundred (100) meter assemblies; the installation of thirty-three (33) hydrants on the existing lines; a 107,500-gallon water tank; a 72,500-gallon water tank; a new 90- gpm pump station; and the modification of the Association's existing pump station. The Applicant estimated that construction would cost approximately \$2,190,000.00 and would be financed by a grant and a loan from the West Virginia Infrastructure Jobs and Development Council. The Applicant requested an approximate 10.5% increase in its rates and charges.

By a Recommended Decision entered June 25, 2004, (Final July 15, 2004), the project was approved as follows:

IT IS, THEREFORE, ORDERED that an application for a certificate of convenience and necessity be, and hereby is, granted to New Creek Water Association, Inc., for the construction of a water line extension and the installation of fire hydrants along U.S. Route 50 and Pine Swamp Road. The project is to consist of approximately forty-six thousand (46,000) feet of water

line; fifty (50) valves; forty-five (45) fire hydrants; one hundred (100) meter assemblies; the installation of thirty-three (33) hydrants on the existing lines; a 107,500-gallon water tank; a 72,500-gallon water tank; a new 90-gpm pump station; and the modification of the Association's existing pump station.

IT IS FURTHER ORDERED that the rates and charges ... be, and they hereby are, approved for use by New Creek Water Association, Inc., for all service rendered on and after the date that this Order becomes a final Order of the Public Service Commission. New Creek Water Association, Inc., shall file an original and at least five (5) copies of a revised tariff setting forth the rates approved herein within thirty (30) days that this Order becomes final.

IT IS FURTHER ORDERED that the proposed funding for the project, consisting of a West Virginia Infrastructure and Jobs Development Council grant in the amount of \$1,095,000, and a WVIJDC loan in the amount of \$1,095,000, for a period not to exceed 40 years at a 0% interest rate and the refinancing of the GMAC loan from BB&T, at an interest rate not to exceed 5% for a period not to exceed 5 years, be, and hereby is, approved.

IT IS FURTHER ORDERED that, if there is any change in the plans, scope or financing of the project certificate herein, the New Creek Water Association, Inc., request the reopening of this proceeding for Commission approval prior to commencing construction.

On September 30, 2004, the Association filed a letter to Commission Staff noting that the total construction bids came in higher than originally anticipated resulting in an additional \$286,000 in costs to be paid for with a loan for twenty (20) years at 3% interest. The Association stated that the additional debt service as a result of such loan would be \$19,034. The Association sought approval of the modifications to the certificate.

On October 4, 2004, the Association filed a letter with the Commission requesting to reopen this proceeding for approval of an additional loan in the amount of \$286,000 from the West Virginia Infrastructure and Jobs Development Council (WVIJDC). The Association stated that the WVIJDC planned to approve the loan during its October 6, 2004, meeting. The Association noted that the bids on its project expired in early December of 2004 but that due to impending bad weather the Association requested expedited treatment and an order from the Commission by no later than October 29, 2004.

On October 18, 2004, Staff filed its "Initial and Final Joint Staff Memorandum". Therein, Staff stated, in part:

Technical Staff has reviewed the petition to reopen along with all documents and information filed in support thereof and has determined that the Public Service Commission should grant the Associations' petition to reopen and furthermore the Associations' request for approval of the additional funding (specifically, the additional Infrastructure Council loan in the amount of \$286,000) should be approved. Said approval should, however, be contingent upon the Association filing a copy of the letter of commitment from the Infrastructure Council regarding the additional loan. Staff has determined that no additional rate increase will be required to support the additional annual debt service payment of \$19,034 associated with this additional loan.

On October 22, 2004, the Commission received a copy of the WVIJDC's loan commitment letter. Said letter approved an additional loan in the amount of \$286,000, over a term of 20 years at 3% interest.

### DISCUSSION

The modification of the funding of the project will not affect the rates previously noticed to the customers. Furthermore, the modifications do not otherwise impact the service to be provided by the previously certificated construction. Accordingly, the Commission shall grant the Association's request for approval of additional funding.

### FINDINGS OF FACT

1. The Association requested modification of the funding for its project in the form of an additional loan in the amount of \$286,000 for a term of 20 years at 3% interest, from the WVIJDC.
2. Staff recommended approval of the proposed modification in the funding of the project, contingent upon a letter of commitment from the WVIJDC.
3. Staff noted that no additional rate increase was necessary to accommodate interest payments on the additional loan amount.
4. The Commission received a copy of the WVIJDC's letter of commitment on October 22, 2004.

## CONCLUSIONS OF LAW

1. It is reasonable to grant the Association's request for approval of additional funding in the form of a \$286,000 loan, for a term of 20 years at a rate of 3%, from the WVIJDC.
2. It is reasonable to approve the increased total project cost of \$2,476,000.

## ORDER

IT IS THEREFORE ORDERED that this proceeding is hereby reopened.

IT IS FURTHER ORDERED that the revised project cost of \$2,476,000 is hereby approved.

IT IS FURTHER ORDERED that the additional funding for this project in the form of a WVIJDC loan in the amount of \$286,000 for a term of 20 years at an interest rate of 3% is hereby approved.

IT IS FURTHER ORDERED that, except as modified herein, the July 15, 2004, Final Order (Recommended Decision June 25, 2004), is hereby retained as the final order in this case.

IT IS FURTHER ORDERED that, if there is any change in the plans, scope or financing of the project certificate herein, the New Creek Water Association, Inc., request the reopening of this proceeding for Commission approval prior to commencing construction.

IT IS FURTHER ORDERED that upon entry of this order, this case shall be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this order upon all parties of record by United States First Class Mail and upon Commission Staff by hand delivery.

A True Copy, Teste:

JJW/lfg  
04003 lca.wpd

  
Sandra Squire  
Executive Secretary

Commercial Loans

87 North Main Street  
Keyser, WV 26726  
(304) 788-3111  
Fax (304) 788-0364

November 8, 2004

New Creek Water Association, Inc.  
C/O: Virgil Schmidlen, President  
General Delivery  
New Creek, WV 26743

Re: Commitment Letter of March 4, 2004

Dear Mr. Schmidlen:

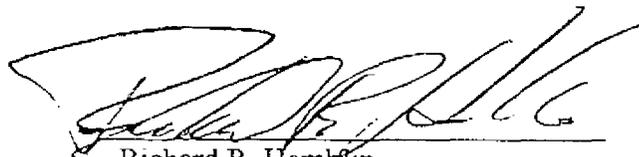
The purpose of this letter is to clarify the date on which the interest rate will be fixed for the loan to be provided by the Bank through the aforementioned Commitment Letter. Paragraph 5 of the Commitment Letter should read as follows:

5. The interest rate on the loan shall be a fixed rate per annum, determined as of the date of Closing, as the Bank's prime rate, plus 1%. Provided that the loan closes by no later than November 18, 2004, such interest rate shall not exceed 6%.

The Bank understands that this clarification is required for the Public Service Commission of West Virginia.

Please note the Association's acceptance of this Commitment Letter by countersignature below:

Accepted by:



Richard R. Hambfin  
City Executive & Vice President

March 4, 2004

Commercial Loans

87 North Main Street  
Keyser, WV 26726  
(304) 788-3111  
Fax (304) 788-0364

New Creek Water Association, Inc.  
General Delivery  
New Creek, WV 26743

## COMMITMENT LETTER

Branch Banking and Trust Company (BB&T) is pleased to offer you the following commitment for a loan. The terms and conditions of the Commitment are as follows:

1. Borrower: New Creek Water Association, Inc.
2. Purpose: The proceeds of the loan shall be used by the Borrower to pay off an existing loan with GMAC in the amount of \$90,000.00.
3. Collateral: The loan shall be secured by the following:
  - 1<sup>st</sup> Lien on revenue of system on parity of other outstanding debt  
and  
UCC Filing on Accounts Receivable in the amount of \$401,910.00
4. Advances: The proceeds of the loan shall be advanced at closing.
5. Interest Rate: The interest rate on the loan shall be a fixed rate of interest, per annum of the Banks Prime Rate (now 4.00%) plus 1.00% (5.00%).
6. Repayment Terms: A two-year term, amortized over 60 months, with a balloon payment. Estimated payments will be \$1,698.41.
7. Documentation: At Loan closing, the Borrower shall execute a Promissory Note, UCC Documents and other related documents and instruments satisfactory to the Bank to evidence and secure the loan.
8. Credit Qualifications: This Commitment is issued in reliance upon the accuracy and completeness of all information furnished by or for the Borrower and is subject to the continued accuracy and completeness of all such information. The extension of credit by the Bank pursuant to this Commitment is subject to the condition precedent that the Borrower shall after the date hereof maintain a financial condition acceptable to the Bank in its sole discretion. In addition, the Loan is conditioned upon there being no material adverse change which threatens the Borrower's ability to repay the Loan or pledge the Collateral to secure repayment.

Commitment Letter to New Creek Water Association, Inc.

March 4, 2004

Page 2

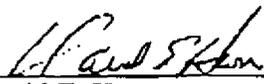
9. Expenses: All expenses associated with the Loan are to be paid by the Borrower. These expenses shall include, but are not limited to, Document Preparation Fee, UCC Filing Fees and all necessary recording fees, plus an Origination Fee of \$200.00.
10. Conflicting Provisions: If any of the provisions of this commitment letter shall be construed to conflict with any terms or provisions contained in the Loan Documents, then the Loan Documents shall take priority.

This Commitment Letter is open for your acceptance until the close of business, June 30, 2004 (the "Expiration Date") at which time this Commitment expires if not accepted and returned to the Bank. In addition, this Commitment shall expire and the Bank shall not be required to make the Loan if the Loan does not close by June 30, 2004. To acknowledge your acceptance, please return a signed copy of this letter to my attention at the following address on or before the Expiration Date:

Branch Banking and Trust Company  
C/O David E. Harr  
P.O. Box 789  
Keyser, WV 26726

Very truly yours,

BRANCH BANKING AND TRUST CO.

By:   
David E. Harr  
Assistant Vice President & Business Banker  
Phone: 304-788-7630

The foregoing terms and conditions are hereby accepted and agreed to this \_\_\_\_ day of \_\_\_\_\_, 2004.

Accepted: NEW CREEK WATER ASSOCIATION, INC.

By: \_\_\_\_\_ Date \_\_\_\_\_  
Virgil Schmidlen, President

By: \_\_\_\_\_ Date \_\_\_\_\_  
Robert Helmick, Secretary

The New Creek Water Association Incorporated  
Water Refunding Revenue Notes, Series 2004 A  
(Branch Banking and Trust Company)

CROSS-RECEIPT FOR NOTES AND NOTE PROCEEDS

The undersigned authorized representative of Branch Banking and Trust Company, Keyser, West Virginia (the "Original Purchaser"), for and on behalf of the Original Purchaser, and the undersigned President of The New Creek Water Association Incorporated (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the 18th day of November, 2004, in Keyser, West Virginia, the Original Purchaser received the entire original issue of \$81,682 in aggregate principal amount of the Issuer's Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company), dated November 18, 2004, issued in the form of one note, fully registered to the Original Purchaser, and numbered AR-1 (the "Notes").

2. At the time of receipt of the Notes, they had been executed by the President of the Issuer and attested by the Secretary of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been impressed upon the Notes.

3. The Issuer has received and hereby acknowledges receipt from Original Purchaser of the sum of \$81,682, being the agreed purchase price of the Notes (100% of par value), there being no interest accrued thereon.

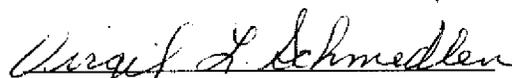
Dated as of the 18th day of November, 2004.

BRANCH BANKING AND TRUST COMPANY



Authorized Representative

THE NEW CREEK WATER ASSOCIATION  
INCORPORATED



President

11/05/04  
658370.00001

The New Creek Water Association Incorporated  
Water Refunding Revenue Notes, Series 2004 A  
(Branch Banking and Trust Company)

DIRECTION TO AUTHENTICATE AND DELIVER SERIES 2004 A NOTES

Branch Banking and Trust Company,  
as Registrar  
Keyser, West Virginia

Ladies and Gentlemen:

On this 18th day of November, 2004, there are delivered to you herewith as Registrar for the above-captioned Notes:

1. Note No. AR-1 , dated November 18, 2004, in the aggregate principal amount of \$81,682 (the "Notes"), executed by the President and Secretary of The New Creek Water Association Incorporated, a West Virginia nonprofit corporation (the "Issuer") and bearing the official seal of the Issuer. The Notes are authorized to be issued under and pursuant to a Bond and Notes Resolution adopted by the Issuer on November 9, 2004, as supplemented by a Supplemental Resolution adopted by the Issuer on November 9, 2004 (collectively, the "Resolution").

2. Copies of the Resolution, certified by the Secretary of the Issuer.

3. A list of the names in which the Notes are to be registered upon original issuance, together with taxpayer identification and other information as requested by you.

4. A signed, unqualified approving opinion of Steptoe & Johnson PLLC, as bond counsel.

You are hereby requested and authorized to authenticate, register and deliver the Notes to the Original Purchaser thereof.

Dated as of the day and year first written above.

THE NEW CREEK WATER ASSOCIATION  
INCORPORATED

By Virgil L. Schmitter  
President

11/05/04  
658370.00001

# SPECIMEN

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE NEW CREEK WATER ASSOCIATION INCORPORATED  
WATER REFUNDING REVENUE NOTE, SERIES 2004 A  
(BRANCH BANKING AND TRUST COMPANY)

No. AR-1

\$81,682

KNOW ALL MEN BY THESE PRESENTS: That THE NEW CREEK WATER ASSOCIATION INCORPORATED, a West Virginia non-stock, nonprofit corporation in Mineral County, West Virginia (the "Issuer"), for value received, hereby promises to pay, solely from the sources and in the manner hereinafter set forth, to the order of

- BRANCH BANKING AND TRUST COMPANY -

or registered assigns (the "Registered Owner"), on November 18, 2006, the principal sum of EIGHTY ONE THOUSAND SIX HUNDRED EIGHTY TWO DOLLARS (\$81,682), together with interest at the rate of 6.00% per annum. This Note is payable in 23 equal monthly installments of \$1,582.23 per month, with a final payment of the then aggregate amount of the unpaid principal balance together with interest accrued thereon due on November 18, 2006, payable on the 18th day of each month, commencing December 18, 2004, to and including November 18, 2006. Each monthly installment shall consist of principal and interest.

The principal of and interest on this Note are payable in any coin or currency which on the date of payment thereof is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of Branch Banking and Trust Company, Keyser, West Virginia, as Registrar and Paying Agent.

This Note is subject to prepayment of principal and interest to the date of prepayment in whole or in part at any time, without penalty.

This Note is issued to pay in full the entire outstanding principal of and all accrued interest on the Issuer's GMAC Commercial Mortgage Loan, Series 1972, dated July 10, 1972 (the "Series 1972 Bonds") and to pay certain costs of issuance of this Note. The existing waterworks facilities of the Issuer and any further improvements or extensions thereto are herein called the "System". This Note is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 31E, Article 1 et seq. of the West Virginia Code of 1931, as amended

(the "Act"), and a Resolution duly adopted by the Issuer on November 9, 2004, as supplemented by a Supplemental Resolution duly adopted by the Issuer on November 9, 2004 (collectively, the "Notes Legislation"), and is subject to all the terms and conditions thereof.

THIS NOTE 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) PROMISSORY NOTE, DATED OCTOBER 20 1992 (THE "PRIOR BONDS"); (2) WATER REVENUE BONDS, SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND) (THE "SERIES 2004 B BONDS"); AND (3) WATER REVENUE BONDS, SERIES 2004 C (WEST VIRGINIA INFRASTRUCTURE FUND) (THE "SERIES 2003 C BONDS" AND TOGETHER WITH THE SERIES 2004 B BONDS, COLLECTIVELY REFERRED TO HEREIN AS THE "SERIES 2004 BONDS").

The principal of and interest on this Note are payable only from and secured by a first lien on the Gross Revenues of the System and accounts receivable of the Issuer, on a parity with the pledge of Gross Revenues in favor of the Holders of the Prior Bonds and the Series 2004 Bonds.

Under the Notes Legislation, the Issuer has entered into certain covenants with the Registered Owner, for the terms of which reference is made to said Notes Legislation. Remedies provided the Registered Owner are exclusively as provided in the Notes Legislation, to which reference is here made for a detailed description thereof.

Subject to the requirements for transfer set forth below, this Note is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia. This Note is transferable, as provided in the Notes Legislation, only by transfer of registration upon the books of the Registrar, to be made at the request of the Registered Owner hereof in person or by his attorney duly authorized in writing, and upon surrender hereof, together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or his duly authorized attorney.

All monies received from the sale of this Note shall be applied solely to the refunding of the Series 1972 Bonds and to pay costs of issuance of the Notes and related costs, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the Registered Owner of this Note.

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, this Note will be in default should any proceeds of this Note be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wet lands 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 issuance of this Note do exist, have happened and have been performed in due time, form and manner as required by law, and that this Note, together with all other obligations of the Issuer, do not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia.

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

This Note shall not be valid or obligatory unless authenticated and registered by the Registrar by the execution of the Registrar's Certificate of Authentication and Registration attached hereto and incorporated herein.

IN WITNESS WHEREOF, THE NEW CREEK WATER ASSOCIATION INCORPORATED has caused this Note to be signed by its President and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Note to be dated November 18, 2004.

[SEAL]

  
\_\_\_\_\_  
President

**SPECIMEN**

ATTEST:

  
\_\_\_\_\_  
Secretary

**SPECIMEN**

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is to certify that this Note is one of the Notes described in and issued under the provisions of the within-mentioned Notes Legislation and has been duly registered in the name of the registered owner set forth above.

Date: November 18, 2004.

BRANCH BANKING AND TRUST COMPANY,  
as Registrar

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

**SPECIMEN**

(FORM OF)  
ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto \_\_\_\_\_ the within-mentioned Note and does hereby irrevocably constitute and appoint \_\_\_\_\_, attorney, to transfer said Note on the books of the Registrar on behalf of said Issuer with full power of substitution in the premises.

Dated: \_\_\_\_\_, 2004.

\_\_\_\_\_

IN THE PRESENCE OF:

\_\_\_\_\_

11/05/04  
658370.00001

1370A

\* \* \* AMORTIZATION SCHEDULE \* \* \*

NEW CREEK WATER ASSOCIATION INC  
 RT 972  
 NEW CREEK WV 267430000

SSN/EIN : 550-53-6509  
 ACCT# : 9570756580  
 Note : 00001

APR : 06.000%  
 Total # of Payments : 024  
 Loan Amount : \$81,682.00

Maturity Date : 11/18/06  
 Monthly Payment : \$1,582.23

Payment#	Date	Monthly Payment	Principal Applied	Interest Paid	New Balance
1	12/18/04	\$1,582.23	\$1,173.82	\$408.41	\$80,508.18
2	01/18/05	\$1,582.23	\$1,166.27	\$415.96	\$79,341.91
3	02/18/05	\$1,582.23	\$1,172.30	\$409.93	\$78,169.61
4	03/18/05	\$1,582.23	\$1,217.44	\$364.79	\$76,952.17
5	04/18/05	\$1,582.23	\$1,184.64	\$397.59	\$75,767.53
6	05/18/05	\$1,582.23	\$1,203.39	\$378.84	\$74,564.14
7	06/18/05	\$1,582.23	\$1,196.98	\$385.25	\$73,367.16
8	07/18/05	\$1,582.23	\$1,215.39	\$366.84	\$72,151.77
9	08/18/05	\$1,582.23	\$1,209.45	\$372.78	\$70,942.32
10	09/18/05	\$1,582.23	\$1,215.69	\$366.54	\$69,726.63
11	10/18/05	\$1,582.23	\$1,233.60	\$348.63	\$68,493.03
12	11/18/05	\$1,582.23	\$1,228.35	\$353.88	\$67,264.68
13	12/18/05	\$1,582.23	\$1,245.91	\$336.32	\$66,018.77
14	01/18/06	\$1,582.23	\$1,241.13	\$341.10	\$64,777.64
15	02/18/06	\$1,582.23	\$1,247.55	\$334.68	\$63,530.09
16	03/18/06	\$1,582.23	\$1,285.76	\$296.47	\$62,244.33
17	04/18/06	\$1,582.23	\$1,260.63	\$321.60	\$60,983.70
18	05/18/06	\$1,582.23	\$1,277.31	\$304.92	\$59,706.39
19	06/18/06	\$1,582.23	\$1,273.75	\$308.48	\$58,432.64
20	07/18/06	\$1,582.23	\$1,290.07	\$292.16	\$57,142.57
21	08/18/06	\$1,582.23	\$1,286.99	\$295.24	\$55,855.58
22	09/18/06	\$1,582.23	\$1,293.64	\$288.59	\$54,561.94
23	10/18/06	\$1,582.23	\$1,309.42	\$272.81	\$53,252.52
24	11/18/06	\$53,527.66	\$53,252.52	\$275.14	\$0.00

The New Creek Water Association Incorporated  
Water Refunding Revenue Notes, Series 2004 A  
(Branch Banking and Trust Company)

RECEIPT AND RELEASE

The undersigned duly authorized representative of General Motors Acceptance Corp., the holder of the Commercial Mortgage Loan, Series 1972 (the "Series 1972 Bonds"), of The New Creek Water Association Incorporated (the "Corporation"), dated July 10, 1972, in the original aggregate principal amount of \$262,000, hereby certifies that on November 18, 2004, it received by wire transfer the sum of \$81,471.52 from the Corporation and that such sum was sufficient to pay the entire principal amount of and interest accrued on the Series 1972 Bonds to such date and discharge the liens, pledges and encumbrances securing the Series 1972 Bonds.

GENERAL MOTORS ACCEPTANCE CORP.

By: Jeanne V. Bryant  
Authorized Officer  
Client Relations Manager

11/01/04  
658370.00001

CB701354.1

11

1700

When Recorded Return to:  
American Release Corporation  
PO Box 458  
Kimberling City, MO 65686  
Recording Requested By:  
American Release Corporation

Case 1A

Mineral County Clerk  
RELEASE Clerk 08  
Date/Time: 12/20/2004 11:16  
Inst #: 44843  
Book/Page: 93- / 389-  
Recd/Tax: 6.00 .00

**DEED OF RELEASE**

Loan #: 010585201 "NEW CREEK WATER" ID: 01/ Mineral, WV

KNOW ALL MEN BY THESE PRESENTS that STATE STREET BANK AND TRUST COMPANY whose address is One Federal Street, Boston, MA 02110 beneficiary of a certain Deed of Trust, whose parties, dates and recording information are below, does hereby acknowledge that it has received full payment and satisfaction of the same, and in consideration thereof, does hereby reconvey, without warranty, to the person or persons legally entitled thereto, the estate, title and interest now held by it under said Deed of Trust.

Original Grantor: THE NEW CREEK WATER ASSOCIATION INCORPORATED,  
Original Grantee: FARMERS HOME ADMINISTRATION, UNITED STATES DEPARTMENT OF AGRICULTURE  
Dated: 07/13/1972 and Recorded 07/13/1972 as Instrument No. Book/Reel/Liber 173, Page/Folio 133, in the records of the County Clerk of MINERAL County, State of WEST VIRGINIA

IN WITNESS WHEREOF, the undersigned, by the officer duly authorized, has duly executed as a free act and deed the foregoing instrument.

State Street Bank and Trust Company  
On December 3, 2004 (DATE)

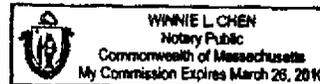
By: [Signature] James H. Byrnes  
Vice President

STATE OF Massachusetts  
COUNTY OF SUFFOLK

ON DEC 03 2004, before me, Winnie L. Chen, a Notary Public in and for SUFFOLK County, in the State of Massachusetts, personally appeared James H. Byrnes Vice President, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal,

[Signature]  
Notary Expires: 1/1  
Winnie L. Chen



(This area for notarial seal)

Prepared By:  
BAH-20041124-0004 WYMINER MINERAL WV BAT: 0861010585201 KRWVDCR1

It is remembered that on 12/20/2004 the Release was submitted in the Office of the Clerk of County and admitted to record.  
Carl C. Thomas  
Commissioner

**UCC FINANCING STATEMENT AMENDMENT**  
 FOLLOW INSTRUCTIONS (front and back) CAREFULLY

**A. NAME & PHONE OF CONTACT AT FILER (optional)**  
 Phone (800) 331-3282 Fax (818) 882-4141

**B. SEND ACKNOWLEDGEMENT TO: (Name and Mailing Address)** 512203 IGMAG0

UCC Direct Services 5961205.2  
 P.O. Box 20071 WWWV  
 Glendale, CA 91209-9071

TERMINATED  
 Dec 16 2004 02:06PM  
 WJ SECRETARY OF STATE

THE ABOVE SPACES IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE # 278080 03-03-89 SS WV

1b. This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS.

2.  **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interests of the Secured Party authorizing this Termination Statement.

3.  **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to the security interests of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  **ASSIGNMENT (full or partial):** Give name of assignee in item 7a or 7b and address of assignee in 7c; and also give name of assignor in item 9.

5. **AMENDMENT (PARTY INFORMATION):** This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.  
 Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

**CHANGE name and/or address:** Give current record name in item 6a or 6b; also give new name (if name change) in item 7a or 7b and/or new address (if address change) in item 7c.  **DELETE name:** Give record name to be deleted in item 6a or 6b.  **ADD name:** Complete item 7a or 7b, and also item 7c; also complete items 7d-7g (if applicable).

**6. CURRENT RECORD INFORMATION:**

6a. ORGANIZATION'S NAME  
 NEW CREEK WATER ASSOCIATION, INC.

OR  
 6b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

**7. CHANGED (NEW) OR ADDED INFORMATION:**

7a. ORGANIZATION'S NAME

OR  
 7b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

7d. **SEE INSTITUTION** ADDL. INFO RE ORGANIZATION DEBTOR 7e. TYPE OF ORGANIZATION 7f. JURISDICTION OF ORGANIZATION 7g. ORGANIZATIONAL ID #, if any  NONE

8. **AMENDMENT (COLLATERAL CHANGE):** check only one box.  
 Describe collateral:  deleted or  added, or give entire  reinstated collateral description, or describe collateral  assigned.

**9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment; if this is an Amendment authorized by a Debtor, check  with collateral or add the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.)

9a. ORGANIZATION'S NAME  
 Shawmut Bank, N.A. As 1987 Trustee On Behalf Of The Community Program Loan Trust

OR  
 9b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

10. OPTIONAL FILER REFERENCE DATA  
 5961205.2 Debtor Name: NEW CREEK WATER ASSOCIATION, INC. G 010595201 1201 k 310.00 12/16/2004 439662

Received Time Jan.10. 7:44PM

10

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 NEW CREEK WATER ASSOCIATION INCORPORATED (SERIES 2004 B)  
(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 project sponsors for the acquisition or construction of projects by such project sponsors, subject to such provisions and limitations as are contained in the Act;

WHEREAS, the Governmental Agency constitutes a project sponsor 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," "project sponsor," "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 10<sup>th</sup> of each month to the Authority and Council.

### 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, 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;

(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 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 NEW CREEK WATER ASSOCIATION  
INCORPORATED

(SEAL)

By: Virgil L. Schmiedler  
Its: President  
Date: 11-9-04

Attest:

Robert D. Helmick  
Its: Secretary

WEST VIRGINIA WATER  
DEVELOPMENT AUTHORITY

(SEAL)

By: Daniel B. Lyubash  
Its: Director  
Date: 11-18-04

Attest:

Barbara B. Meadows  
Its: Secretary-Treasurer

000832/00466  
11/04/04

EXHIBIT A

FORM OF CERTIFICATE OF CONSULTING ENGINEER

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

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

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

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

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

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

set forth in the Schedule B attached hereto as Exhibit A and my firm<sup>1</sup> has ascertained that all successful bidders have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the [DEP/BPH/PSC] and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all 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) as of the effective date thereof, <sup>2</sup>the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project set forth in the Schedule B attached hereto and approved by the Council; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Final Total Cost of Project, Sources of Funds and Costs of Financing" for the Project.

WITNESS my signature and seal on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

[SEAL]

\_\_\_\_\_  
By: \_\_\_\_\_  
West Virginia License No. \_\_\_\_\_

\_\_\_\_\_  
<sup>1</sup>If 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 \_\_\_\_\_, Esq.] and delete "my firm has ascertained that".

<sup>2</sup>If 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  
300 Summers Street, Suite 980  
Charleston, West Virginia 25301

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

Ladies and Gentlemen:

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

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

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

We have also examined the applicable provisions of \_\_\_\_\_ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond \_\_\_\_\_ duly adopted or enacted by the Governmental Agency on \_\_\_\_\_, as supplemented by the supplemental resolution duly adopted by the Governmental Agency on \_\_\_\_\_ (collectively, the "Local Act"), pursuant to

and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement has been undertaken. The Local Bonds are subject to redemption prior 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 10<sup>th</sup> 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 \$1,095,000  
Purchase Price of Local Bonds \$1,095,000

The Local Bonds shall bear no interest. Commencing September 1, 2006, principal of 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 submit its payments monthly to the Commission which 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 interest, if any, 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. A promissory note dated October 20, 1992, in the original principal amount of \$183,000, and sold to the United States Department of Agriculture.

2. Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company), dated November 18, 2004, issued in the original principal amount of \$81,682.

3. Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund), dated November 18, 2004, issued in the original principal amount of \$286,000.

SCHEDULE Y

**\$1,095,000**

The New Creek Water Association Incorporated  
 0% Interest Rate, 40 Years from Closing Date  
 Closing Date: November 18, 2004

**Debt Service Schedule**

Part 1 of 4

Date	Principal	Coupon	Total P+I
12/01/2004	-	-	-
03/01/2005	-	-	-
06/01/2005	-	-	-
09/01/2005	-	-	-
12/01/2005	-	-	-
03/01/2006	-	-	-
06/01/2006	-	-	-
09/01/2006	7,156.87	-	7,156.87
12/01/2006	7,156.87	-	7,156.87
03/01/2007	7,156.87	-	7,156.87
06/01/2007	7,156.87	-	7,156.87
09/01/2007	7,156.87	-	7,156.87
12/01/2007	7,156.87	-	7,156.87
03/01/2008	7,156.87	-	7,156.87
06/01/2008	7,156.87	-	7,156.87
09/01/2008	7,156.87	-	7,156.87
12/01/2008	7,156.87	-	7,156.87
03/01/2009	7,156.87	-	7,156.87
06/01/2009	7,156.87	-	7,156.87
09/01/2009	7,156.87	-	7,156.87
12/01/2009	7,156.87	-	7,156.87
03/01/2010	7,156.87	-	7,156.87
06/01/2010	7,156.87	-	7,156.87
09/01/2010	7,156.87	-	7,156.87
12/01/2010	7,156.87	-	7,156.87
03/01/2011	7,156.87	-	7,156.87
06/01/2011	7,156.87	-	7,156.87
09/01/2011	7,156.87	-	7,156.87
12/01/2011	7,156.87	-	7,156.87
03/01/2012	7,156.87	-	7,156.87
06/01/2012	7,156.87	-	7,156.87
09/01/2012	7,156.87	-	7,156.87
12/01/2012	7,156.87	-	7,156.87
03/01/2013	7,156.87	-	7,156.87
06/01/2013	7,156.87	-	7,156.87
09/01/2013	7,156.87	-	7,156.87
12/01/2013	7,156.87	-	7,156.87
03/01/2014	7,156.87	-	7,156.87
06/01/2014	7,156.87	-	7,156.87
09/01/2014	7,156.87	-	7,156.87
12/01/2014	7,156.87	-	7,156.87
03/01/2015	7,156.87	-	7,156.87
06/01/2015	7,156.87	-	7,156.87
09/01/2015	7,156.87	-	7,156.87

**\$1,095,000**

The New Creek Water Association Incorporated

0% Interest Rate, 40 Years from Closing Date

Closing Date: November 18, 2004

**Debt Service Schedule**

Part 2 of 4

Date	Principal	Coupon	Total P+I
12/01/2015	7,156.87	-	7,156.87
03/01/2016	7,156.87	-	7,156.87
06/01/2016	7,156.87	-	7,156.87
09/01/2016	7,156.87	-	7,156.87
12/01/2016	7,156.87	-	7,156.87
03/01/2017	7,156.86	-	7,156.86
06/01/2017	7,156.86	-	7,156.86
09/01/2017	7,156.86	-	7,156.86
12/01/2017	7,156.86	-	7,156.86
03/01/2018	7,156.86	-	7,156.86
06/01/2018	7,156.86	-	7,156.86
09/01/2018	7,156.86	-	7,156.86
12/01/2018	7,156.86	-	7,156.86
03/01/2019	7,156.86	-	7,156.86
06/01/2019	7,156.86	-	7,156.86
09/01/2019	7,156.86	-	7,156.86
12/01/2019	7,156.86	-	7,156.86
03/01/2020	7,156.86	-	7,156.86
06/01/2020	7,156.86	-	7,156.86
09/01/2020	7,156.86	-	7,156.86
12/01/2020	7,156.86	-	7,156.86
03/01/2021	7,156.86	-	7,156.86
06/01/2021	7,156.86	-	7,156.86
09/01/2021	7,156.86	-	7,156.86
12/01/2021	7,156.86	-	7,156.86
03/01/2022	7,156.86	-	7,156.86
06/01/2022	7,156.86	-	7,156.86
09/01/2022	7,156.86	-	7,156.86
12/01/2022	7,156.86	-	7,156.86
03/01/2023	7,156.86	-	7,156.86
06/01/2023	7,156.86	-	7,156.86
09/01/2023	7,156.86	-	7,156.86
12/01/2023	7,156.86	-	7,156.86
03/01/2024	7,156.86	-	7,156.86
06/01/2024	7,156.86	-	7,156.86
09/01/2024	7,156.86	-	7,156.86
12/01/2024	7,156.86	-	7,156.86
03/01/2025	7,156.86	-	7,156.86
06/01/2025	7,156.86	-	7,156.86
09/01/2025	7,156.86	-	7,156.86
12/01/2025	7,156.86	-	7,156.86
03/01/2026	7,156.86	-	7,156.86
06/01/2026	7,156.86	-	7,156.86
09/01/2026	7,156.86	-	7,156.86

**\$1,095,000**

The New Creek Water Association Incorporated  
0% Interest Rate, 40 Years from Closing Date  
Closing Date: November 18, 2004

**Debt Service Schedule**

Part 3 of 4

Date	Principal	Coupon	Total P+I
12/01/2026	7,156.86	-	7,156.86
03/01/2027	7,156.86	-	7,156.86
06/01/2027	7,156.86	-	7,156.86
09/01/2027	7,156.86	-	7,156.86
12/01/2027	7,156.86	-	7,156.86
03/01/2028	7,156.86	-	7,156.86
06/01/2028	7,156.86	-	7,156.86
09/01/2028	7,156.86	-	7,156.86
12/01/2028	7,156.86	-	7,156.86
03/01/2029	7,156.86	-	7,156.86
06/01/2029	7,156.86	-	7,156.86
09/01/2029	7,156.86	-	7,156.86
12/01/2029	7,156.86	-	7,156.86
03/01/2030	7,156.86	-	7,156.86
06/01/2030	7,156.86	-	7,156.86
09/01/2030	7,156.86	-	7,156.86
12/01/2030	7,156.86	-	7,156.86
03/01/2031	7,156.86	-	7,156.86
06/01/2031	7,156.86	-	7,156.86
09/01/2031	7,156.86	-	7,156.86
12/01/2031	7,156.86	-	7,156.86
03/01/2032	7,156.86	-	7,156.86
06/01/2032	7,156.86	-	7,156.86
09/01/2032	7,156.86	-	7,156.86
12/01/2032	7,156.86	-	7,156.86
03/01/2033	7,156.86	-	7,156.86
06/01/2033	7,156.86	-	7,156.86
09/01/2033	7,156.86	-	7,156.86
12/01/2033	7,156.86	-	7,156.86
03/01/2034	7,156.86	-	7,156.86
06/01/2034	7,156.86	-	7,156.86
09/01/2034	7,156.86	-	7,156.86
12/01/2034	7,156.86	-	7,156.86
03/01/2035	7,156.86	-	7,156.86
06/01/2035	7,156.86	-	7,156.86
09/01/2035	7,156.86	-	7,156.86
12/01/2035	7,156.86	-	7,156.86
03/01/2036	7,156.86	-	7,156.86
06/01/2036	7,156.86	-	7,156.86
09/01/2036	7,156.86	-	7,156.86
12/01/2036	7,156.86	-	7,156.86
03/01/2037	7,156.86	-	7,156.86
06/01/2037	7,156.86	-	7,156.86
09/01/2037	7,156.86	-	7,156.86

IF 1 10-22-04 | SINGLE PURPOSE | 10/22/2004 | 1:55 PM

Ferris, Baker Watts, Inc.  
West Virginia Public Finance Office

**\$1,095,000**

The New Creek Water Association Incorporated  
0% Interest Rate, 40 Years from Closing Date  
Closing Date: November 18, 2004

**Debt Service Schedule**

Part 4 of 4

Date	Principal	Coupon	Total P+I
12/01/2037	7,156.86	-	7,156.86
03/01/2038	7,156.86	-	7,156.86
06/01/2038	7,156.86	-	7,156.86
09/01/2038	7,156.86	-	7,156.86
12/01/2038	7,156.86	-	7,156.86
03/01/2039	7,156.86	-	7,156.86
06/01/2039	7,156.86	-	7,156.86
09/01/2039	7,156.86	-	7,156.86
12/01/2039	7,156.86	-	7,156.86
03/01/2040	7,156.86	-	7,156.86
06/01/2040	7,156.86	-	7,156.86
09/01/2040	7,156.86	-	7,156.86
12/01/2040	7,156.86	-	7,156.86
03/01/2041	7,156.86	-	7,156.86
06/01/2041	7,156.86	-	7,156.86
09/01/2041	7,156.86	-	7,156.86
12/01/2041	7,156.86	-	7,156.86
03/01/2042	7,156.86	-	7,156.86
06/01/2042	7,156.86	-	7,156.86
09/01/2042	7,156.86	-	7,156.86
12/01/2042	7,156.86	-	7,156.86
03/01/2043	7,156.86	-	7,156.86
06/01/2043	7,156.86	-	7,156.86
09/01/2043	7,156.86	-	7,156.86
12/01/2043	7,156.86	-	7,156.86
03/01/2044	7,156.86	-	7,156.86
06/01/2044	7,156.86	-	7,156.86
09/01/2044	7,156.86	-	7,156.86
<b>Total</b>	<b>\$1,095,000.00</b>	<b>-</b>	<b>\$1,095,000.00</b>

**Yield Statistics**

Bond Year Dollars	\$22,760.79
Average Life	20.786 Years
Average Coupon	-
Net Interest Cost (NIC)	-
True Interest Cost (TIC)	8.48E-11
Bond Yield for Arbitrage Purposes	8.48E-11
All Inclusive Cost (AIC)	8.48E-11

**IRS Form 8038**

Net Interest Cost	-
Weighted Average Maturity	20.786 Years

SCHEDULE Z

None.



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 NEW CREEK WATER ASSOCIATION INCORPORATED (SERIES 2004 C)  
(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 project sponsors for the acquisition or construction of projects by such project sponsors, subject to such provisions and limitations as are contained in the Act;

WHEREAS, the Governmental Agency constitutes a project sponsor 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," "project sponsor," "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 10<sup>th</sup> of each month to the Authority and Council.

## 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, 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;

(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 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 NEW CREEK WATER ASSOCIATION  
INCORPORATED

(SEAL)

By: Virgil L. Schmieden  
Its: President  
Date: 11-9-04

Attest:

Robert W. Hubert  
Its: Secretary

WEST VIRGINIA WATER  
DEVELOPMENT AUTHORITY

(SEAL)

By: Daniel B. Lyuboshif  
Its: Director  
Date: 11-18-04

Attest:

Barbara B. Meadows

Its: Secretary-Treasurer

000832/00466

11/04/04

EXHIBIT A

FORM OF CERTIFICATE OF CONSULTING ENGINEER

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

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

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

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

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

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

set forth in the Schedule B attached hereto as Exhibit A and my firm<sup>1</sup> has ascertained that all successful bidders have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the [DEP/BPH/PSC] and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all 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) as of the effective date thereof, <sup>2</sup> the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project set forth in the Schedule B attached hereto and approved by the Council; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Final Total Cost of Project, Sources of Funds and Costs of Financing" for the Project.

WITNESS my signature and seal on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

[SEAL]

\_\_\_\_\_  
By: \_\_\_\_\_  
West Virginia License No. \_\_\_\_\_

\_\_\_\_\_  
<sup>1</sup>If 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 \_\_\_\_\_, Esq.] and delete "my firm has ascertained that".

<sup>2</sup>If 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  
300 Summers Street, Suite 980  
Charleston, West Virginia 25301

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

Ladies and Gentlemen:

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

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

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

We have also examined the applicable provisions of \_\_\_\_\_ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond \_\_\_\_\_ duly adopted or enacted by the Governmental Agency on \_\_\_\_\_, as supplemented by the supplemental resolution duly adopted by the

Governmental Agency on \_\_\_\_\_ (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement has been undertaken. The Local Bonds are subject to redemption prior 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 10<sup>th</sup> 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 \$286,000  
Purchase Price of Local Bonds \$286,000

The Local Bonds shall bear no interest from the date of delivery to and including June 1, 2006. Commencing June 1, 2006, interest on the Local Bonds will accrue at the rate of 3% per annum. Commencing September 1, 2006, principal of and interest on the Local Bonds are 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 submit its payments monthly to the Commission which 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 interest, if any, 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. A promissory note dated October 20, 1992, in the original principal amount of \$183,000, and sold to the United States Department of Agriculture.
2. Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company), dated November 18, 2004, issued in the original principal amount of \$81,682.
3. Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), dated November 18, 2004, issued in the original principal amount of \$1,095,000.

## SCHEDULE Y

**\$286,000**

The New Creek Water Association Incorporated

3% Interest Rate, 20 Years

Closing Date: November 18, 2004

**Debt Service Schedule**

Part 1 of 3

Date	Principal	Coupon	Interest	Total P+I
12/01/2004	-	-	-	-
03/01/2005	-	-	-	-
06/01/2005	-	-	-	-
09/01/2005	-	-	-	-
12/01/2005	-	-	-	-
03/01/2006	-	-	-	-
06/01/2006	-	-	-	-
09/01/2006	2,622.11	3.000%	2,145.00	4,767.11
12/01/2006	2,641.77	3.000%	2,125.33	4,767.10
03/01/2007	2,661.59	3.000%	2,105.52	4,767.11
06/01/2007	2,681.55	3.000%	2,085.56	4,767.11
09/01/2007	2,701.66	3.000%	2,065.45	4,767.11
12/01/2007	2,721.92	3.000%	2,045.18	4,767.10
03/01/2008	2,742.34	3.000%	2,024.77	4,767.11
06/01/2008	2,762.90	3.000%	2,004.20	4,767.10
09/01/2008	2,783.63	3.000%	1,983.48	4,767.11
12/01/2008	2,804.50	3.000%	1,962.60	4,767.10
03/01/2009	2,825.54	3.000%	1,941.57	4,767.11
06/01/2009	2,846.73	3.000%	1,920.38	4,767.11
09/01/2009	2,868.08	3.000%	1,899.03	4,767.11
12/01/2009	2,889.59	3.000%	1,877.52	4,767.11
03/01/2010	2,911.26	3.000%	1,855.85	4,767.11
06/01/2010	2,933.10	3.000%	1,834.01	4,767.11
09/01/2010	2,955.10	3.000%	1,812.01	4,767.11
12/01/2010	2,977.26	3.000%	1,789.85	4,767.11
03/01/2011	2,999.59	3.000%	1,767.52	4,767.11
06/01/2011	3,022.08	3.000%	1,745.02	4,767.10
09/01/2011	3,044.75	3.000%	1,722.36	4,767.11
12/01/2011	3,067.59	3.000%	1,699.52	4,767.11
03/01/2012	3,090.59	3.000%	1,676.52	4,767.11
06/01/2012	3,113.77	3.000%	1,653.34	4,767.11
09/01/2012	3,137.13	3.000%	1,629.98	4,767.11
12/01/2012	3,160.65	3.000%	1,606.45	4,767.10
03/01/2013	3,184.36	3.000%	1,582.75	4,767.11
06/01/2013	3,208.24	3.000%	1,558.87	4,767.11
09/01/2013	3,232.30	3.000%	1,534.80	4,767.10
12/01/2013	3,256.55	3.000%	1,510.56	4,767.11
03/01/2014	3,280.97	3.000%	1,486.14	4,767.11
06/01/2014	3,305.58	3.000%	1,461.53	4,767.11
09/01/2014	3,330.37	3.000%	1,436.74	4,767.11
12/01/2014	3,355.35	3.000%	1,411.76	4,767.11
03/01/2015	3,380.51	3.000%	1,386.60	4,767.11
06/01/2015	3,405.87	3.000%	1,361.24	4,767.11
09/01/2015	3,431.41	3.000%	1,335.70	4,767.11

IF 2 10-22-04 | SINGLE PURPOSE | 10/22/2004 | 1:58 PM

**Ferris, Baker Watts, Inc.**  
West Virginia Public Finance Office

**\$286,000**

The New Creek Water Association Incorporated

3% Interest Rate, 20 Years

Closing Date: November 18, 2004

**Debt Service Schedule**

Part 2 of 3

Date	Principal	Coupon	Interest	Total P+I
12/01/2015	3,457.15	3.000%	1,309.96	4,767.11
03/01/2016	3,483.07	3.000%	1,284.03	4,767.10
06/01/2016	3,509.20	3.000%	1,257.91	4,767.11
09/01/2016	3,535.52	3.000%	1,231.59	4,767.11
12/01/2016	3,562.03	3.000%	1,205.08	4,767.11
03/01/2017	3,588.75	3.000%	1,178.36	4,767.11
06/01/2017	3,615.66	3.000%	1,151.44	4,767.10
09/01/2017	3,642.78	3.000%	1,124.33	4,767.11
12/01/2017	3,670.10	3.000%	1,097.01	4,767.11
03/01/2018	3,697.63	3.000%	1,069.48	4,767.11
06/01/2018	3,725.36	3.000%	1,041.75	4,767.11
09/01/2018	3,753.30	3.000%	1,013.81	4,767.11
12/01/2018	3,781.45	3.000%	985.66	4,767.11
03/01/2019	3,809.81	3.000%	957.30	4,767.11
06/01/2019	3,838.38	3.000%	928.72	4,767.10
09/01/2019	3,867.17	3.000%	899.94	4,767.11
12/01/2019	3,896.18	3.000%	870.93	4,767.11
03/01/2020	3,925.40	3.000%	841.71	4,767.11
06/01/2020	3,954.84	3.000%	812.27	4,767.11
09/01/2020	3,984.50	3.000%	782.61	4,767.11
12/01/2020	4,014.38	3.000%	752.73	4,767.11
03/01/2021	4,044.49	3.000%	722.62	4,767.11
06/01/2021	4,074.82	3.000%	692.28	4,767.10
09/01/2021	4,105.38	3.000%	661.72	4,767.10
12/01/2021	4,136.18	3.000%	630.93	4,767.11
03/01/2022	4,167.20	3.000%	599.91	4,767.11
06/01/2022	4,198.45	3.000%	568.66	4,767.11
09/01/2022	4,229.94	3.000%	537.17	4,767.11
12/01/2022	4,261.66	3.000%	505.44	4,767.10
03/01/2023	4,293.63	3.000%	473.48	4,767.11
06/01/2023	4,325.83	3.000%	441.28	4,767.11
09/01/2023	4,358.27	3.000%	408.84	4,767.11
12/01/2023	4,390.96	3.000%	376.15	4,767.11
03/01/2024	4,423.89	3.000%	343.22	4,767.11
06/01/2024	4,457.07	3.000%	310.04	4,767.11
09/01/2024	4,490.50	3.000%	276.61	4,767.11
12/01/2024	4,524.18	3.000%	242.93	4,767.11
03/01/2025	4,558.11	3.000%	209.00	4,767.11
06/01/2025	4,592.29	3.000%	174.81	4,767.10
09/01/2025	4,626.74	3.000%	140.37	4,767.11
12/01/2025	4,661.44	3.000%	105.67	4,767.11
03/01/2026	4,696.40	3.000%	70.71	4,767.11
06/01/2026	4,731.62	3.000%	35.49	4,767.11
<b>Total</b>	<b>\$286,000.00</b>	<b>-</b>	<b>\$95,368.66</b>	<b>\$381,368.66</b>

**\$286,000**

The New Creek Water Association Incorporated

3% Interest Rate, 20 Years

Closing Date: November 18, 2004

## Debt Service Schedule

Part 3 of 3

### Yield Statistics

Accrued Interest from 11/18/2004 to 11/18/2004	(13,179.83)
Bond Year Dollars	\$3,618.28
Average Life	12.651 Years
Average Coupon	2.6357431%
Net Interest Cost (NIC)	2.6357431%
True Interest Cost (TIC)	3.0233097%
Bond Yield for Arbitrage Purposes	3.0233097%
All Inclusive Cost (AIC)	3.0233097%

### IRS Form 8038

Net Interest Cost	2.9999995%
Weighted Average Maturity	12.651 Years

SCHEDULE Z

None.



GRANT AGREEMENT

This Grant Agreement entered into by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority"), on behalf of the WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL (the "Council") and THE NEW CREEK WATER ASSOCIATION INCORPORATED (the "Governmental Agency").

RECITALS

WHEREAS, the Council has authorized the Authority to make a grant to the Governmental Agency in the amount not to exceed \$1,095,000 (the "Grant") for the purposes of the design, acquisition or construction of a project for which a preliminary application has been submitted and approved by the Council;

WHEREAS, the Governmental Agency wishes to accept the Grant upon such terms and conditions as are hereinafter set forth for the purposes of designing, acquiring or constructing the project described in Exhibit A attached hereto and incorporated herein by reference (the "Project");

WHEREAS, this Grant Agreement sets forth the Council, the Authority and the Governmental Agency's understandings and agreements with regard to the Grant.

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

TERMS

1. Prior to the distribution of the Grant, the Governmental Agency shall provide the Authority with a Project budget and an anticipated monthly draw schedule reflecting the receipt dates and amounts from other funding sources.
2. The Authority shall advance the Council's share of the Project costs from the Grant from time to time upon receipt of a requisition evidencing the costs incurred,

which requisition must be satisfactory to the Authority.

3. The monthly requisition will also set forth (i) the amounts requested for that requisition period from all other funding agencies, and (ii) the amounts advanced for the Project to date from all other funding agencies.

4. The Governmental Agency will use the proceeds of the Grant only for the purposes specifically set forth in Exhibit A.

5. The Governmental Agency shall comply with and is bound by the Council's rules set forth as Title 167, Series 1 and more particularly Section 5.9 with respect to the sale of the Project.

6. The Governmental Agency acknowledges that the Grant may be reduced, from time to time, to reflect actual Project costs and availability of other funding.

7. The Governmental Agency shall list the Grant provided by the Authority and the Council in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any groundbreaking or dedication of the Project.

8. This Grant Agreement shall be governed by the laws of the State of West Virginia.

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

THE NEW CREEK WATER ASSOCIATION INCORPORATED

By: Virgil L. Schmullen  
Its: President  
Date: 11-9-04

(SEAL)

Attest:

Robert D. H. Smith  
Its: Secretary

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: Daniel B. G. G. G.  
Its: Director  
Date: 11-18-04

(SEAL)

Attest:

Barbara B. Meadows  
Its: Secretary-Treasurer

000832/00466  
10/07/04

## Exhibit A

### Project Description

The Project consists of the construction of a water line extension and the installation of fire hydrants along U.S., Route 50 and Pine Swamp Road, including approximately 46,000 feet of water lines; 50 valves; 45 fire hydrants; 100 meter assemblies; installation of 33 hydrants on existing lines; a 107,500-gallon water tank; a 72,500-gallon water tank; a new 90-gpm pump station; and the modification of the existing pump station; together with all appurtenant facilities.

# West Virginia Infrastructure & Jobs Development Council

Public Members:

Mark Prince, Chairman  
Hurricane  
Dwight Calhoun, Vice Chairman  
Petersburg  
C. R. "Rennie" Hill, III  
Beckley  
Tim Stranko  
Morgantown

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

Katy Mallory, PE  
Executive Secretary

Katy.Mallory@verizon.net

October 6, 2004

Virgil Schmidlen, President  
New Creek Water Association  
General Delivery  
New Creek, West Virginia 26743

Re: Revised Binding Commitment Letter  
New Creek Water Association  
Water Extension Project 2000W-526

Dear Mr. Schmidlen:

The West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") has reviewed the New Creek Water Association's (the "Association") request for revision to the Infrastructure Council's binding commitment offer of October 22, 2003 to the Association for financing the extension to serve an additional 120 customers. At its October 6, 2004 meeting, the Infrastructure Council voted to revise the binding commitment with an additional Infrastructure Fund loan of \$286,000 as shown on the attached proposed Schedule A. The total project cost is \$2,476,000.

If the Association has any questions regarding this commitment, please contact Katy Mallory at 304-558-4607.

Sincerely,



Mark Prince

MP/km

Attachments

cc: Samme Gee, Esquire, Jackson Kelly  
John Stump, Esquire, Steptoe & Johnson  
David Vanscoy, Rummel, Klepper & Kahl  
Mike Bland, Mineral County

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

New Creek Water Association

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

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

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

WEST VIRGINIA INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL

New Creek Water Association  
Water Extension Project  
Project 2000W-526  
October 6, 2004

SCHEDULE A

- A. Approximate Amount:       \$ 1,095,000   Loan  
                                      \$ 286,000    Loan  
                                      \$ 1,095,000   Grant
- B. Loan:                               \$ 1,095,000
1. Maturity Date:                   40 years from date of closing.
  2. Interest Rate:                   0%.
  3. Loan Advancement Date(s)       Monthly, upon receipt of proper requisition.
  4. Debt Service Commencement:     The first quarter following completion of construction, which date must be identified prior to closing.
  5. Special Conditions:             None.
- C. Loan:                               \$ 286,000
1. Maturity Date:                   20 years
  2. Interest Rate:                   3%
  3. Loan Advancement Date(s)       Monthly, upon receipt of proper requisition.
  4. Debt Service Commencement:     The first quarter following completion of construction, which date must be identified prior to closing.
  5. Special Conditions:             None.
- D. Grant:                              \$ 1,095,000
1. Grant Advancement Date(s):     Monthly, upon receipt of proper requisition and after complete advancement of all Loan funding.
  2. Special Conditions:             None

NOTICE:       The terms set forth above are subject to change following the receipt of construction bids.

C. Total Project Cost:               \$ 2,476,000

THE NEW CREEK WATER ASSOCIATION INCORPORATED  
Water Revenue Bonds, Series 2004 B  
(West Virginia Infrastructure Fund)  
and  
Water Revenue Bonds, Series 2004 C  
(West Virginia Infrastructure Fund)

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

On this 18th day of November, 2004, the undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, and the undersigned President of The New Creek Water Association Incorporated, a West Virginia nonprofit corporation (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the date hereof, the Authority received (i) the Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund) of the Issuer, in the principal amount of \$1,095,000, numbered BR-1 (the "Series 2004 B Bonds"), issued as a single, fully registered Bond, and dated November 18, 2004; and (ii) the Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund) of the Issuer, in the principal amount of \$286,000, numbered CR-1 (the "Series 2004 C Bonds" and together with the Series 2004 B Bonds, collectively referred to herein as the "Bonds"), issued as a single, fully registered Bond, and dated November 18, 2004.

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

3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Bonds, of the sum of \$188,672, being a portion of the principal amount of the Series 2004 C Bonds. The entire principal amount of the Series 2004 B Bonds and the balance of the principal amount of the Series 2004 C Bonds will be advanced by the Authority and the West Virginia Infrastructure and Jobs Development Council to the Issuer as acquisition and construction of the Project progresses.

Dated as of the day and year first written above.

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

By: Barbara B. Meadows  
Its: Authorized Representative

THE NEW CREEK WATER ASSOCIATION INCORPORATED

By: Virgil L. Schmullen  
Its: President

11/05/04  
658370.00001

THE NEW CREEK WATER ASSOCIATION INCORPORATED  
Water Revenue Bonds, Series 2004 B  
(West Virginia Infrastructure Fund)  
and  
Water Revenue Bonds, Series 2004 C  
(West Virginia Infrastructure Fund)

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

The Huntington National Bank  
as Bond Registrar  
Charleston, West Virginia

Ladies and Gentlemen:

On this 18th day of November, 2004, there are delivered to you herewith as Registrar for the above-captioned Bonds:

1. Bond No. BR-1, constituting the entire original issue of The New Creek Water Association Incorporated Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), in the principal amount of \$1,095,000 (the "Series 2004 B Bonds"), dated November 18, 2004, and Bond No. CR-1, constituting the entire original issue of The New Creek Water Association Incorporated Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund), in the principal amount of \$286,000 (the "Series 2004 C Bonds" and together with the Series 2004 B Bonds, collectively referred to herein as the "Bonds"), dated November 18, 2004, executed by the President and Secretary of The New Creek Water Association Incorporated, a West Virginia nonprofit corporation (the "Issuer") and bearing the official seal of the Issuer, authorized to be issued under and pursuant to a Bond and Note Resolution duly adopted by the Issuer on November 9, 2004, and a Supplemental Resolution duly adopted by the Issuer on November 9, 2004 (collectively, the "Bond Legislation");

2. A copy of the Bond Legislation authorizing the above-captioned Bonds, duly certified by the Secretary of the Issuer;

3. Executed counterparts of loan agreements for the Bonds, both dated November 18, 2004, 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") (collectively, the "Loan Agreements"); and

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

You are hereby requested and authorized to deliver the Bonds to the Authority upon payment to the Issuer of the sum of \$188,672, being a portion of the principal amount of the Series 2004 C Bonds. Prior to such delivery of the Bonds, you will please cause the Bonds to be authenticated and registered by an authorized officer, as Bond Registrar, in accordance with the forms of Certificate of Authentication and Registration thereon.

[Remainder of Page Intentionally Left Blank]

Dated as of the day and year first written above.

THE NEW CREEK WATER ASSOCIATION  
INCORPORATED

By: *Angie L. Schneider*  
Its: President

11/05/04  
658370.00001

# SPECIMEN

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE NEW CREEK WATER ASSOCIATION INCORPORATED  
WATER REVENUE BOND, SERIES 2004 B  
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. BR-1

\$1,095,000

KNOW ALL MEN BY THESE PRESENTS: That THE NEW CREEK WATER ASSOCIATION INCORPORATED, a West Virginia non-stock, nonprofit corporation in Mineral County, West Virginia (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 ONE MILLION NINETY FIVE THOUSAND DOLLARS (\$1,095,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2006, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Council, dated November 18, 2004.

This Bond is issued (i) to pay the costs of acquisition and construction of certain improvements and extensions to the existing waterworks facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing waterworks facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 31E, Article 1 et seq. of the West Virginia

Code of 1931, as amended (the "Act"), a Bond Resolution duly adopted by the Issuer on November 9, 2004, and a Supplemental Resolution duly adopted by the Issuer on November 9, 2004 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Resolution.

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) PROMISSORY NOTE, DATED OCTOBER 20, 1992 (THE "PRIOR BONDS"); (2) WATER REFUNDING REVENUE NOTES, SERIES 2004 A (BRANCH BANKING AND TRUST COMPANY) (THE "SERIES 2004 A NOTES"); AND (3) WATER REVENUE BONDS, SERIES 2004 C (WEST VIRGINIA INFRASTRUCTURE FUND) (THE "SERIES 2004 C BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Resolution) to be derived from the operation of the System and accounts receivable of the Issuer, and a lien on the System, on a parity with the pledge of Gross Revenues in favor of the holders of the Series 2004 A Notes, the Series 2003 C Bonds and the Prior Bonds, and from monies in the reserve account created under the Resolution for the Bonds (the "Series 2004 B Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest, if any, 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. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Series 2004 A Notes, the Series 2004 C Bonds and the Prior Bonds; provided however, that so long as there exists in the Series 2004 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Series 2004 A Notes, the Series 2004 C Bonds and the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Resolution. Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, 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 Resolution, only upon the books of The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the 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 Resolution, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Resolution, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

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 wet lands 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 Gross Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Resolution, 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 NEW CREEK WATER ASSOCIATION  
INCORPORATED has caused this Bond to be signed by its President and its corporate seal  
to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated  
November 18, 2004.

[SEAL]

ATTEST:

*Vergil L. Schmullen*  
\_\_\_\_\_  
President

*Robert D. Helms*  
\_\_\_\_\_  
Secretary

**SPECIMEN**

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Series 2004 B Bond described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: November 18, 2004.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

**SPECIMEN**

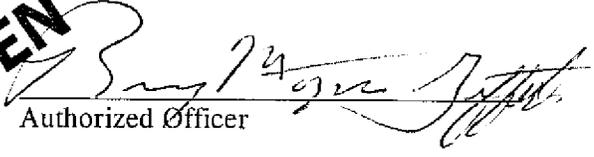
  
Authorized Officer



EXHIBIT B

**\$1,095,000**

The New Creek Water Association Incorporated (West Virginia)

0% Interest Rate, 40 Years from Closing Date

Closing Date: November 18, 2004

**Debt Service Schedule**

Part 1 of 4

Date	Principal	Coupon	Total P+I
12/01/2004	-	-	-
03/01/2005	-	-	-
06/01/2005	-	-	-
09/01/2005	-	-	-
12/01/2005	-	-	-
03/01/2006	-	-	-
06/01/2006	-	-	-
09/01/2006	7,156.87	-	7,156.87
12/01/2006	7,156.87	-	7,156.87
03/01/2007	7,156.87	-	7,156.87
06/01/2007	7,156.87	-	7,156.87
09/01/2007	7,156.87	-	7,156.87
12/01/2007	7,156.87	-	7,156.87
03/01/2008	7,156.87	-	7,156.87
06/01/2008	7,156.87	-	7,156.87
09/01/2008	7,156.87	-	7,156.87
12/01/2008	7,156.87	-	7,156.87
03/01/2009	7,156.87	-	7,156.87
06/01/2009	7,156.87	-	7,156.87
09/01/2009	7,156.87	-	7,156.87
12/01/2009	7,156.87	-	7,156.87
03/01/2010	7,156.87	-	7,156.87
06/01/2010	7,156.87	-	7,156.87
09/01/2010	7,156.87	-	7,156.87
12/01/2010	7,156.87	-	7,156.87
03/01/2011	7,156.87	-	7,156.87
06/01/2011	7,156.87	-	7,156.87
09/01/2011	7,156.87	-	7,156.87
12/01/2011	7,156.87	-	7,156.87
03/01/2012	7,156.87	-	7,156.87
06/01/2012	7,156.87	-	7,156.87
09/01/2012	7,156.87	-	7,156.87
12/01/2012	7,156.87	-	7,156.87
03/01/2013	7,156.87	-	7,156.87
06/01/2013	7,156.87	-	7,156.87
09/01/2013	7,156.87	-	7,156.87
12/01/2013	7,156.87	-	7,156.87
03/01/2014	7,156.87	-	7,156.87
06/01/2014	7,156.87	-	7,156.87
09/01/2014	7,156.87	-	7,156.87
12/01/2014	7,156.87	-	7,156.87
03/01/2015	7,156.87	-	7,156.87
06/01/2015	7,156.87	-	7,156.87
09/01/2015	7,156.87	-	7,156.87



# Debt Service Schedule

Part 3 of 4

Date	Principal	Coupon	Total P+I
12/01/2026	7,156.86	-	7,156.86
03/01/2027	7,156.86	-	7,156.86
06/01/2027	7,156.86	-	7,156.86
09/01/2027	7,156.86	-	7,156.86
12/01/2027	7,156.86	-	7,156.86
03/01/2028	7,156.86	-	7,156.86
06/01/2028	7,156.86	-	7,156.86
09/01/2028	7,156.86	-	7,156.86
12/01/2028	7,156.86	-	7,156.86
03/01/2029	7,156.86	-	7,156.86
06/01/2029	7,156.86	-	7,156.86
09/01/2029	7,156.86	-	7,156.86
12/01/2029	7,156.86	-	7,156.86
03/01/2030	7,156.86	-	7,156.86
06/01/2030	7,156.86	-	7,156.86
09/01/2030	7,156.86	-	7,156.86
12/01/2030	7,156.86	-	7,156.86
03/01/2031	7,156.86	-	7,156.86
06/01/2031	7,156.86	-	7,156.86
09/01/2031	7,156.86	-	7,156.86
12/01/2031	7,156.86	-	7,156.86
03/01/2032	7,156.86	-	7,156.86
06/01/2032	7,156.86	-	7,156.86
09/01/2032	7,156.86	-	7,156.86
12/01/2032	7,156.86	-	7,156.86
03/01/2033	7,156.86	-	7,156.86
06/01/2033	7,156.86	-	7,156.86
09/01/2033	7,156.86	-	7,156.86
12/01/2033	7,156.86	-	7,156.86
03/01/2034	7,156.86	-	7,156.86
06/01/2034	7,156.86	-	7,156.86
09/01/2034	7,156.86	-	7,156.86
12/01/2034	7,156.86	-	7,156.86
03/01/2035	7,156.86	-	7,156.86
06/01/2035	7,156.86	-	7,156.86
09/01/2035	7,156.86	-	7,156.86
12/01/2035	7,156.86	-	7,156.86
03/01/2036	7,156.86	-	7,156.86
06/01/2036	7,156.86	-	7,156.86
09/01/2036	7,156.86	-	7,156.86
12/01/2036	7,156.86	-	7,156.86
03/01/2037	7,156.86	-	7,156.86
06/01/2037	7,156.86	-	7,156.86
09/01/2037	7,156.86	-	7,156.86

# Debt Service Schedule

Part 4 of 4

Date	Principal	Coupon	Total P+I
12/01/2037	7,156.86	-	7,156.86
03/01/2038	7,156.86	-	7,156.86
06/01/2038	7,156.86	-	7,156.86
09/01/2038	7,156.86	-	7,156.86
12/01/2038	7,156.86	-	7,156.86
03/01/2039	7,156.86	-	7,156.86
06/01/2039	7,156.86	-	7,156.86
09/01/2039	7,156.86	-	7,156.86
12/01/2039	7,156.86	-	7,156.86
03/01/2040	7,156.86	-	7,156.86
06/01/2040	7,156.86	-	7,156.86
09/01/2040	7,156.86	-	7,156.86
12/01/2040	7,156.86	-	7,156.86
03/01/2041	7,156.86	-	7,156.86
06/01/2041	7,156.86	-	7,156.86
09/01/2041	7,156.86	-	7,156.86
12/01/2041	7,156.86	-	7,156.86
03/01/2042	7,156.86	-	7,156.86
06/01/2042	7,156.86	-	7,156.86
09/01/2042	7,156.86	-	7,156.86
12/01/2042	7,156.86	-	7,156.86
03/01/2043	7,156.86	-	7,156.86
06/01/2043	7,156.86	-	7,156.86
09/01/2043	7,156.86	-	7,156.86
12/01/2043	7,156.86	-	7,156.86
03/01/2044	7,156.86	-	7,156.86
06/01/2044	7,156.86	-	7,156.86
09/01/2044	7,156.86	-	7,156.86
<b>Total</b>	<b>\$1,095,000.00</b>	<b>-</b>	<b>\$1,095,000.00</b>

ASSIGNMENT

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

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

**SPECIMEN**

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

11/05/04  
658370.00001

# SPECIMEN

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE NEW CREEK WATER ASSOCIATION INCORPORATED  
WATER REVENUE BOND, SERIES 2004 C  
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. CR-1

\$286,000

KNOW ALL MEN BY THESE PRESENTS: That THE NEW CREEK WATER ASSOCIATION INCORPORATED, a West Virginia non-stock, nonprofit corporation in Mineral County, West Virginia (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (THE "AUTHORITY") or registered assigns the sum of TWO HUNDRED EIGHTY SIX THOUSAND DOLLARS (\$286,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2006, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference, with interest on each installment at the rate per annum set forth on said EXHIBIT B. The interest shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2006, as set forth on said EXHIBIT B attached hereto.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and 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 November 18, 2004.

This Bond is issued (i) to pay the costs of acquisition and construction of certain improvements and extensions to the existing waterworks facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing waterworks facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 31E, Article 1 et seq. of the West Virginia Code of 1931, as amended (the "Act"), a Bond Resolution duly adopted by the Issuer on November 9, 2004, and a Supplemental Resolution duly adopted by the Issuer on November 9, 2004 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Resolution.

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) PROMISSORY NOTE, DATED OCTOBER 20, 1992 (THE "PRIOR BONDS"); (2) WATER REFUNDING REVENUE NOTES, SERIES 2004 A (BRANCH BANKING AND TRUST COMPANY) (THE "SERIES 2004 A NOTES"); AND (3) WATER REVENUE BONDS, SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND) (THE "SERIES 2004 B BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Resolution) to be derived from the operation of the System and accounts receivable of the Issuer, and a lien on the System, on a parity with the pledge of Gross Revenues in favor of the holders of the Series 2004 A Notes, the Series 2004 B Bonds and the Prior Bonds, and from monies in the reserve account created under the Resolution for the Bonds (the "Series 2004 C Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest, if any, 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. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Series 2004 A Notes, the Series 2004 B Bonds and the Prior Bonds; provided however, that so long as there exists in the Series 2004 C Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds,

including the Series 2004 A Notes, the Series 2004 B Bonds and the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Resolution. Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, 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 Resolution, only upon the books of The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the 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 Resolution, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Resolution, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

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 wet lands 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 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 Resolution, 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 NEW CREEK WATER ASSOCIATION  
INCORPORATED has caused this Bond to be signed by its President and its corporate seal  
to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated  
November 18, 2004.

[SEAL]

ATTEST:

*Robert D. Heubach*  
Secretary

**SPECIMEN**

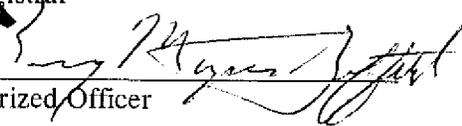
*Regil L. Schmitter*  
President

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Series 2004 C Bond described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: November 18, 2004.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

  
Authorized Officer

**SPECIMEN**

EXHIBIT A  
RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	\$ 188,672	11/18/04	(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

**\$286,000**

The New Creek Water Association Incorporated (West Virginia)

3% Interest Rate, 20 Years

Closing Date: November 18, 2004

**Debt Service Schedule**

Part 1 of 2

Date	Principal	Coupon	Interest	Total P+I
12/01/2004	-	-	-	-
03/01/2005	-	-	-	-
06/01/2005	-	-	-	-
09/01/2005	-	-	-	-
12/01/2005	-	-	-	-
03/01/2006	-	-	-	-
06/01/2006	-	-	-	-
09/01/2006	2,622.11	3.000%	2,145.00	4,767.11
12/01/2006	2,641.77	3.000%	2,125.33	4,767.10
03/01/2007	2,661.59	3.000%	2,105.52	4,767.11
06/01/2007	2,681.55	3.000%	2,085.56	4,767.11
09/01/2007	2,701.66	3.000%	2,065.45	4,767.11
12/01/2007	2,721.92	3.000%	2,045.18	4,767.10
03/01/2008	2,742.34	3.000%	2,024.77	4,767.11
06/01/2008	2,762.90	3.000%	2,004.20	4,767.10
09/01/2008	2,783.63	3.000%	1,983.48	4,767.11
12/01/2008	2,804.50	3.000%	1,962.60	4,767.10
03/01/2009	2,825.54	3.000%	1,941.57	4,767.11
06/01/2009	2,846.73	3.000%	1,920.38	4,767.11
09/01/2009	2,868.08	3.000%	1,899.03	4,767.11
12/01/2009	2,889.59	3.000%	1,877.52	4,767.11
03/01/2010	2,911.26	3.000%	1,855.85	4,767.11
06/01/2010	2,933.10	3.000%	1,834.01	4,767.11
09/01/2010	2,955.10	3.000%	1,812.01	4,767.11
12/01/2010	2,977.26	3.000%	1,789.85	4,767.11
03/01/2011	2,999.59	3.000%	1,767.52	4,767.11
06/01/2011	3,022.08	3.000%	1,745.02	4,767.10
09/01/2011	3,044.75	3.000%	1,722.36	4,767.11
12/01/2011	3,067.59	3.000%	1,699.52	4,767.11
03/01/2012	3,090.59	3.000%	1,676.52	4,767.11
06/01/2012	3,113.77	3.000%	1,653.34	4,767.11
09/01/2012	3,137.13	3.000%	1,629.98	4,767.11
12/01/2012	3,160.65	3.000%	1,606.45	4,767.10
03/01/2013	3,184.36	3.000%	1,582.75	4,767.11
06/01/2013	3,208.24	3.000%	1,558.87	4,767.11
09/01/2013	3,232.30	3.000%	1,534.80	4,767.10
12/01/2013	3,256.55	3.000%	1,510.56	4,767.11
03/01/2014	3,280.97	3.000%	1,486.14	4,767.11
06/01/2014	3,305.58	3.000%	1,461.53	4,767.11
09/01/2014	3,330.37	3.000%	1,436.74	4,767.11
12/01/2014	3,355.35	3.000%	1,411.76	4,767.11
03/01/2015	3,380.51	3.000%	1,386.60	4,767.11
06/01/2015	3,405.87	3.000%	1,361.24	4,767.11
09/01/2015	3,431.41	3.000%	1,335.70	4,767.11

# Debt Service Schedule

Part 2 of 2

Date	Principal	Coupon	Interest	Total P+I
12/01/2015	3,457.15	3.000%	1,309.96	4,767.11
03/01/2016	3,483.07	3.000%	1,284.03	4,767.10
06/01/2016	3,509.20	3.000%	1,257.91	4,767.11
09/01/2016	3,535.52	3.000%	1,231.59	4,767.11
12/01/2016	3,562.03	3.000%	1,205.08	4,767.11
03/01/2017	3,588.75	3.000%	1,178.36	4,767.11
06/01/2017	3,615.66	3.000%	1,151.44	4,767.10
09/01/2017	3,642.78	3.000%	1,124.33	4,767.11
12/01/2017	3,670.10	3.000%	1,097.01	4,767.11
03/01/2018	3,697.63	3.000%	1,069.48	4,767.11
06/01/2018	3,725.36	3.000%	1,041.75	4,767.11
09/01/2018	3,753.30	3.000%	1,013.81	4,767.11
12/01/2018	3,781.45	3.000%	985.66	4,767.11
03/01/2019	3,809.81	3.000%	957.30	4,767.11
06/01/2019	3,838.38	3.000%	928.72	4,767.10
09/01/2019	3,867.17	3.000%	899.94	4,767.11
12/01/2019	3,896.18	3.000%	870.93	4,767.11
03/01/2020	3,925.40	3.000%	841.71	4,767.11
06/01/2020	3,954.84	3.000%	812.27	4,767.11
09/01/2020	3,984.50	3.000%	782.61	4,767.11
12/01/2020	4,014.38	3.000%	752.73	4,767.11
03/01/2021	4,044.49	3.000%	722.62	4,767.11
06/01/2021	4,074.82	3.000%	692.28	4,767.10
09/01/2021	4,105.38	3.000%	661.72	4,767.10
12/01/2021	4,136.18	3.000%	630.93	4,767.11
03/01/2022	4,167.20	3.000%	599.91	4,767.11
06/01/2022	4,198.45	3.000%	568.66	4,767.11
09/01/2022	4,229.94	3.000%	537.17	4,767.11
12/01/2022	4,261.66	3.000%	505.44	4,767.10
03/01/2023	4,293.63	3.000%	473.48	4,767.11
06/01/2023	4,325.83	3.000%	441.28	4,767.11
09/01/2023	4,358.27	3.000%	408.84	4,767.11
12/01/2023	4,390.96	3.000%	376.15	4,767.11
03/01/2024	4,423.89	3.000%	343.22	4,767.11
06/01/2024	4,457.07	3.000%	310.04	4,767.11
09/01/2024	4,490.50	3.000%	276.61	4,767.11
12/01/2024	4,524.18	3.000%	242.93	4,767.11
03/01/2025	4,558.11	3.000%	209.00	4,767.11
06/01/2025	4,592.29	3.000%	174.81	4,767.10
09/01/2025	4,626.74	3.000%	140.37	4,767.11
12/01/2025	4,661.44	3.000%	105.67	4,767.11
03/01/2026	4,696.40	3.000%	70.71	4,767.11
06/01/2026	4,731.62	3.000%	35.49	4,767.11
<b>Total</b>	<b>\$286,000.00</b>	<b>-</b>	<b>\$95,368.66</b>	<b>\$381,368.66</b>

ASSIGNMENT

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

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

**SPECIMEN**

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

\_\_\_\_\_

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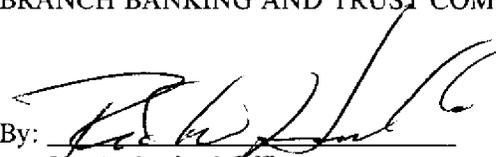
THE NEW CREEK WATER ASSOCIATION INCORPORATED  
Water Revenue Bonds, Series 2004 B  
(West Virginia Infrastructure Fund)  
and  
Water Revenue Bonds, Series 2004 C  
(West Virginia Infrastructure Fund)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

Branch Banking and Trust Company, Keyser, West Virginia, hereby accepts appointment as Depository Bank in connection with the Bond Resolution of The New Creek Water Association Incorporated, a West Virginia nonprofit corporation (the "Issuer") adopted November 9, 2004, and the Supplemental Resolution of the Issuer adopted November 9, 2004 (collectively, the "Bond Legislation"), authorizing issuance of the Issuer's (i) Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), dated November 18, 2004, issued in the principal amount of \$1,095,000 (the "Series 2004 B Bonds"), and (ii) Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund), dated November 18, 2004, issued in the principal amount of \$286,000 (the "Series 2004 C Bonds" and together with the Series 2004 B Bonds, collectively the "Bonds"), and agrees to serve as Depository Bank in connection with the Bonds, all as set forth in the Bond Legislation.

WITNESS my signature on this 18th day of November, 2004.

BRANCH BANKING AND TRUST COMPANY

By: 

Its: Authorized Officer

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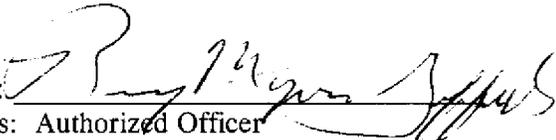
THE NEW CREEK WATER ASSOCIATION INCORPORATED  
Water Revenue Bonds, Series 2004 B  
(West Virginia Infrastructure Fund)  
and  
Water Revenue Bonds, Series 2004 C  
(West Virginia Infrastructure Fund)

ACCEPTANCE OF DUTIES AS REGISTRAR

THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, hereby accepts appointment as Registrar in connection with The New Creek Water Association Incorporated (i) Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), dated November 18, 2004, issued in the original aggregate principal amount of \$1,095,000 (the "Series 2004 B Bonds"), and (ii) Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund), dated November 18, 2004, issued in the original aggregate principal amount of \$286,000 (the "Series 2004 C Bonds" and together with the Series 2004 B Bonds, collectively, the "Bonds"), and agrees to perform all duties of Registrar in connection with the Bonds, all as set forth in the Bond Legislation authorizing issuance of the Bonds.

WITNESS my signature on this 18th day of November, 2004.

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

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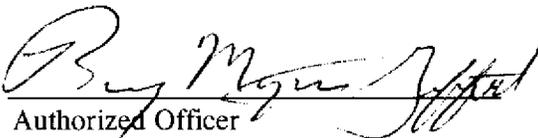
THE NEW CREEK WATER ASSOCIATION INCORPORATED  
Water Revenue Bonds, Series 2004 B  
(West Virginia Infrastructure Fund)  
and  
Water Revenue Bonds, Series 2004 C  
(West Virginia Infrastructure Fund)

CERTIFICATE OF REGISTRATION OF BONDS

THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, as Registrar (the "Registrar"), hereby certifies that on the date hereof, the single, fully registered (i) Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), of The New Creek Water Association Incorporated (the "Issuer"), dated November 18, 2004, in the principal amount of \$1,095,000, numbered BR-1, was registered as to principal only, and (ii) Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund), of the Issuer, dated November 18, 2004, in the principal amount of \$286,000, 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 18th day of November, 2004.

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

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THE NEW CREEK WATER ASSOCIATION INCORPORATED  
Water Revenue Bonds, Series 2004 B  
(West Virginia Infrastructure Fund)  
and  
Water Revenue Bonds, Series 2004 C  
(West Virginia Infrastructure Fund)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 18th day of November, 2004, by and between THE NEW CREEK WATER ASSOCIATION INCORPORATED, a West Virginia nonprofit corporation (the "Issuer"), and THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its (i) \$1,095,000 Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), in fully registered form (the "Series 2004 B Bonds"), and (ii) \$286,000 Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund), in fully registered form (the "Series 2004 C Bonds" and together with the Series 2004 B Bonds, collectively referred to herein as the "Bonds"), pursuant to the Bond Resolution of the Issuer duly adopted November 9, 2004, and the Supplemental Resolution of the Issuer duly adopted November 9, 2004 (collectively, the "Bond Legislation");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Bond Legislation, a copy of which is attached as EXHIBIT A hereto and incorporated herein by reference;

WHEREAS, the Bond Legislation provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Bond Legislation and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Bond Legislation and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Bond Legislation, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest 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 Bond Legislation with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Bond Legislation, the terms of the Bond Legislation shall govern.
6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Bond Legislation will violate any order, decree or agreement to which it is a party or by which it is bound.
7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER: The New Creek Water Association Incorporated  
General Delivery  
New Creek, WV 26743  
Attention: President

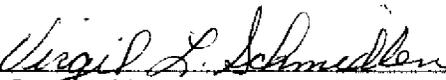
REGISTRAR: The Huntington National Bank  
One Huntington Square  
Charleston, West Virginia 25301  
Attention: Corporate Trust Department

8. The Registrar is hereby requested and authorized to authenticate, register and deliver the Bonds in accordance with the Bond Legislation.

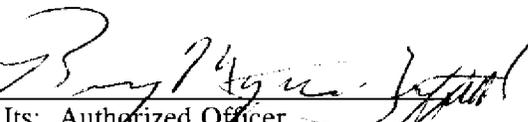
9. This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

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 day and year first above-written.

THE NEW CREEK WATER ASSOCIATION  
INCORPORATED

By:   
Its: President

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

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EXHIBIT A

Bond Legislation included in bond transcript as Documents Nos. 1 and 2.

SCHEDULE OF COMPENSATION

(Please see the attached)



Private Financial Group  
900 Lee Street, 11th Floor  
P.O. Box 633 WB3013  
Charleston, West Virginia 25322-0633

STATEMENT OF TRUSTEE'S FEES  
Invoice Date November 18, 2004

New Creek Water Association Incorporated  
Account Number 6089001809

New Creek Water Association Incorporated  
Water Revenue Bonds, Series 2004 B  
Water Revenue Bonds, Series 2004 C  
C/O John C. Stump  
Stephie & Johnson, PLLC  
P.O. Box 1588  
Charleston, WV 25326-1588

SUMMARY OF ACCOUNT

\*\*\*\*\*  
FEE CALCULATION FOR November, 2004  
\*\*\*\*\*

TOTAL AMOUNT \$ 500.00  
TOTAL DUE \$ 500.00

\* FEE INVOICES ARE PAYABLE WITHIN 30 DAYS. IF PAYMENT  
\* IS NOT RECEIVED, FEES WILL BE DEDUCTED FROM THE PLAN  
\* .. MAIL CHECK TO: HUNTINGTON NATIONAL BANK, ATTN: DEBRA  
\* .. BOWDEN, PO BOX 633, CHARLESTON, WV 25322-0633 ..  
IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT  
Barry Morgan Griffith at (304)348-5035

WV MUNICIPAL BOND COMMISSION  
8 Capitol Street  
Suite 500  
Charleston, WV 25301  
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: November 18, 2004

(See Reverse for Instructions)

ISSUE: The New Creek Water Association Incorporated Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund)

ADDRESS: General Delivery, New Creek, WV 26743 COUNTY: Mineral

PURPOSE OF ISSUE: New Money: X  
Refunding: \_\_\_\_\_ REFUNDS ISSUE(S) DATED: N/A

ISSUE DATE: November 18, 2004 CLOSING DATE: November 18, 2004

ISSUE AMOUNT: \$1,095,000 RATE: 0%

1ST DEBT SERVICE DUE: September 1, 2006 1ST PRINCIPAL DUE: September 1, 2006

1ST DEBT SERVICE AMOUNT: \$7,156.87 PAYING AGENT: Municipal Bond Commission

BOND  
COUNSEL: Steptoe & Johnson PLLC  
Contact Person: John Stump, Esquire  
Phone: 304.353.8196

UNDERWRITERS  
COUNSEL: Jackson Kelly PLLC  
Contact Person: Samme L. Gee, Esq.  
Phone: 304.340.1318

CLOSING BANK: Branch Banking & Trust Company  
Contact Person: Debby Liller  
Phone: 304.788.3111

ESCROW TRUSTEE: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Phone: \_\_\_\_\_

KNOWLEDGEABLE ISSUER CONTACT  
Contact Person: Virgil Schmidlen  
Position: President  
Phone: 304.788.5886

OTHER: WV Infrastructure & Jobs Development Council  
Contact Person: Katy Mallory, P.E.  
Function: Executive Secretary  
Phone: 304.558.4607

DEPOSITS TO MBC AT CLOSE: \_\_\_\_\_  
By: \_\_\_\_\_ Wire \_\_\_\_\_  
\_\_\_\_\_ Check \_\_\_\_\_  
Accrued Interest: \$ \_\_\_\_\_  
Capitalized Interest: \$ \_\_\_\_\_  
Reserve Account: \$ \_\_\_\_\_  
Other: \$ \_\_\_\_\_

REFUNDS & TRANSFERS BY MBC AT CLOSE  
By: \_\_\_\_\_ Wire \_\_\_\_\_  
\_\_\_\_\_ Check \_\_\_\_\_  
\_\_\_\_\_ IGT \_\_\_\_\_  
To Escrow Trustee: \$ \_\_\_\_\_  
To Issuer: \$ \_\_\_\_\_  
To Cons. Invest. Fund: \$ \_\_\_\_\_  
To Other: \$ \_\_\_\_\_

NOTES: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FOR MUNICIPAL BOND COMMISSION USE ONLY:

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

The purpose of the NEW ISSUE REPORT FORM is to provide the WV Municipal Bond Commission with an early warning of three basic facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

1. Formal notification that a new issue is outstanding.
2. Date of first action or debt service.
3. Contact people should we lack documents, information, or funds needed to administer the issue by the date of the first action or debt service.

The commission recognizes that as bond transcripts become increasingly long and complex, it has become more difficult to assemble and submit them to the Commission within the 30 days specified by the West Virginia Code 13-3-8. This notice is not intended to provide all the information needed to administer an issue, but to alert the Commission and ensure that no debt service payments are missed due to delays in assembling bond transcripts. If, at the time of closing, documents such as the ordinance and all supplements, debt service schedules, and a specimen bond or photostat are available and submitted with this form, it will greatly aid the Commission in the performance of its duties. These documents are needed to set up the proper accounts and to advise the issuer of monthly deposit requirements as far in advance of the first debt service as possible.

It is not necessary to complete all items if they are not pertinent to your issue. Indicate the County of the issuer. With PSDs that overlap more than one county, indicate the county of their business office. Complete "Rate" only if the issue has only one rate. Please complete a separate form for each series of an issue. Other important information can be recorded under "Notes."

Again, please submit this form on each new issue on the day of closing. If fund transfers into or out of the Commission at closing are required, please submit this form before closing. If no significant facts change by closing, no resubmission at closing is required. If, however, there are changes, please submit an updated form, with changes noted, at closing.

If you should have any questions concerning this form, please call the Commission.

11/04/04  
658370.00001

WV MUNICIPAL BOND COMMISSION

8 Capitol Street  
Suite 500  
Charleston, WV 25301  
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: November 18, 2004

(See Reverse for Instructions)

ISSUE: The New Creek Water Association Incorporated Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund)

ADDRESS: General Delivery, New Creek, WV 26743 COUNTY: Mineral

PURPOSE OF ISSUE: New Money: X  
Refunding: \_\_\_\_\_ REFUNDS ISSUE(S) DATED: N/A

ISSUE DATE: November 18, 2004 CLOSING DATE: November 18, 2004

ISSUE AMOUNT: \$286,000 RATE: 3%

1ST DEBT SERVICE DUE: September 1, 2006 1ST PRINCIPAL DUE: September 1, 2006

1ST DEBT SERVICE AMOUNT: \$4,767.11 PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Stephoe & Johnson PLLC  
Contact Person: John Stump, Esquire  
Phone: 304.353.8196

UNDERWRITERS COUNSEL: Jackson Kelly PLLC  
Contact Person: Samme L. Gee, Esq.  
Phone: 304.340.1318

CLOSING BANK: Branch Banking & Trust Company  
Contact Person: Debby Liller  
Phone: 304.788.3111

ESCROW TRUSTEE: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Phone: \_\_\_\_\_

KNOWLEDGEABLE ISSUER CONTACT  
Contact Person: Virgil Schmidlen  
Position: President  
Phone: 304.788.5886

OTHER: WV Infrastructure & Jobs Development Council  
Contact Person: Katy Mallory, P.E.  
Function: Executive Secretary  
Phone: 304.558.4607

DEPOSITS TO MBC AT CLOSE:  
By: \_\_\_\_\_ Wire \_\_\_\_\_  
\_\_\_\_\_ Check \_\_\_\_\_  
Accrued Interest: \$ \_\_\_\_\_  
Capitalized Interest: \$ \_\_\_\_\_  
Reserve Account: \$ \_\_\_\_\_  
Other: \$ \_\_\_\_\_

REFUNDS & TRANSFERS BY MBC AT CLOSE  
By: \_\_\_\_\_ Wire \_\_\_\_\_  
\_\_\_\_\_ Check \_\_\_\_\_  
\_\_\_\_\_ IGT \_\_\_\_\_  
To Escrow Trustee: \$ \_\_\_\_\_  
To Issuer: \$ \_\_\_\_\_  
To Cons. Invest. Fund: \$ \_\_\_\_\_  
To Other: \$ \_\_\_\_\_

NOTES: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FOR MUNICIPAL BOND COMMISSION USE ONLY:

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

The purpose of the NEW ISSUE REPORT FORM is to provide the WV Municipal Bond Commission with an early warning of three basic facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

1. Formal notification that a new issue is outstanding.
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The commission recognizes that as bond transcripts become increasingly long and complex, it has become more difficult to assemble and submit them to the Commission within the 30 days specified by the West Virginia Code 13-3-8. This notice is not intended to provide all the information needed to administer an issue, but to alert the Commission and ensure that no debt service payments are missed due to delays in assembling bond transcripts. If, at the time of closing, documents such as the ordinance and all supplements, debt service schedules, and a specimen bond or photostat are available and submitted with this form, it will greatly aid the Commission in the performance of its duties. These documents are needed to set up the proper accounts and to advise the issuer of monthly deposit requirements as far in advance of the first debt service as possible.

It is not necessary to complete all items if they are not pertinent to your issue. Indicate the County of the issuer. With PSDs that overlap more than one county, indicate the county of their business office. Complete "Rate" only if the issue has only one rate. Please complete a separate form for each series of an issue. Other important information can be recorded under "Notes."

Again, please submit this form on each new issue on the day of closing. If fund transfers into or out of the Commission at closing are required, please submit this form before closing. If no significant facts change by closing, no resubmission at closing is required. If, however, there are changes, please submit an updated form, with changes noted, at closing.

If you should have any questions concerning this form, please call the Commission.

11/04/04  
658370.00001



Clarksburg Charleston Morgantown Martinsburg Wheeling Huntington

Bank One Center, Eighth Floor  
P.O. Box 1588  
Charleston, WV 25326-1588  
(304) 353-8000 (304) 353-8180 Fax  
www.steptoe-johnson.com

Writer's Contact Information

November 18, 2004

The New Creek Water Association Incorporated  
Water Refunding Revenue Notes, Series 2004 A  
(Branch Banking and Trust Company)

The New Creek Water Association Incorporated  
New Creek, West Virginia

Branch Banking and Trust Company  
Keyser, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by The New Creek Water Association Incorporated, a West Virginia nonprofit corporation (the "Issuer") of its \$81,682 Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company) (the "Notes"), dated the date hereof.

The Notes are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 31E, Article 1 et seq., of the West Virginia Code of 1931, as amended (the "Act"), and a Bond and Note Resolution duly adopted by the Issuer on November 9, 2004, as supplemented by a Supplemental Resolution duly adopted by the Issuer on November 9, 2004 (collectively, the "Resolution"), and are subject to all the terms and conditions of the Resolution. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Resolution when used herein.

The Notes are originally issued in the form of one Note, numbered R-1, in fully registered form and bear interest on the principal amount thereof from the date hereof at a fixed rate of 6.00% per annum. The Notes are payable in 23 equal monthly installments of \$1,582.23 per month, with a final payment of the then aggregate amount of the unpaid principal balance together with interest accrued thereon due on November 18, 2006, payable on the 18th day of each month, commencing December 18, 2004, to and including November 18, 2006.

The Notes are subject to prepayment of principal and interest to the date of prepayment, in whole or in part, at any time, without penalty.

The Notes are issued for the purposes of paying the outstanding principal balance of the Issuer's GMAC Commercial Mortgage Loan, Series 1972, dated July 10, 1972, issued in the original aggregate principal balance of \$262,000, of which approximately \$81,472 is presently outstanding (the

“Series 1972 Bonds”). The proceeds of the Notes shall be used for the purpose of currently refunding the Series 1972 Bonds and paying costs of issuance of the Notes and related costs.

The Notes have been sold to Branch Banking and Trust Company, Keyser, West Virginia (the "Purchaser").

We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion. As to questions of fact material to our opinion, we have relied upon representations of the Issuer contained in the Resolution and in the certified proceedings and other certifications of certain public officials furnished to us without undertaking to verify the same by independent investigation.

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

1. The Issuer is duly created and validly existing under the laws of the State of West Virginia as a nonprofit corporation, with full corporate power and authority to operate and maintain the System, to adopt the Resolution and to issue and sell the Notes, all under the Act and other applicable provisions of law.

2. The Resolution has been duly adopted by the Issuer, is in full force and effect as of the date hereof and constitutes a valid and binding obligation of the Issuer enforceable in accordance with its terms.

3. The Notes have been duly authorized, issued, executed and delivered by the Issuer to the Purchaser and are valid, legally enforceable and binding special obligations of the Issuer, payable only from and secured by a first lien security interest in and pledge of the Gross Revenues of the System and account receivables of the Issuer created pursuant to the Series 2004 Notes Security Agreement, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's promissory note dated October 20, 1992, issued in the original aggregate principal amount of \$183,000, Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), dated the date hereof, issued in the original aggregate principal amount of \$1,095,000, and Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund), dated the date hereof, issued in the original aggregate principal amount of \$286,000, all in accordance with the terms of the Notes and the Resolution.

4. The filing of the UCC-1 financing statements in the office of the Secretary of State of the State of West Virginia will create a perfected security interest in the personal property described therein, a security interest in which may be perfected by filing of a financing statement.

5. The Series 1972 Bonds have been paid within the meaning and with the effect expressed in the resolution approving the Series 1972 Bonds, and the covenants, agreements and other obligations of the Issuer to the holders and owners of the Series 1972 Bonds have been satisfied and discharged. In rendering the opinion set forth in this paragraph, we have relied upon the Receipt and Release of GMAC relating to the sufficiency of the monies transferred to GMAC for payment on this date of the principal, together with accrued interest thereon, for the Series 1972 Bonds.

It is to be understood that the rights of the holders of the Notes and the enforceability of liens, pledges, rights or remedies with respect to the Notes and the Resolution may be subject to and limited by any applicable bankruptcy, reorganization, insolvency, moratorium or other similar laws heretofore or hereafter enacted affecting creditors' rights or remedies generally, and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

We have examined the executed and authenticated Note No. AR-1 of said issue, and in our opinion, said Note is in proper form and has been duly executed and authenticated.

Very truly yours,

  
STEPTOE & JOHNSON PLLC

November 18, 2004

The New Creek Water Association Incorporated  
Water Revenue Bonds, Series 2004 B  
(West Virginia Infrastructure Fund)

The New Creek Water Association Incorporated  
New Creek, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Infrastructure and Jobs  
Development Council  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by The New Creek Water Association Incorporated (the "Issuer"), a West Virginia nonprofit corporation, of its \$1,095,000 Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a loan agreement, dated November 18, 2004, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal only to the Authority, bearing no interest, with principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2006 and maturing September 1, 2044, 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 31E, Article 1 *et seq.* and Section 31E-3-302(7), of the West Virginia Code of 1931, as amended (the "Act"), for the purposes of (i) paying the costs of acquisition and construction of certain improvements and extensions 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, the Bond Resolution duly adopted by the Issuer on November 9, 2004, as supplemented by a Supplemental Resolution duly adopted by the Issuer on November 9, 2004 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the Loan Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the Loan Agreement when used herein.

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

1. The Issuer is duly created, validly existing and in good standing under the laws of the State of West Virginia as a nonprofit corporation, with full corporate power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Bond Legislation and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

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

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

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding obligations of the Issuer, payable from the Gross Revenues of the System and secured by the Credit Line Deed of Trust, Security Agreement and Fixture Filing, and a first lien security interest in and pledge of the Gross Revenues of the System and account receivables of the Issuer created pursuant to the Series 2004 Bonds Security Agreement (the "Security Agreement"), on a parity with respect to liens, pledge and source of and security for payment with the Issuer's promissory note dated October 20, 1992, issued in the original aggregate principal amount of \$183,000, Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company), dated the date hereof, issued in the original aggregate principal amount of \$81,682, and Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund), dated the date hereof, issued in the original aggregate principal amount of \$286,000, all in accordance with the terms of the Bonds and the Bond Legislation.

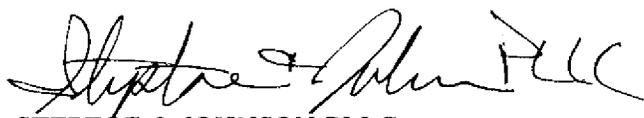
5. The lien granted to the Authority pursuant to the Credit Line Deed of Trust, Security Agreement and Fixture Filing (the "Deed of Trust") constitutes a valid lien against the real property described therein under applicable law. The filing of the Deed of Trust as a fixture filing in the real estate records of the Office of the Clerk of the County Commission of Mineral County, West Virginia will perfect the security interest of the Authority in the fixtures of the Issuer located at the real property described therein. The Security Agreement creates a valid security interest in the personal property described therein. The filing of the UCC-1 financing statements in the office of the Secretary of State of the State of West Virginia will create a perfected security interest in the personal property described therein. All such documents have been duly recorded and filed on the date hereof.

6. The Series 1972 Bonds have been paid within the meaning and with the effect expressed in the resolution approving the Series 1972 Bonds, and the covenants, agreements and other obligations of the Issuer to the holders and owners of the Series 1972 Bonds have been satisfied and discharged. In rendering the opinion set forth in this paragraph, we have relied upon the Receipt and Release of GMAC relating to the sufficiency of the monies transferred to GMAC for payment on this date of the principal, together with accrued interest thereon, for the Series 1972 Bonds.

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

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,



STEPTOE & JOHNSON PLLC

November 18, 2004

The New Creek Water Association Incorporated  
Water Revenue Bonds, Series 2004 C  
(West Virginia Infrastructure Fund)

The New Creek Water Association Incorporated  
New Creek, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Infrastructure and Jobs  
Development Council  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by The New Creek Water Association Incorporated (the "Issuer"), a West Virginia nonprofit corporation, of its \$286,000 Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a loan agreement, dated November 18, 2004, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal only to the Authority, bear interest at 3% per annum, with principal and interest payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2006 and maturing June 1, 2026, 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 31E, Article 1 *et seq.* and Section 31E-3-302(7), of the West Virginia Code of 1931, as amended (the "Act"), for the purposes of (i) paying the costs of acquisition and construction of certain improvements and extensions 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, the Bond Resolution duly adopted by the Issuer on November 9, 2004, as supplemented by a Supplemental Resolution duly adopted by the Issuer on November 9, 2004 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the Loan Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the Loan Agreement when used herein.

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

1. The Issuer is duly created, validly existing and in good standing under the laws of the State of West Virginia as a nonprofit corporation, with full corporate power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Bond Legislation and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

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

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

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding obligations of the Issuer, payable from the Gross Revenues of the System and secured by the Credit Line Deed of Trust, Security Agreement and Fixture Filing, and a first lien security interest in and pledge of the Gross Revenues of the System and account receivables of the Issuer created pursuant to the Series 2004 Bonds Security Agreement (the "Security Agreement"), on a parity with respect to liens, pledge and source of and security for payment with the Issuer's promissory note dated October 20, 1992, issued in the original aggregate principal amount of \$183,000, Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company), dated the date hereof, issued in the original aggregate principal amount of \$81,682, and Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), dated the date hereof, issued in the original aggregate principal amount of \$1,095,000, all in accordance with the terms of the Bonds and the Bond Legislation.

5. The lien granted to the Authority pursuant to the Credit Line Deed of Trust, Security Agreement and Fixture Filing (the "Deed of Trust") constitutes a valid lien against the real property described therein under applicable law. The filing of the Deed of Trust as a fixture filing in the real estate records of the Office of the Clerk of the County Commission of Mineral County, West Virginia will perfect the security interest of the Authority in the fixtures of the Issuer located at the real property described therein. The Security Agreement creates a valid security interest in the personal property described therein. The filing of the UCC-1 financing statements in the office of the Secretary of State of the State of West Virginia will create a perfected security interest in the personal property described therein. All such documents have been duly recorded and filed on the date hereof.

6. The Series 1972 Bonds have been paid within the meaning and with the effect expressed in the resolution approving the Series 1972 Bonds, and the covenants, agreements and other obligations of the Issuer to the holders and owners of the Series 1972 Bonds have been satisfied and discharged. In rendering the opinion set forth in this paragraph, we have relied upon the Receipt and Release of GMAC relating to the sufficiency of the monies transferred to GMAC for payment on this date of the principal, together with accrued interest thereon, for the Series 1972 Bonds.

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

  
STEPHENS & JOHNSON PLLC

*Timothy M. Sirk*

*Attorney at Law*

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Facsimile (304) 788-5660*

November 18, 2004

The New Creek Water Association Incorporated  
Water Refunding Revenue Notes, Series 2004 A  
(Branch Banking and Trust Company)

The New Creek Water Association, Incorporated  
New Creek, West Virginia

Branch Banking and Trust Company  
Keyser, West Virginia

Steptoe & Johnson PLLC  
Charleston, West Virginia

Ladies and Gentlemen:

I am counsel to The New Creek Water Association Incorporated, a West Virginia nonprofit corporation, located in Mineral County, West Virginia (the "Issuer"), in connection with the issuance and sale of the above-captioned notes (the "Notes"). As such counsel, I have reviewed copies of the approving opinion of Steptoe & Johnson PLLC, as bond counsel, the Bond and Note Resolution of the Issuer duly adopted November 9, 2004, as supplemented by the Supplemental Resolution of the Issuer duly adopted November 9, 2004 (collectively, the "Resolution"), a security agreement dated November 18, 2004 by and between the Issuer and Branch Banking and Trust Company (the "Security Agreement"), UCC-1 financing statements (the "Financing Statements"), and other documents relating to the Notes. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Resolution when used herein.

I am of the opinion that:

1. The Issuer is duly created and validly existing under the laws of the State of West Virginia as a nonprofit corporation, with full power and authority to own its property and

conduct its business as presently being conducted and to adopt the Resolution, all under the Act and other applicable provisions of law.

2. The Resolution has been duly adopted by the Issuer, is in full force and effect as of the date hereof and constitutes a valid and binding obligation of the Issuer enforceable in accordance with its terms.

3. The execution and delivery of the Notes and the Security Agreement and the consummation of the transactions contemplated by the Notes, the Security Agreement, the Financing Statements and the Resolution, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under its Articles of Incorporation, Bylaws, or any resolution, order, resolution, agreement or other instrument to which the Issuer is a party or by which the Issuer or its properties are bound or any existing law, regulation, court order or consent decree to which the Issuer is subject.

4. 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 Notes, the refunding of the Series 1972 Bonds, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, all requisite orders, certificates and approvals from the Council and the West Virginia Bureau for Public Health and the Public Service Commission of West Virginia, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the adoption of a resolution prescribing such rates and charges. The Issuer has received the Final Order of the Public Service Commission of West Virginia entered on July 15, 2004, in Case No. 04-0031-W-CN, among other things, approving the refunding of the Series 1972 Bonds. The time for appeal of such Final Order has expired prior to the date hereof without any appeal.

5. It is to be understood that the rights of the holders of the Notes and the enforceability of liens, pledges, rights or remedies with respect to the Notes and the Resolution are subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other similar laws heretofore or hereafter enacted affecting creditors' rights or remedies generally, and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

6. To the best of my knowledge, after due inquiry, 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 Notes, the Security Agreement, the Financing Statements and the Resolution, the refunding of the Series 1972 Bonds, the operation of the System, the validity of the Notes or pledge of the funds set forth in the Resolution or the pledge of revenues and account receivables set forth in the Security Agreement.

The New Creek Water Association, Incorporated, et al.  
November 18, 2004  
Page 3

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

Very truly yours,

A handwritten signature in black ink, appearing to read 'T. Sirk', written over a horizontal line.

TIMOTHY M. SIRK, ESQUIRE

*Timothy M. Sick*

*Attorney at Law*

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Keyser, West Virginia 26726*

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November 18, 2004

The New Creek Water Association Incorporated  
Water Revenue Bonds, Series 2004 B  
(West Virginia Infrastructure Fund)  
and  
Water Revenue Bonds, Series 2004 C  
(West Virginia Infrastructure Fund)

The New Creek Water Association  
New Creek, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Infrastructure and Jobs  
Development Council  
Charleston, West Virginia

Steptoe & Johnson PLLC  
Charleston, West Virginia

Ladies and Gentlemen:

I am counsel to The New Creek Water Association Incorporated, a West Virginia nonprofit corporation, located in Mineral County, West Virginia (the 'Issuer'). As such counsel, I have examined copies of the approving opinions of Steptoe & Johnson PLLC, as bond counsel, relating to the Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), dated the date hereof, issued in the original aggregate principal amount of \$1,095,000 (the "Series 2004 B Bonds") and the Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund), dated the date hereof, issued

in the original aggregate principal amount of \$286,000 (the "Series 2004 C Bonds" and together with the Series 2004 B Bonds, collectively the "Bonds"), loan agreements for the Bonds, each dated November 18, 2004 (collectively, the "Loan Agreements"), including all schedules and exhibits attached thereto, 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"), the Bond and Note Resolution duly adopted by the Issuer on November 9, 2004, as supplemented by the Supplemental Resolution duly adopted by the Issuer on November 9, 2004 (collectively, the "Bond Legislation"), a credit line deed of trust, security agreement and fixture filing dated November 18, 2004 (the "Deed of Trust") by and among the Issuer, the trustee named therein, and the Authority, on behalf of the Council, a security agreement dated November 18, 2004 (the "Security Agreement") by and between the Issuer and the Authority, on behalf of the Council, UCC-1 financing statements securing the Bonds (the "Financing Statements") and other documents, papers, agreements, instruments and certificates relating to the Bonds and the Issuer. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Legislation and the Loan Agreement when used herein.

I am of the opinion that:

1. The Issuer is duly created and validly existing under the laws of the State of West Virginia as a nonprofit corporation, with full power and authority to acquire and construct the Project, to operate and maintain the System and to adopt the Bond Legislation, all under the Act and other applicable provisions of law. The members and officers of the Board of Directors of the Issuer have been duly elected and appointed and are authorized to act on behalf of the Issuer in their respective capacities.
2. The Loan Agreements have been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority, constitute valid and binding agreements of the Issuer enforceable in accordance with their terms.
3. The Deed of Trust has been duly authorized, executed and delivered by the Issuer and constitutes a valid and binding agreement of the Issuer enforceable in accordance with its terms.
4. The Security 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 Bond Legislation has been duly adopted by the Issuer and is in full force and effect.

6. The execution and delivery of the Bonds, the Loan Agreements, the Deed of Trust, the Security Agreement and the Financing Statements and the consummation of the transactions contemplated by the Bonds, the Loan Agreements, the Deed of Trust, the Security Agreement, the Financing Statements and the Bond Legislation and the carrying out of the terms thereof, have been duly authorized by all necessary corporate action and do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under its Articles of Incorporation, Bylaws, or any resolution, agreement or other instrument to which the Issuer is a party or by which the Issuer or its properties are bound or any existing law, regulation, court order or consent decree to which the Issuer is subject.

7. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, the receipt of all requisite orders, certificates and approvals from the Council, the West Virginia Bureau of Public Health and the Public Service Commission of West Virginia, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the adoption of a resolution prescribing such rates and charges. The Issuer has received the Final Order of the Public Service Commission of West Virginia entered on July 15, 2004, and the Commission Order entered on October 29, 2004, in Case No. 04-0031-W-CN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project, approving the financing for the Project and approving the rates and charges for the System. The time for appeal of such Final Order has expired on the date hereof without any appeal having been filed. The time for appeal of the Commission Order has not expired prior to the date hereof. However, the parties to such Commission Order have stated that they do not intend to appeal such Commission Order. Both the Final Order and the Commission Order remain in full force and effect.

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

The New Creek Water Association, Incorporated, et al.  
November 18, 2004  
Page 4

9. I have verified that all successful bidders have made required provisions for all insurance and payment and performance bonds and I have reviewed such insurance policies or binders and such bonds for accuracy. I have reviewed the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project and verified 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 interests of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Bond Legislation and the Loan Agreements; and (5) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

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

Very truly yours,



TIMOTHY M. SIRK, ESQUIRE

*Timothy M. Sirk*

*Attorney at Law*

*108 North Main Street  
Post Office Box 356  
Keyser, West Virginia 26726*

*(304) 788-5603  
(800) 879-5603  
Facsimile (304) 788-5660*

November 18, 2004

The New Creek Water Association, Incorporated  
General Delivery  
New Creek, WV 26743

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

Steptoe & Johnson PLLC  
P.O. Box 1588  
Charleston, WV 25326

Re: Final Title Opinion for The New Creek Water Association, Incorporated

Ladies and Gentlemen:

I am counsel to The New Creek Water Association, Incorporated (the "Issuer") in connection with a proposed project to construct a waterline as shown on plans for U.S. Route 50 and Pine Swamp Waterline Extensions, Contract I and Contract II, prepared by Rummel, Klepper & Kahl, LLP, (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. The Issuer is a duly created and validly existing nonprofit corporation with all the powers and authority granted to such corporations under the laws of the State of West Virginia to construct, operate and maintain the Project as approved by the West Virginia Bureau for Public Health.
2. The Issuer has obtained all necessary permits and approvals for the construction of the Project.

The New Creek Water Association, Incorporated  
West Virginia Infrastructure and Jobs Development Council  
West Virginia Water Development Authority  
Steptoe & Johnson PLLC  
November 18, 2004  
Page 2

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 Rummel, Klepper & Kahl, LLP, consulting engineers for the Project.

4. I have examined the records on file in the Office of the Clerk of the County Commission of Mineral County, West Virginia, the county in which the Project is to be located, and, in our 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 Mineral 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 our certification is subject to the following pending litigation:

**Gary F. and Sally A. Westfall**

**Tanglewood Tracts, Tract 3, Section 1**

6. 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 Mineral County to protect the legal title to and interest of the Issuer.

Very truly yours,



TIMOTHY M. SIRK, ESQUIRE

THE NEW CREEK WATER ASSOCIATION INCORPORATED

Water Refunding Revenue Notes, Series 2004 A  
(Branch Banking and Trust Company)  
and  
Water Revenue Bonds, Series 2004 B  
(West Virginia Infrastructure Fund)  
and  
Water Revenue Bonds, Series 2004 C  
(West Virginia Infrastructure Fund)

GENERAL CERTIFICATE OF ISSUER ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. CERTIFICATION OF COPIES OF DOCUMENTS
6. INCUMBENCY AND MEETINGS
7. LAND AND RIGHTS-OF-WAY
8. DUE INCORPORATION AND EXISTENCE OF ISSUER
9. CONTRACTORS' INSURANCE, ETC.
10. LOAN AGREEMENTS
11. RATES
12. PUBLIC SERVICE COMMISSION ORDER
13. SIGNATURES AND DELIVERY
14. NOTE AND BOND PROCEEDS
15. PUBLICATION OF NOTICE OF PSC FILING
16. SPECIMEN BOND
17. CONFLICT OF INTEREST
18. PROCUREMENT OF ENGINEERING SERVICES
19. COMPLIANCE WITH WEST VIRGINIA JOBS ACT
20. EXECUTION OF COUNTERPARTS

We, the undersigned PRESIDENT and the undersigned SECRETARY of The New Creek Water Association Incorporated, a West Virginia non-stock nonprofit corporation in Mineral County, West Virginia (the "Issuer"), hereby certify on this 18th day of November, 2004, in connection with the issuance by the Issuer of its (i) Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company) (the "Series 2004 A Notes"), (ii) Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund) (the

“Series 2004 B Bonds”), and (iii) Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund) (the “Series 2004 C Bonds” and together with the Series 2004 B Bonds, collectively referred to herein as the “Bonds”) as follows:

1. **TERMS:** All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning as set forth in the Bond and Note Resolution of the Issuer duly adopted November 9, 2004, and the Supplemental Resolution duly adopted November 9, 2004 (collectively, the “Bond Legislation”).

2. **NO LITIGATION:** No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Series 2004 A Notes, the Bonds, the refunding of the Series 1972 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 Series 2004 A Notes, the Bonds, or any proceedings of the Issuer taken with respect to the issuance or sale of the Series 2004 A Notes or the Bonds, the pledge or application of the Gross Revenues or any other monies or security provided for the payment of the Series 2004 A Notes, the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Series 2004 A Notes, the Bonds, the refunding of the Series 1972 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 and account receivables as security for the Series 2004 A Notes and the Bonds.

3. **GOVERNMENTAL APPROVALS AND BIDDING:** All applicable and necessary approvals, permits, exemptions, consents, authorizations, registrations and certificates required by law for the creation and existence of the Issuer, the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Series 2004 A Notes and 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 West Virginia Code of 1931, as amended, which bids remain in full force and effect.

4. **NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS:** There has been no adverse change in the financial condition of the Issuer since the approval, execution and delivery by the Issuer of the Loan Agreements, and the Issuer has met all conditions prescribed in the Loan Agreements. The Issuer will provide the financial, institutional, legal and managerial capabilities necessary to complete the Project.

There are outstanding obligations of the Issuer which will rank on a parity with the Series 2004 A Notes and the Bonds as to liens, pledge and source of and security for payment, being the promissory note of the Issuer, dated October 20, 1992, issued in the original aggregate principal amount of \$183,000 (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 Holders of the Prior Bonds to the issuance of the Series 2004 A Notes and the Bonds on a parity with the Prior Bonds. Following the refunding of the Series 1972 Bonds and other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all the covenants of the Prior Bonds and the Prior Resolutions.

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

Bond and Note Resolution

Supplemental Resolution

Credit Line Deed of Trust, Security Agreement and Fixture Filing

Security Agreements

UCC-1 Financing Statements

Receipt and Release of GMAC for Series 1972 Bonds, Release of Deed of Trust and UCC-3 Termination Statement

Loan Agreements

Grant Agreement

Public Service Commission Order

Infrastructure and Jobs Development Council Approval

Articles of Incorporation

Bylaws

Certificate of Existence

Evidence of Good Standing with West Virginia Workers' Compensation Board and West Virginia Bureau of Employment Programs, Division of Unemployment Compensation

Minutes on Adoption of Bond and Note Resolution and Supplemental Resolution

Affidavit of Publication on Rates

USDA Consent to Issuance of Parity Bonds

Environmental Health Services Permit

Prior Resolutions

Insurance Certificates

6. **INCUMBENCY AND MEETINGS:** The proper corporate name of the Issuer is "The New Creek Water Association Incorporated" and it is a West Virginia, non-stock, non-profit corporation in Mineral County, West Virginia. The governing body of the Issuer is its Board of Directors (the "Board"). The undersigned Virgil Schmidlen and Robert Helmick are and were at all relevant times the duly elected, qualified and serving President and Secretary, respectively, of the Issuer, duly elected or appointed by the Board or an authorized committee of the Board. All actions and resolutions taken by and entered into by or on behalf of the Issuer in any way connected with the issuance of the Series 2004 A Notes and the Bonds and the acquisition, construction, operation and financing of the Project and the System were authorized or adopted at regular or special meetings of the Board duly and regularly called and held pursuant to the Bylaws of the Issuer and all applicable statutes, including, without limitation, Chapter 31E, Article 8 of the West Virginia Code of 1931, as amended, and a quorum of duly elected or appointed, as applicable, qualified and acting members of the Board was present and acting at all times during all such meetings. All required notices were given in accordance with the Bylaws of the Issuer.

7. **LAND AND RIGHTS-OF-WAY:** All land in fee simple and all rights-of-way and easements necessary for the acquisition and construction of the Project and the operation and maintenance of the System have been acquired or can and will be acquired by purchase, or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

8. **DUE INCORPORATION AND EXISTENCE OF ISSUER:** The Issuer is a non-stock, not-for-profit corporation organized and existing under the laws of the State of West Virginia, duly authorized to conduct its affairs and transact business in the State of West Virginia, and is not prohibited by any provision of its Articles of Incorporation or Bylaws from conducting its business described in, or effectuating the transactions contemplated in the Resolution and the other bond documents. There are delivered herewith true, correct and complete copies of the Articles of Incorporation, Bylaws, Certificate of Existence of the Issuer, with all amendments, modifications and supplements, which are all in full force and effect on the date hereof.

9. **CONTRACTORS' INSURANCE, ETC.:** All contractors will be required to maintain Worker's Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Bond Legislation. All insurance for the System required by the Bond Legislation and Loan Agreements is in full force and effect.

10. **LOAN AGREEMENTS:** As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreements are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreements do not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the Loan Agreements which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information in the Loan Agreements not misleading; and (iv) the Issuer is in compliance with all covenants, terms and representations in the Loan Agreements.

11. **RATES:** The Issuer has received the Final Order of the Public Service Commission of West Virginia entered on July 14, 2004, in Case No.04-0031-W-CN, approving the rates and charges for the services of the System, and has adopted a resolution prescribing such rates and charges. The time for appeal of such Final Order has expired prior to the date hereof without any appeal and such Final Order is in full force and effect. The rates and charges in such Final Order are currently effective.

12. **PUBLIC SERVICE COMMISSION ORDERS:** The Issuer has received the Final Order of the Public Service Commission of West Virginia entered on July 15, 2004, and the Commission Order entered on October 29, 2004, in Case No. 04-0031-W-CN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project, approving the refunding of the Series 1972 Bonds, approving financing for the acquisition and construction of the Project and approving the rates for the System. The time for appeal of such Final Order has expired prior to the date hereof without any appeal having been filed. The time for appeal of the Commission Order has not expired on the date hereof. However, the parties to such Commission Order have stated that they do not intend

to appeal such Commission Order. The Issuer hereby certifies that it will not appeal such Commission Order. Both the Final Order and the Commission Order remain in full force and effect.

13. **SIGNATURES AND DELIVERY:** On the date hereof, the undersigned President did officially sign all of the (i) Series 2004 A Notes, consisting upon original issuance of a single Note, numbered AR-1, dated the date hereof, (ii) Series 2004 B Bonds, consisting upon original issuance of a single Bond, numbered BR-1, dated the date hereof, and (iii) Series 2004 C Bonds, consisting upon original issue of a single Bond, numbered CR-1, dated the date hereof, all by his manual signature, and the undersigned Secretary did officially cause the official seal of the Issuer to be affixed upon said Series 2004 A Notes and Bonds and to be attested by his or her manual signature, and the Registrars did officially authenticate and deliver the Series 2004 A Notes and the Bonds to a representative of the Purchaser and the Authority, as applicable, as the original purchaser of the Series 2004 A Notes and Bonds, respectively. Said official seal is also impressed above the signatures appearing on this certificate.

14. **NOTE AND BOND PROCEEDS:** On the date hereof, the Issuer received \$81,682 from the Purchaser, being the entire principal amount of the Series 2004 A Notes and applied all such proceeds to the payment of the entire outstanding principal of and all interest accrued on the Series 1972 Bonds and the costs of issuance of the Notes and related costs. On the date hereof, the Issuer received the sum of \$188,672, from the Authority and Council, being a portion of the principal amount of the Series 2004 C Bonds. The entire principal amount of the Series 2004 B Bonds and the balance of the principal amount of the Series 2004 C Bonds will be advanced to the Issuer from time to time as construction of the Project progresses.

15. **PUBLICATION OF NOTICE OF PSC FILING:** The Issuer has published any required notice with respect to, among other things, the filing of a formal application for a certificate of public convenience and necessity with the Public Service Commission of West Virginia.

16. **SPECIMEN NOTES AND BONDS:** Delivered concurrently herewith are a true and accurate specimen of the Series 2004 A Notes and the Bonds.

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

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

19. **COMPLIANCE WITH WEST VIRGINIA JOBS ACT:** Unless it shall hereafter be qualified for an exception, the Issuer 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 Issuer hereby certifies to the Council and the Authority that (i) the Issuer will comply with all the requirements of the West Virginia Jobs Act; (ii) the Issuer has included the provisions of the West Virginia Jobs Act in each contract and subcontract for the Project; (iii) the Issuer 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 Issuer 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 Issuer will also certify in the monthly requisitions submitted to the Council that the Issuer is monitoring compliance by its contractors and subcontractors and that the required information has been submitted.

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

WITNESS our signatures and the official seal of THE NEW CREEK WATER ASSOCIATION INCORPORATED on the day and year first above written.

[CORPORATE SEAL]

SIGNATURE

OFFICIAL TITLE

Virgil L. Schmitten  
Robert D. Hlubik

President

Secretary

11/05/04  
658370.00001

THE NEW CREEK WATER ASSOCIATION INCORPORATED  
Water Revenue Bonds, Series 2004 B  
(West Virginia Infrastructure Fund)  
and  
Water Revenue Bonds, Series 2004 C  
(West Virginia Infrastructure Fund)

CERTIFICATE OF ENGINEER

I, David G. Vanscoy, Registered Professional Engineer, West Virginia License No. 6649, of Rummel, Klepper & Kahl, LLP, Keyser, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain additions, betterments, improvements and extensions, (the "Project") to the existing public waterworks system (the "System") of The New Creek Water Association Incorporated (the "Issuer"), to be constructed primarily in Mineral County, West Virginia, which acquisition and construction are being financed by the proceeds of the above-captioned bonds (the "Bonds") of the Issuer. Capitalized terms used herein and not defined herein shall have the same meaning set forth in the Bond and Note Resolution adopted by the Issuer on November 9, 2004, as supplemented by the Supplemental Resolution adopted by the Issuer on November 9, 2004, and the Loan Agreement by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), dated November 18, 2004 (the "Loan Agreement").

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

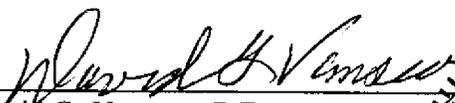
3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the West Virginia Bureau for Public Health (the "BPH"), the Council, and any change orders approved by the Council and the Issuer and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least forty years, if properly constructed, operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer 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 the Issuer's counsel, Timothy M. Sirk, Esquire, will, prior to the Issuer executing the construction contracts for the Project, ascertain that all successful bidders have made required provisions for all insurance and payment and

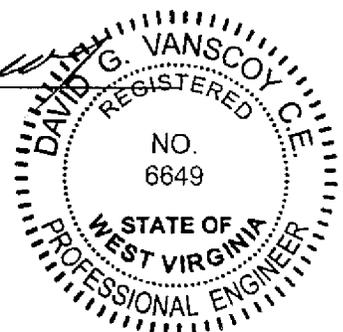
performance bonds and such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the BPH and the bid forms provided to the bidders contained the critical operational components of the Project; (vi) the successful bids included 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 the operation of the System; (ix) in reliance upon the certificate of the Issuer's certified public accountant, Timothy T. Michaels, CPA, as of the effective date thereof, the rates and charges for the System as adopted by the Issuer and approved by the Public Service Commission of West Virginia will be sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the Bonds, together with all other monies 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 Authority and the Council; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Final Total Cost of Project, Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this 18th day of November, 2004.

RUMMEL, KLEPPER & KAHL, LLP

(SEAL)

  
\_\_\_\_\_  
David G. Vanscoy, P.E.  
West Virginia License No. 6649



10/28/04  
658370.00001

III. BUDGET AND FINANCIAL INFORMATION

**A. PROJECT COST SUMMARY**

Budget Line Item	Cost
1. Construction Cost: Subtotal	\$ 2,043,866
2. Engineering Cost:	
Planning	\$ 15,000
Design	\$ 150,000
Construction	\$ 94,000
Subtotal	\$ 259,000
3. Legal Cost:	
Project Attorney	\$ 4,000
Right-of-Ways (Legal)	\$ 5,000
PSC Attorney	\$ 5,000
Subtotal	\$ 14,000
4. Administrative Cost:	
Project Coordinator	\$ 20,000
Other Administrative Costs (Accountant)	\$ 9,000
Subtotal	\$ 29,000
5. Financing Costs:	
Interim Financing (Registration Fees)	\$ 500
Capitalized Interest	\$
Bond Counsel	\$ 14,500
Subtotal	\$ 15,000
6. Site, Easements and ROW Cost:	
Land Acquisition Costs	\$ 8,000
Easement Costs	\$ 5,000
Subtotal	\$ 13,000
7. Project Contingency: Subtotal	\$ 102,034
8. TOTAL PROJECT COST	\$ 2,476,000

**B. PROJECT FINANCING SUMMARY**

Project Funds	Amount
Federal Grants (total)	\$
State Grants (total) WV IJDC	\$ 1,095,000
Federal Loans @ _____ % for _____ Years	\$
@ _____ % for _____ Years	
State Loans @ _____ 0 % for 40 Years	\$ 1,095,000
@ _____ 3 % for 20 Years	\$ 286,000
Other Funding Sources	\$
TOTAL FUNDING PROVIDED	\$ 2,476,000

Cost Estimates Prepared By: David G. Vanscoy, P.E. Rummel, Klepper & Kahl, LLP Date: 9/13/14

November 18, 2004

CERTIFICATE OF CERTIFIED PUBLIC ACCOUNTANT

The New Creek Water Association Incorporated  
Water Refunding Revenue Notes, Series 2004 A  
(Branch Banking and Trust Company)  
and  
Water Revenue Bonds, Series 2004 B  
(West Virginia Infrastructure Fund)  
and  
Water Revenue Bonds, Series 2004 C  
(West Virginia Infrastructure Fund)

The New Creek Water Association Incorporated  
New Creek, West Virginia

United States Department of Agriculture,  
Rural Utilities Service  
Morgantown, West Virginia

West Virginia Infrastructure and  
Jobs Development Council  
Charleston, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

Ladies and Gentlemen:

Based upon the rates and charges set forth in the Final Order of the Public Service Commission of West Virginia entered July 15, 2004, in Case No. 04-0031-W-CN (the "Issuer"), the projected operating expenses and anticipated customer usage as furnished to us by The New Creek Water Association Incorporated (the "Issuer"), it is my opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the waterworks system (the "System") of the Issuer, will pay all operating expenses of the System and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Issuer's (i) Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company) (the "Notes"); (ii) Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund); (iii) Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund) (collectively, the "Bonds"); and (iv) the Issuer's promissory note dated October 20, 1992 (the "Prior Bonds").

It is further my opinion that (i) the Net Revenues for the Fiscal Year following the year in which the Bonds are issued will be at least 170% of the average annual debt service requirements on the Bonds and the Prior Bonds; (ii) the Net Revenues actually derived from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of the Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by the Bonds, are not less than 115% of the largest aggregate amount that will mature and become due in any succeeding fiscal year for the principal of and interest on the Notes, the Bonds and the Prior Bonds.

Additionally, attached are the following: (i) current Balance Sheet and financial statements which reflect the financial position of the Issuer and I hereby certify that the statements are an accurate assessment of the Issuer's financial position, and (ii) RUS Form 442-7 "Operating Budget". Additionally, the Reserve Account for the Prior Bonds is funded in accordance with the Prior Bonds documents.

Very truly yours,



TIMOTHY MICHAELS, CPA

THE NEW CREEK WATER ASSOCIATION INCORPORATED  
Water Revenue Bonds, Series 2004 B  
(West Virginia Infrastructure Fund)  
and  
Water Revenue Bonds, Series 2004 C  
(West Virginia Infrastructure Fund)

CERTIFICATE AS TO USE OF PROCEEDS

The undersigned President of The New Creek Water Association Incorporated, a West Virginia nonprofit corporation, in Mineral County, West Virginia (the "Issuer"), being one of the officers of the Issuer duly charged with the responsibility for the issuance by the Issuer of its (i) \$1,095,000 Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), dated November 18, 2004 (the "Series 2004 B Bonds"), and (ii) \$286,000 Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund), dated November 18, 2004 (the "Series 2004 C Bonds" and together with the Series 2004 B Bonds, collectively referred to herein sometimes as the "Bonds"), hereby certify on this the 18th day of November, 2004, 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 meanings set forth in the Bond and Note Resolution duly adopted by the Issuer on November 9, 2004 (the "Bond Resolution"), 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 November 18, 2004, the date on which the Bonds are being physically delivered in exchange for an initial advance of the principal of the Bonds and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. A. The Series 2004 B Bonds were sold on November 18, 2004, to the West Virginia Water Development Authority (the "Authority"), pursuant to a loan agreement dated November 18, 2004, 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 \$1,095,000 (100% of par). No accrued interest has been or will be paid on the Series 2004 B Bonds. The entire principal amount of the Series 2004 B Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

B. The Series 2004 C Bonds were sold on November 18, 2004, to the Authority, pursuant to a loan agreement dated November 18, 2004, by and between the Issuer and the Authority, on behalf of the Council, for an aggregate purchase price of \$286,000 (100% of par), at which time, the Issuer received \$188,672 from the Authority and the Council, being a portion of the principal amount of the Series 2004 C Bonds. No accrued interest has been or will be paid on the Series 2004 C Bonds. The balance of the principal amount of the Series 2004 C 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) paying the costs of acquisition and construction of certain improvements and extensions to the existing public waterworks system of the Issuer (the "Project"); and (ii) paying certain costs of issuance of the Bonds and related costs.

6. The total cost of the Project is estimated at \$1,381,000. Sources and uses of funds for the Project are as follows:

SOURCES

Gross Proceeds of the Series 2004 B Bonds	\$1,095,000
Gross Proceeds of the Series 2004 C Bonds	<u>286,000</u>
Total Sources	<u>\$1,381,000</u>

USES

Acquisition and Construction of Project	\$1,366,000
Costs of Issuance	<u>15,000</u>
Total Uses	<u>\$1,381,000</u>

7. Pursuant to Article V of the Bond Resolution, the following special funds or accounts have been created or continued relative to the Bonds:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Series 2004 Bonds Construction Trust Fund;
- (4) Series 2004 B Bonds Sinking Fund;
- (5) Series 2004 C Bonds Sinking Fund;
- (6) Series 2004 B Bonds Reserve Account; and
- (7) Series 2004 C Bonds Reserve Account.

8. Pursuant to Article VI of the Bond Resolution, the proceeds of the Bonds will be deposited with the Depository Bank in the Series 2004 Bonds Construction Trust Fund and applied solely to payment of the costs of the acquisition and construction of the Project and the costs of issuance and related costs.

9. Monies held in the Series 2004 Bonds Sinking Funds will be used solely to pay principal of and interest, if any, on the Bonds, respectively, and will not be available to meet costs of acquisition and construction of the Project. Monies in the Series 2004 Bonds Reserve Accounts will be used only for the purpose of paying principal of and interest, if any, on the Series 2004 B Bonds and Series 2004 C Bonds, respectively, as the same shall become due, when other monies in the respective Series 2004 Bonds Sinking Fund are insufficient therefor. All investment earnings on monies in such funds and accounts, if any, will be withdrawn therefrom and deposited into the Series 2004 Bonds Construction Trust Fund during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Resolution.

10. 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.

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 complete by March 1, 2006, and all proceeds of the Bonds shall be expended for the costs of the Project by June 1, 2006.

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

13. The Issuer shall use the Bond proceeds solely for the costs of the acquisition and construction of the Project, and the Project will be operated solely as a waterworks facility of the Issuer.

14. The Bonds are not federally guaranteed.

15. The Issuer has either (a) funded the respective Series 2004 Bonds Reserve Accounts at the maximum amount of principal and interest which will mature and become due, on the respective Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Series 2004 Bonds Reserve Accounts which will be funded with equal payments made on a monthly basis over a 10-year period until each Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due, on the respective Bonds in the then current or any succeeding year. Monies in the Series 2004 Bonds Reserve Accounts and the Series 2004 Bonds Sinking Funds will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the acquisition and construction of the Project.

16. Except for the Series 2004 A Notes issued simultaneously herewith, 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.

17. 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.

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

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

THE NEW CREEK WATER ASSOCIATION INCORPORATED

By: Virgil L. Schmeller  
Its: President

11/05/04  
658370.00001

UNITED STATES DEPARTMENT OF AGRICULTURE  
FARMERS HOME ADMINISTRATION

ARTICLES OF INCORPORATION

of

The New Creek Water Association Incorporated

We, the undersigned, all of whom are residents of Mineral County (~~ies~~), State of West Virginia, do hereby voluntarily associate ourselves together for the purpose of forming a non-profit corporation, without capital stock.

ARTICLE I

The name of this corporation shall be The New Creek Water Association Incorporated

ARTICLE II

The nature of the business of the corporation and the objects and purposes for which, or for any of which, this corporation is formed are:

- a To associate its members together for their mutual benefit and to that end to construct, maintain and operate a private water system for the supplying of water for domestic, livestock, garden, industrial and commercial purposes, and for the sale of any surplus water remaining after the needs of its members have been satisfied, and to engage in any activity related thereto, including but not limited to the acquisition of water by appropriation, drilling, pumping and/or purchase, and the purchase, laying, installation, operation, maintenance and repair of wells, pumping equipment, water mains, pipe lines, valves, meters, and all other equipment necessary to the construction, maintenance and operation of a water system.
- b To borrow from any source, money, goods, or services without limitations as to amount of corporate indebtedness or liability; and to pledge or mortgage any of its property as security therefor, in any manner permitted by law.
- c To acquire, and to hold, own, and exercise all rights of ownership in, and to sell, transfer, or pledge shares of capital stock or bonds, or become a member or a stockholder of any corporation or association engaged in any related activities.

- d To buy, lease, hold, and exercise all privileges of ownership in and to all real or personal property as may be necessary or convenient for the conduct and operation of the business of the corporation or incidental thereto.
- e To establish reserves and to invest the funds thereof in stocks, bonds, and other property as the board of directors may deem satisfactory.
- f To levy assessments in such manner and in such amount as may be provided in the bylaws of this corporation.
- g To have and exercise all powers, privileges and rights conferred on corporations by the laws of the State of West Virginia and all powers and rights incidental in carrying out the purposes for which this corporation is formed, except such as are inconsistent with the express provisions of the act under which this corporation is incorporated.
- h The foregoing shall be construed both as objects and powers, and the enumeration thereof shall not be held to limit or restrict in any manner the general powers conferred on this corporation by the laws of the State of West Virginia, all of which are hereby expressly claimed.

#### ARTICLE III

The place where the principal business of the corporation is to be transacted, is the ~~Six~~ (Village) of New Creek, County of Mineral, State of West Virginia, but the corporation may maintain offices and places of business at such other places within the State of West Virginia as the board of directors may determine. Its chief works shall be located in the same place.

#### ARTICLE IV

The period of existence of this corporation shall be perpetual.

#### ARTICLE V

The private property of the members shall not be subject to payment of corporation debts. This provision is not intended to forbid any or all members from contracting to pay obligations of the corporation or from executing lien instruments which would mortgage their private property to secure such obligations of the corporation.

#### ARTICLE VI

Section 1. This corporation shall not have capital stock, but its capital shall be represented by membership certificates.

ARTICLE VIII

The number of directors shall be five. The names and addresses of those who are to serve as the first directors until the first annual meeting of the members and until their successors are elected and have qualified are:

<u>Name</u>	<u>Address</u>
<u>William M. Bane</u>	<u>Route 4, Keyser, West Virginia</u>
<u>George S. Evans</u>	<u>Star Route 1, Box 60, Keyser, West Virginia</u>
<u>Lawrence O. Fout</u>	<u>New Creek, West Virginia</u>
<u>Bryan E. Shepp</u>	<u>Route 4, Keyser, West Virginia</u>
<u>C. Laurin Swisher</u>	<u>New Creek, West Virginia</u>

IN WITNESS WHEREOF, we the incorporators, have hereunto set our hands and seals this 26th day of March, 19 71.

Notary Public prepared by:  
C. Reeves Taylor  
Attorney at Law  
P. O. Box 220  
Keyser, W. Va. 26726

Bryan E. Shepp  
William M. Bane  
George S. Evans  
Lawrence O. Fout  
C. Laurin Swisher

(STATE OF WEST VIRGINIA)

(COUNTY OF MINERAL)

BE IT REMEMBERED, that on this 26th day of March, 19 71, personally appeared before me, a notary public in and for the State of West Virginia, William M. Bane, George S. Evans, Lawrence O. Fout, Bryan E. Shepp, C. Laurin Swisher, and who executed the foregoing articles of incorporation and severally acknowledged the said articles of incorporation to be the act and deed of the signers respectively, and that the facts therein stated are truly set forth. These Articles of Incorporation are dated March 26th, 1971.

Given under my hand and seal the day and year aforesaid.

Dorothy Peckella  
Notary Public for the State of  
West Virginia  
my commission expires: Apr. 30, 1975

Section 2. Under the terms and conditions prescribed by its bylaws this corporation shall admit as members only persons having a reasonable accessibility to the sources of, and who are in need of having water supplied for domestic, livestock, garden, industrial, and commercial purposes from the water system constructed, maintained and operated by the corporation, but the corporation shall not be required to admit members if the capacity of its water system is exhausted by the needs of its existing members and other persons to whom it has been supplying water.

Section 3. The membership fee in this corporation shall be fixed and determined by its bylaws. The voting power and property rights and interest of each member whose fees are fully paid and who is in good standing shall be equal and each member shall be entitled to one vote only. New members, upon their admission in this corporation, shall be entitled to one vote and to share in the property of the corporation equally with the old members. When a member has paid his membership fee in full he shall receive a certificate of membership. Assessments against members and a determination of their liabilities shall be fixed by the bylaws of the corporation.

Section 4. This corporation is organized on a non-profit basis for the mutual benefit of its members and consequently will not have profits from which to pay dividends on its capital. After all expenses of the corporation have been paid and reasonable reserves, as determined by the board of directors, set aside, the net earnings of the corporation shall be accumulated in a surplus fund for the purpose of replacing, enlarging, extending and repairing the system and property of the corporation, and for such other purposes as the board of directors may determine to be for the best interests of the corporation. The said surplus fund or any portion thereof may from time to time, at the discretion of the board of directors, be distributed to the members as provided in the bylaws on the basis of the assessments and charges made and levied against and paid by such members during the year.

Section 5. Fifteen percent (15%) of the members of the corporation shall constitute a quorum at any meeting of the members.

#### ARTICLE VII

The names and post office addresses of the incorporators are:

<u>Name</u>	<u>Address</u>
<u>William M. Banc</u>	<u>Route 4, Keyser, West Virginia</u>
<u>George S. Evans</u>	<u>Star Route 1, Box 60, Keyser, West Virginia</u>
<u>Lawrence O. Foul</u>	<u>New Creek, West Virginia</u>
<u>Bryan E. Shepp</u>	<u>Route 4, Keyser, West Virginia</u>
<u>C. Laurin Swisher</u>	<u>New Creek, West Virginia</u>



*I* - **KEN HECHLER** *Secretary of State of the*  
*State of West Virginia, hereby certify that*

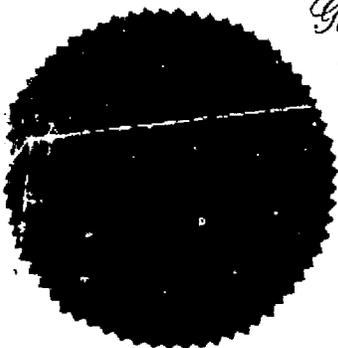
I have received in my Office, duplicate originals of  
ARTICLES OF AMENDMENT TO THE ARTICLES OF INCORPORATION  
of  
THE NEW CREEK WATER ASSOCIATION INCORPORATED

The said Articles of Amendment were duly signed and verified pursuant to provisions of Chapter 31, Article 1, Section 31 of the Official Code of West Virginia, 1931, as amended, and are hereby found to conform to law. Accordingly therefore, I now issue this

CERTIFICATE OF AMENDMENT TO THE ARTICLES OF INCORPORATION

of the hereinabove named corporation, and I attach hereto, a duplicate original of said Articles of Amendment.

GOD SAVE THE PRECIOUS STATE OF WEST VIRGINIA!



*Given under my hand and the*  
*Great Seal of the said State at*  
*the City of Charleston, this*

\_\_\_\_\_ *SIXTH* \_\_\_\_\_ *day of*  
\_\_\_\_\_ *MARCH* \_\_\_\_\_ *19 53*

\_\_\_\_\_  
*Secretary of State.*

1984  
11/11/84

ARTICLES OF AMENDMENT  
OF

THE NEW GALEX WATER ASSOCIATION, INCORPORATED

A. The name of this corporation is THE NEW GALEX WATER ASSOCIATION, INCORPORATED.

B. The articles of incorporation of this corporation are hereby amended by the addition of the following as Article IV:

This corporation is formed in compliance with the provisions of Chapter II, Article 3, Section 7, of the Code of the State of West Virginia, as amended, in that this is a non-profit corporation, and the property of this corporation shall be used for area or local development purposes and such property shall not be leased out for profit.

C. These Articles of Amendment were presented for adoption at a regular meeting of the members of this corporation held on the 11 day of November, 1984, pursuant to the provisions of Chapter II, Article 3, Section 117, of the West Virginia Code, as amended, at which meeting a quorum of the members of this corporation was present and said amendments were adopted by the vote of the members present at such meeting or represented by proxy were entitled to cast.

D. These Articles of Amendment were prepared by John L. Rogers, II, Attorney at Law, Post Office Drawer 2, Keyser, West Virginia 26726.

These Articles of Amendment are hereby executed in duplicate this 11 day of November, 1984.

THE NEW GALEX WATER ASSOCIATION  
INCORPORATED

BY Robert D. McNeill SECRETARY  
BY [Signature] PRESIDENT

STATE OF WEST VIRGINIA,  
COUNTY OF MORGAN, to-wit:

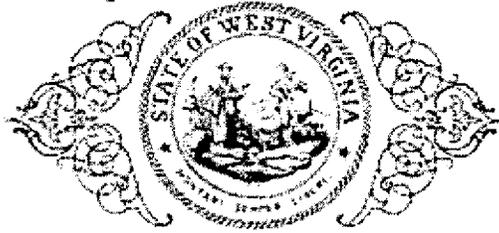
I, Robert L. [unclear], a Notary Public, do hereby  
certify that on this 14th day of November, 1968, personally  
appeared before me [unclear], who, being by  
the first duly sworn, declared that he is the President of the  
Joe Creek Water Association Incorporated, a West Virginia  
corporation, that he signed the foregoing documents as the agent  
of the corporation, and that the statements therein contained are  
true.

(NOTARY SEAL)

[Signature]  
NOTARY PUBLIC

My Commission Expires:  
[unclear]

# State of West Virginia



## Certificate

*I, Joe Manchin III, Secretary of State of the  
State of West Virginia, hereby certify that*

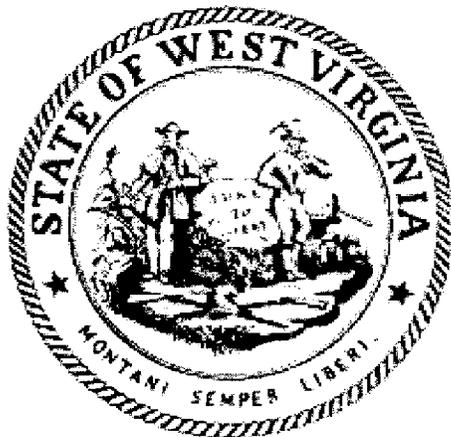
**THE NEW CREEK WATER ASSOCIATION INCORPORATED**

was incorporated under the laws of West Virginia and a Certificate of Incorporation was issued by the West Virginia Secretary of State's Office on April 1, 1971.

I further certify that the corporation has not been revoked by the State of West Virginia nor has the West Virginia Secretary of State issued a Certificate of Dissolution to the corporation.

Accordingly, I hereby issue this

### CERTIFICATE OF EXISTENCE



*Given under my hand and the  
Great Seal of the State of  
West Virginia on this day of  
October 5, 2004*

A handwritten signature in cursive script, appearing to read "Joe Manchin III".

*Secretary of State*

UNITED STATES DEPARTMENT OF AGRICULTURE  
FARMERS HOME ADMINISTRATION

*Office  
Only*

BYLAWS

of

THE NEW CREEK WATER ASSOCIATION INCORPORATED

ARTICLE I

General Purposes

The purposes for which this corporation is formed and the powers which it may exercise are set forth in the articles of incorporation of the corporation.

ARTICLE II

Name and Location

Section 1. The name of this corporation is the  
The New Creek Water Association Incorporated

Section 2. The principal office of this corporation shall be located in the ~~Sixx~~ (Village) of New Creek, County of Mineral, State of West Virginia.

ARTICLE III

Seal

Section 1. The seal of the corporation shall have inscribed thereon the name of the corporation, the year of its organization, and the words, "Corporation Not For Profit, \_\_\_\_\_."

Section 2. The secretary of the corporation shall have custody of the seal.

Section 3. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or otherwise reproduced.

ARTICLE IV

Fiscal Year

The fiscal year of the corporation shall begin the 1st day of ~~January~~ July in each year.

## ARTICLE V

Membership

Section 1. Every person (which word as used herein includes any legal entity) who is a record owner of a fee or undivided fee interest, or having a substantial possessory interest, in a property served by the water system may become a member of the corporation upon signing such applications and agreements for the purchase of water as may be provided and required by the corporation and upon the payment of such connection fee as may be imposed by the board of directors provided that only one membership at a time may be held for each property served. A single membership may be issued to all persons owning or having a substantial possessory interest in the property. Only one membership may be held with respect to property at one time. The board of directors shall cause to be issued appropriate certificates of membership, provided that membership shall not be denied because of the applicant's race, color, creed, or national origin. Membership may be denied if capacity of the corporation's water system is exhausted by the need of its existing members, or, if the proposed use of the applicant is such that it would interfere with existing uses previously authorized by the board of directors.

a. A substantial possessory interest is one where the person or persons have a legal right to control and occupancy of a property but do not have the legal or the equitable ownership of the property. It may be under a lease or similar right to possession.

(1) Before membership is allowed to one or more persons claiming such an interest, the corporation will endeavor to obtain the application for membership from the owner of such property.

(2) Where membership is granted to one or more persons having a substantial possessory interest, the corporation as a condition to the membership may require such applicant to post such collateral or bond as the directors determine necessary to fully protect the corporation from any additional risk that may be involved to the corporation by reason of the lack of legal ownership in the applicant.

Section 2. Each member shall have only one membership regardless of the number of service connections he may obtain to serve his property. Each membership certificate shall represent one vote. When more than one person holds the interest in a property served, the vote shall be exercised by the person in whose name the certificate is registered or by such person as the several persons may designate, but in no event shall more than one vote be cast with respect to any property.

FORM FRI-WV LL2-2  
(Rev. 8-13-71)

Section 3. Membership shall be transferable, but the transfer will be effective only when noted on the books of the corporation. Such transfer will be made only to a person who obtains a qualifying interest in the property. A member will transfer his membership in the corporation to his successor in interest as part of the transaction whereby he disposes of his interest to said property. The secretary, upon request, will make note of such transfer upon the records of the corporation but need not issue a new certificate to the successor in interest of the previous existing member.

Section 4. When membership in the corporation is not transferred, it shall terminate upon the disposition or other termination of the member's interest in the property, regardless of whether or not the certificate is surrendered to the corporation. Membership also may be terminated by action of the board of directors where the use of the property is changed so as to materially increase the amount of water consumed to the prejudice of other existing members or to the prejudice of the orderly operation of the system.

Section 5. The termination of the membership of any member shall not disqualify for membership any other person who has or obtains an interest in the property of the terminated member and who otherwise meets the requirements of these bylaws.

Section 6. In the event a member's property interest is divested other than by voluntary means, such member's membership will pass to the trustee, receiver, executor, or the like who will be entitled either in person or through a designated representative to exercise all of the rights incident to such membership, but subject to such duties and liabilities also applicable to the membership. The trustee, receiver, executor, or the like, may terminate such membership by written notice to such effect delivered or mailed to the secretary of the corporation. Upon the final disposition of such property rights, the owner thereof shall be entitled to membership in like manner as if the membership had been transferred to him by the original member as set forth in section 4 above.

Section 7. Upon the transfer of a membership, the corporation will not look to the successor in interest for the payment of any past due amounts. The corporation will seek collection only from the individual who incurred such charges or assessments or from the property itself if a judgment lien had been duly perfected against such property.

## ARTICLE VI

### Membership Certificates

Section 1. This corporation shall not have capital stock. Membership in the corporation shall be represented by membership certificates. Such certificates shall represent the right to use and enjoy the benefits

of the corporation's water supply system upon the payment of necessary assessments, if any, and of reasonable charges based upon such use, provided such use and enjoyment are consistent with the rules, regulations, and contracts affecting the same as may from time to time be prescribed by the board of directors.

Section 2. A membership certificate shall be issued to each holder of fully paid membership, numbered consecutively in accordance with the order of issue, and bear on its face the following statements:

This membership certificate, No. \_\_\_\_\_, is issued and accepted in accordance with and subject to the conditions and restrictions stipulated in the articles of incorporation and bylaws and amendments to the same of the \_\_\_\_\_  
New Creek Water Association.

## ARTICLE VII

### Meetings of Members

Section 1. The annual meeting of the members of this corporation shall be held at or near New Creek, County of Mineral, State of West Virginia, at 7:30 o'clock p. m., on the second Monday in January of each year, if not a Sunday or legal holiday, or if a Sunday or legal holiday on the next business day following. The place, day, and time of the annual meeting may be changed to any other convenient place, day, and time in the county by the board of directors giving notice thereof to each member not less than ten (10) days in advance thereof.

Section 2. Special meetings of the members may be called at any time by the action of the board of directors, and such meetings must be called whenever a petition requesting such meeting is signed by at least ten percent of the members and presented to the secretary or to the board of directors. The purpose of every special meeting shall be stated in the notice thereof, and no business shall be transacted thereat except such as is specified in the notice.

Section 3. Notice of meetings of members of the corporation, both regular and special, shall be given by notice mailed by first-class mail to each member of record, directed to the address shown upon the books of the corporation, not less than ten (10) nor more than forty (40) days prior to such meeting. Such a notice shall state the nature, time, place, and purpose of the meeting; but no failure or irregularity of notice of any annual meeting, regularly held, shall affect any proceedings taken thereat.

Section 4. The presence at a meeting of members entitled to cast in their own right or by proxy 20 percent of the total number of votes shall constitute a quorum. All proxies shall be in writing and filed

with the secretary. Such proxies may be general or restrictive. Proxies shall be revocable and shall not be valid beyond 11 months, nor after termination of the membership by cessation of the member's interest in the property.

Section 5. Directors of this corporation shall be elected at the annual meeting of the members as provided in article VIII, Section 1. No cumulative voting shall be allowed.

Section 6. The order of business at the regular meetings and so far as possible at all other meetings shall be:

1. Calling to order and proof of quorum
2. Proof of notice of meeting
3. Reading and action on any unapproved minutes
4. Reports of officers and committees
5. Election of directors
6. Unfinished business
7. New business
8. Adjournment

#### ARTICLE VIII

##### Directors and Officers

Section 1. The board of directors of this corporation shall consist of 5 members, all of whom shall be members of the corporation. The directors named in the articles of incorporation shall serve until the first annual meeting of the members and until their successors are elected and have qualified. At the first annual meeting of the members, 1 director shall be elected for a term of one year; 2 directors for a term of two years; and 2 directors for a term of three years. At each annual meeting thereafter, the members shall elect for a term of three years the number of directors whose terms of office have expired. Each director shall hold office for the term for which he is elected and until his successor shall have been elected and qualified.

Section 2. The board of directors shall meet within ten (10) days after the annual election of directors and shall elect a president and vice-president from among themselves and a secretary-treasurer who need not be a member of the board of directors, each of whom shall hold office until the next annual meeting and until the election and qualification of his successor unless sooner removed by death, resignation, or for cause.

Section 3. If the office of any director becomes vacant by reason of death, resignation, retirement, disqualification, or otherwise, except by removal from office, a majority of the remaining directors, though less than a quorum shall, by a majority vote, choose a successor who shall hold office until the next regular meeting of the members of the corporation, at which time the members shall elect a director for the unexpired term or terms, provided that in the call of such regular meeting a notice of such election shall be given.

Section 4. A majority of the board of directors shall constitute a quorum at any meeting of the board. The affirmative vote of the majority of the directors at a meeting at which a quorum is present shall be the act of the board.

Section 5. Compensation of officers may be fixed at any regular or special meeting of the members of the corporation. Directors shall receive no compensation for their services as such.

Section 6. Officers and directors may be removed from office in the following manner: Any member, officer, or director may present charges against a director or officer by filing them in writing with the secretary of the corporation. If presented by a member, the charges must be accompanied by a petition signed by ten percent of the members of the corporation. Such removal shall be voted on at the next regular or special meeting of the members and shall be effective if approved by a vote of a majority of those voting if a quorum is present. The director or officer against whom such charges have been presented shall be informed, in writing, of such charges at least twenty days prior to the meeting, and shall have the opportunity at such meeting to be heard in person or by counsel and to present witnesses; and the person or persons presenting such charges against him shall have the same opportunity. If the removal of a director is approved, such action shall also vacate any other office held by the removed director in the corporation. A vacancy in the board thus created shall immediately be filled by a vote of a majority of the members present and voting at such meeting. A vacancy in any office thus created shall be filled by the board of directors from among their number so constituted after the vacancy in the board has been filled.

## ARTICLE IX

### Duties of Directors

Section 1. The board of directors, subject to restrictions of law, the articles of incorporation, and these bylaws, shall exercise all of the powers of the corporation; and, without prejudice to or limitation upon their general powers, it is hereby expressly provided that the board of directors shall have, and are hereby given, full power and authority in respect to the matters as hereinafter set forth to be exercised by resolution duly adopted by the board:

- a. To approve membership applications and to cause to be issued appropriate certificates of membership. The board may make

FORM 100-100 112-2  
(REV. 8-13-71)

binding commitments to issue membership certificates and to permit the connection of properties to the system in the future in cases involving proposed construction or may issue such certificates prior to the commencement of the proposed construction.

b. To select and appoint all officers, agents, or employees of the corporation, remove such agents or employees of the corporation, prescribe such duties and designate such powers as may not be inconsistent with these bylaws, fix their compensation and pay for faithful services.

c. To borrow from any source, money, goods, or services and to make and issue notes and other negotiable or nonnegotiable instruments evidencing indebtedness of the corporation; to make and issue mortgages, deeds of trust, pledges of revenue, trust agreements, security agreements and financing statements, and other instruments evidencing a security interest in the assets of the corporation; and to do every act and thing necessary to effectuate the same.

d. To prescribe, adopt, and amend from time to time such equitable, uniform rules and regulations as, in its discretion, may be deemed essential or convenient for the conduct of the business and affairs of the corporation and the guidance and control of its officers and employees, and to prescribe adequate penalties for the breach thereof.

e. To order, at least once each year, an audit of the books and accounts of the corporation by a competent public auditor or accountant. The report prepared by such auditor or accountant shall be submitted to the members of the corporation at their annual meeting together with a proposed budget for the ensuing year. Copies of such audits and budgets shall be submitted to such parties as may be required by other agreements.

f. To fix and alter the charges to be paid by each member for services rendered by the corporation to the member, including connection fees where such are deemed to be necessary by the directors, and to fix and alter the method of billing, time of payment, manner of connection, and penalties for late or nonpayment of the same. The board may establish one or more classes of users. All charges shall be uniform and nondiscriminating within each class of users.

g. To require all officers, agents, and employees charged with responsibility for the custody of any of the funds of the corporation to give adequate bond, the cost thereof to be paid by the corporation; and it shall be mandatory upon the directors to so require.

h. To select one or more banks to act as depositories of the funds of the corporation and to determine the manner of receiving, depositing, and disbursing the funds of the corporation and the form of checks and the person or persons by whom the same shall be signed, with the power to change such banks and the person or persons signing such checks and the form thereof at will.

i. To levy assessments against the members of the corporation in such manner and upon such proportionate basis as the directors deem equitable, and to enforce collection of such assessments by the suspension of water service or other legal methods. The board of directors shall have the option to suspend the service of any member who has not paid such assessment within 30 days from the date the assessment was due, provided the corporation must give the member at least 15 days' written notice at the address of the member on the books of the corporation of its intention to suspend such service if the assessment is not paid. Upon payment of such assessments, any penalties applicable thereto, and a reconnection charge, if one is in effect, service will be promptly restored to such a member.

## ARTICLE X

### Duties of Officers

Section 1. Duties of president. The president shall preside over all meetings of the corporation and the board of directors, call special meetings of the board of directors, perform all acts and duties usually performed by an executive and presiding officer, and sign all membership certificates and such other papers of the corporation as he may be authorized or directed to sign by the board of directors, provided the board of directors may authorize any person to sign any or all checks, contracts, and other instruments in writing on behalf of the corporation. The president shall perform such other duties as may be prescribed by the board of directors.

Section 2. Duties of the vice-president. In the absence or disability of the president, the vice-president shall perform the duties of the president provided, however, that in case of death, resignation, or disability of the president, the board of directors may declare the office vacant and elect his successor.

Section 3. Duties of the secretary-treasurer. The secretary-treasurer shall keep a complete record of all meetings of the corporation and of the board of directors and shall have general charge and supervision of the books and records of the corporation. He shall attest the president's signature on all membership certificates and other papers pertaining to the corporation unless otherwise directed by the board of directors. He shall serve, mail, or deliver all notices required by law and by these bylaws and shall make a full report of all matters and business pertaining to his office to the members at the annual meeting and at such other time or times as the board of directors may require.

FORM PA-4W 112-2  
(Rev. 5-15-71)

He shall keep the corporate seal and membership certificate records of the corporation, complete and attest all certificates issued, and affix said corporate seal to all papers requiring seal. He shall keep a proper membership certificate record, showing the name of each member of the corporation and date of issuance, surrender, transfer, termination, cancellation, or forfeiture. He shall make all reports required by law and shall perform such other duties as may be required of him by the corporation or the board of directors. Upon the election of this successor, the secretary-treasurer shall turn over to him all books and other property belonging to the corporation that he may have in his possession. He shall also perform such duties with respect to the finances of the corporation as may be prescribed by the board of directors.

## ARTICLE XI

### Benefits and Duties of Members

Section 1. The corporation will install, maintain, and operate a main distribution pipeline or lines from the source of the water supply and service lines from the main distribution pipeline or lines to the property line of each member of the corporation, at which points, designated as delivery points, meters to be purchased, installed, owned, and maintained by the corporation shall be placed. The cost of the service line or lines from the main distribution pipeline or lines of the corporation to the property line of each member shall be paid by the corporation. The corporation also may purchase and install a cutoff valve in each service line from its main distribution line or lines, such cutoff valve to be owned and maintained by the corporation and to be installed on some portion of the service line owned by the corporation. The corporation shall have the sole and exclusive right to use of such cutoff valve. However, the provisions of this section shall not be construed to require the acquisition or installation of meters or cutoff valves where the directors determine under the circumstances of the system and the nature of the membership that the use of either or both of such devices is impractical, unnecessary to protect the system and the rights of the membership, and/or economically not feasible.

Section 2. Each member will be required at his own expense to have dug a ditch for the connection of the service line or lines from the property line of the member to his dwelling or other portion of his premises, and to purchase and have installed the portion of the service line or lines from his property line to the place of use on his premises. The member will maintain such portion of such service line or lines which shall be owned by the member, at his own expense. The corporation may, if the board of directors so determines, purchase the pipe for and install such portion of such service line or lines, the cost of which will, however, be paid by the individual members. In addition, each member shall pay such connection charge, if any, as may have been imposed by the board of directors before such member will be entitled to receive water from the system.

Section 3. Each member may be permitted to have additional service lines from the corporation's water system in the discretion of the board of directors upon proper application therefor and the tender of payment not to exceed the then existing connection charge. The approval by the board of directors of additional service lines to an existing member may be made conditional upon such provisions as the board of directors determines necessary to protect the interests of other members and to allow for the orderly expansion and extension of the system to serve other property that may need service along the distribution lines of the system. Each service line shall connect with the corporation's water system at the nearest available place to the place of desired use by the member if the corporation's water system has sufficient capacity to permit the delivery of water through a service line at that point without interfering with the delivery of water through a prior service line. If the corporation's water system is inadequate to permit the delivery of water through a service line installed at such place without interfering with the delivery of water through a prior service line, then such service line shall be installed at such place designated by the corporation.

Section 4. Each member may be permitted to purchase from the corporation, pursuant to such agreement as may from time to time be provided and required by the corporation, such water as is needed by him for domestic, commercial, agricultural, industrial, or other purposes as a member may desire, subject, however, to the provisions of these bylaws and to such rules and regulations as may be prescribed by the board of directors. Each member shall be entitled to have delivered to him through his service lines only such water as may be necessary to supply the needs of each member, including his family, business, agricultural, or industrial requirements. The water delivered through each service line may be metered separately, and the charges for such water may be determined separately, irrespective of the number of service lines owned by a member.

Section 5. In the event the total water supply shall be insufficient to meet all of the needs of the members or in the event there is a shortage of water, the corporation may prorate the water available among the various members on such basis as is deemed equitable by the board of directors, and may also prescribe a schedule of hours covering use of water for commercial, agricultural, or industrial purposes by particular members and require adherence thereto or prohibit the use of water for commercial, agricultural or industrial purposes provided that if at any time the total water supply shall be insufficient to meet all of the needs of all of the members for domestic, livestock, commercial, agricultural, or industrial purposes, the corporation must first satisfy all of the reasonable needs of the members for domestic purposes before supplying any water for livestock purposes and must satisfy all of the needs of all of the members for domestic and livestock purposes before supplying any water for commercial or industrial purposes and, provided further, that where a member has more than one service line the corporation may cut off the flow of water to the non-domestic

FORM F-117 112-2  
(Rev. 5-13-71)

service lines until such time as the supply of water from the system is sufficient to meet the needs of all of the members for domestic, livestock, and garden purposes. During such periods of shutoff of additional service lines, there shall be no minimum fee charged to the members having such additional service lines, and the cost, if any, of resuming the flow of water to such additional service lines shall be borne by the corporation.

Section 6. The board of directors shall, with the consent of the Farmers Home Administration, so long as it shall either hold any obligations or insure any financing of the system, prior to the beginning of each calendar year, determine the flat minimum monthly rate to be charged each member during the following calendar year for a specified quantity of water, such flat minimum monthly rate to be payable irrespective of whether any water is used by a member during any month, the amount of additional charges, if any, for additional water which may be supplied the members, and the amount of penalty for late payments, and shall fix the date for the payment of such charges. A member to be entitled to the delivery of water shall pay such charges at the office designated by the corporation at or prior to the dates fixed by the board of directors. The failure to pay water charges duly imposed shall result in the automatic imposition of the following penalties:

a. Nonpayment within ten days from the due date will be subject to a penalty of ten (10) percent of the delinquent account, which percent may be changed at the discretion of the board of directors.

b. Nonpayment within thirty days from the due date will result in the water being shut off from the member's property without any notice thereof to such delinquent member. Upon the payment by the delinquent member of past due water charges, penalties thereon, or any reconnection charge, such member shall be entitled to resumption of the water supply. During the time of such suspension of water to a member, such member shall have no right to vote in the affairs of the corporation.

Section 7. The board of directors shall be authorized to require each member to enter into water users agreements which shall embody the principles set forth in the foregoing provisions of these bylaws.

## ARTICLE XII

### Distribution of Surplus Funds

It is not anticipated that there will be any surplus funds or net income to the corporation at the end of the fiscal year after provisions are made for the payment of the expenses of operation and maintenance and the funding of the various reserves for depreciation, debt

*Funds*

retirement, and other purposes, including those required by the terms of any borrowing transaction. In the event that there should exist such surplus funds or net income, they may be placed in an existing or new reserve account to be used for the early retirement of any outstanding indebtedness or be used for the improvement and/or extension of the corporate facilities as the board of directors may determine to be in the best interest of the corporation and to the extent not otherwise provided for by any contractual arrangement. The occurrence in subsequent fiscal years of surplus funds or net income above the requirements of the corporation as above mentioned, including, if any, a reserve for improvements and extension of the facilities shall be taken into consideration by the board of directors in determining the water rates to be charged the members.

ARTICLE XIII

Amendments

These bylaws may be repealed or amended by a vote of a majority of the members present at any regular meeting of the corporation, or at any special meeting of the corporation called for that purpose, except that so long as any indebtedness is held by or guaranteed by the Farmers Home Administration, the members shall not have the power to change the purposes of the corporation so as to decrease the rights and powers under the laws of the State, or to waive any requirement of bond or other provision for the safety and security of the property and funds of the corporation or its members, or so to amend the bylaws as to effect a fundamental change in the policies of the corporation without the prior approval of the Farmers Home Administration in writing.

---

We certify that the foregoing bylaws were duly adopted by the members on January 12, 19 72, that the same are in full force and effect and have not been amended.

Given under our hands and the seal of the corporation, this  
                     day of January, 19 72.

---

Secretary-Treasurer President

**ON FILE WITH ISSUER**

Bob Wise  
Governor  
Quetta Muzzle  
Acting Commissioner



## West Virginia Bureau of Employment Programs

• Job Service • Labor Market Information  
• Unemployment Compensation •  
*an equal opportunity/affirmative action employer*

NOV 5 REC'D

November 1, 2004

Virgil Schmidlen, President  
The New Creek Water Association Incorporated  
General Delivery  
New Creek, WV 26743

Account Number: ~~82279-5~~

Dear Employer:

The Bureau of Employment Programs has, at your request, researched their records and has found your account is in compliance with the West Virginia Unemployment Compensation Law.

Very truly yours,

A handwritten signature in cursive script that reads "Wade H. Wolfingbarger".

Wade H. Wolfingbarger --  
Assistant Director

THE NEW CREEK WATER ASSOCIATION INCORPORATED

Water Refunding Revenue Notes, Series 2004 A  
(Branch Banking and Trust Company)  
and  
Water Revenue Bonds, Series 2004 B  
(West Virginia Infrastructure Fund)  
and  
Water Revenue Bonds, Series 2004 C  
(West Virginia Infrastructure Fund)

EXCERPT OF MINUTES ON ADOPTION OF BOND RESOLUTION,  
SUPPLEMENTAL RESOLUTION AND FIRST DRAW RESOLUTION

The undersigned Secretary of The New Creek Water Association Incorporated (the "Association") hereby certifies that the following is a true and correct excerpt of the minutes of a special meeting of the Board of Directors (the "Board") of the Association:

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The Board met in special session, pursuant to notice duly posted, on the 9th day of November, 2004, at the Association's offices located in New Creek, West Virginia, at the hour of 6:00 p.m.

PRESENT:	Virgil Schmidlen	Vickie Szabo
	Robert Helmick	Rob Riggleman
	Robert Amtower	John Chaney
	Norman Launi	Dave Vanscoy
	Tom Cooper	Vincent Collins
	Ken Dyche	

ABSENT: None

Virgil Schmidlen, President, presided, and Robert Helmick, acted as Secretary. The President announced that a quorum of members was present and that the meeting was open for any business properly before it.

Thereupon, the President presented a proposed Bond Resolution in writing entitled:

RESOLUTION AUTHORIZING THE REFUNDING OF THE GMAC COMMERCIAL MORTGAGE LOAN, SERIES 1972, OF THE NEW CREEK WATER ASSOCIATION INCORPORATED (THE "ISSUER") THROUGH THE ISSUANCE BY THE ISSUER OF NOT MORE THAN \$110,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REFUNDING REVENUE NOTES, SERIES 2004 A (BRANCH BANKING AND TRUST COMPANY); AUTHORIZING THE

ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS, IMPROVEMENTS AND EXTENSIONS TO THE EXISTING WATERWORKS FACILITIES OF THE ISSUER AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE ISSUER OF NOT MORE THAN \$1,095,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND) AND NOT MORE THAN \$286,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2004 C (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH NOTES AND BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING LOAN AGREEMENTS RELATING TO SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A CREDIT LINE DEED OF TRUST, SECURITY AGREEMENTS AND OTHER DOCUMENTS AND INSTRUMENTS RELATING TO THE NOTES AND BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH NOTES AND BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

and caused the same to be read and there was discussion. Thereupon, on motion duly made by Tom Cooper and seconded by Robert Amtower, it was unanimously ordered that said Bond Resolution be adopted and be in full force and effect on and from the date hereof.

Then, the President presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE WATER REFUNDING REVENUE NOTES, SERIES 2004 A (BRANCH BANKING AND TRUST COMPANY), WATER REVENUE BONDS, SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND), AND WATER REVENUE BONDS, SERIES 2004 C (WEST VIRGINIA INFRASTRUCTURE FUND) OF THE NEW CREEK WATER ASSOCIATION INCORPORATED; APPROVING AND RATIFYING THE LOAN AGREEMENTS RELATING TO THE BONDS; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF THE SERIES 2004 A NOTES TO BRANCH BANKING AND TRUST COMPANY; AUTHORIZING AND APPROVING THE SALE OF THE SERIES 2004 B BONDS AND SERIES 2004 C BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE SERIES 2004 A NOTES AND THE SERIES 2004 B BONDS AND SERIES 2004 C BONDS.

and caused the same to be read and there was discussion. Thereupon, upon motion duly made by Tom Cooper and seconded by Robert Amtower, it was unanimously ordered that the said Supplemental Resolution be adopted and be in full force and effect on and from the date hereof.

Then, the President presented a resolution to approve the first draw on the Series 2004 Bonds and there was discussion. Thereupon, upon motion duly made by Robert Amtower and seconded by Norman Launi, the resolution was adopted and approved.

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There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the Board of Directors of The New Creek Water Association Incorporated and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 18th day of November, 2004.

  
Secretary

11/05/04  
658370.00001

CH713588.1

I, as an officer of the News-Tribune, a daily newspaper published at Keyser, Mineral County, West Virginia, hereby

certify that the ~~New Creek~~  
Water Association, Inc.

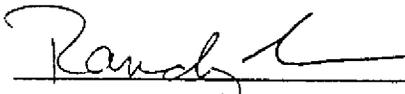
in the case of Rates, Rules and Regulations  
for furnishing water  
at New Creek

vs. \_\_\_\_\_

\_\_\_\_\_ a copy whereof is hereto annexed has been published for 1 consecutive day

in said NEWS TRIBUNE, the first publication being on the 3rd day of, June, 2004.

Given under my hand at Keyser this 3rd day of June, 2004.

  
\_\_\_\_\_  
Publisher

Publisher's Fee

\$ 87.78

## 130 Legal Notices

### NEW CREEK WATER ASSOCIATION, INC.,

a public utility of  
NEW CREEK, WEST VIRGINIA  
RATES, RULES AND REGULATIONS  
FOR FURNISHING  
WATER

at New Creek and vicinity in  
Mineral County, West Virginia  
Filed with

### THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

Issued April 8, 2004

Effective for service rendered on and  
after April 8, 2004 or as otherwise  
provided herein

Issued by authority of an Order of the  
Public Service Commission of West  
Virginia in Case No. 04-0030-W-T  
dated March 11, 2004 or as other-  
wise provided herein.

Issued by New Creek Water Associa-  
tion, Inc., a public utility

By: Virgil L. Schmidlen

President

#### RULES AND REGULATIONS

1. Rules and Regulations for the Gov-  
ernment of Water Utilities, adopted by  
the Public Service Commission of  
West Virginia, and now in effect, and  
all amendments thereto and modifica-  
tions thereof hereafter made by said  
Commission.

#### (C) APPLICABILITY

Applicable within the entire territory  
served.

#### (C) AVAILABILITY OF SERVICE

Available for general, domestic, com-  
mercial and industrial water service

#### RATE

First	3,000 gallons used per month	\$5.65 per 1,000 gallons
Next	3,000 gallons used per month	\$5.05 per 1,000 gallons
Next	4,000 gallons used per month	\$4.81 per 1,000 gallons
Next	10,000 gallons used per month	\$4.21 per 1,000 gallons
All over	20,000 gallons used per month	\$3.85 per 1,000 gallons

#### (C) MINIMUM CHARGE

No minimum bill will be rendered for  
less than \$12.54 per month which is  
the equivalent of 3,000 gallons:

5/8 inch meter	\$ 12.54 per month
3/4 inch meter	\$ 18.80 per month
1 inch meter	\$ 31.35 per month
1-1/2 inch meter	\$ 62.70 per month
2 inch meter	\$ 100.30 per month
3 inch meter	\$ 188.10 per month
4 inch meter	\$ 313.50 per month
6 inch meter	\$ 627.00 per month
8 inch meter	\$ 1,003.20 per month

The above minimum charge is subject  
to an additional \$1.47 per thousand  
gallons of water used per month.

#### (C) DELAYED PAYMENT PENALTY

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

(C) Indicates change in text

#### (C) TAP FEE

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

(N) A tap fee of \$100.00 will be  
charged to customers applying for  
service before construction is com-  
pleted adjacent to the customers  
premises in connection with a certifi-  
cate proceeding before the commis-  
sion. This preconstruction tap fee will  
be invalid after the completion of con-  
struction adjacent to an applicant's  
premises that is associated with a cer-  
tificate proceeding.

A tap fee of \$300.00 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.

#### (C) RECONNECTION

\$15.00 to be charged whenever the  
supply of water is turned off for viola-  
tions of rules, non-payment of bills, or  
fraudulent use of water.

#### (C) RETURNED CHECK CHARGE

A service charge equal to the actual  
bank fee assessed to the Association  
or a maximum of \$25.00 will be im-  
posed upon any customer whose  
check for payment of charges is re-  
turned by their bank due to insufficient  
funds.

#### (C) LEAK ADJUSTMENT

\$2.53 per thousand gallons is to be  
used when a bill reflects unusual con-  
sumption which can be attributed to  
eligible leakage on the customer's side  
of the meter. This rate shall be applied  
to all such unusual consumption above  
the customer's historical average  
usage.

(C) Indicates change in text

(N) Indicates new

### PRIVATE FIRE PROTECTION SERVICE

#### (O) AVAILABILITY OF SERVICE RATE

Where connections, hydrants, sprin-  
klers, etc., on private property are  
maintained by consumer:

#### Per Annum

2 - inch Service Line with hydrants, sprinklers and/or hose connections	\$ 49.56
3 - inch Service Line with hydrants, sprinklers, and/or hose connections	\$ 112.08
4 -inch Service Line with hydrants, sprinklers, and/or hose connections	\$ 196.44
6 -inch Service Line with hydrants, sprinklers, and/or hose connections	\$ 497.64
8 -inch Service Line with hydrants, sprinklers and/or hose connections	\$ 816.12
10-inch Service Line with hydrants, sprinklers, and/or hose connections	\$ 1,447.56
12-inch Service Line hydrants, sprinklers, and/or hose connections	\$ 2,028.24

#### PROMPT PAYMENT DISCOUNT OR DELAYED PAYMENT PENALTY

(O)

(O) Indicates omission

I, as an officer of the News-Tribune, a daily newspaper published at Keyser, Mineral County, West Virginia, hereby certify that the Public Service

Commission

in the case of Notice of Hearing

vs. \_\_\_\_\_

a copy whereof is hereto annexed has been published for 1 consecutive day

in said NEWS TRIBUNE, the first publication being on the 7th day of May 2004

Given under my hand at Keyser this 7th day of May 2004

  
\_\_\_\_\_  
Publisher

Publisher's Fee

\$ 35.91

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

CASE NO. 04-0031-W-CN  
**NEW CREEK WATER ASSOCIATION, INC.**

Application for a certificate of convenience and necessity to construct a water line extension along U.S. Route 50 and Pine Swamp Road, improvements, etc., and to install fire hydrants.

**NOTICE OF HEARING**

On January 8, 2004 the New Creek Water Association, Inc., (Applicant or Association) General Delivery, New Creek, Mineral County, West Virginia, filed an application for a certificate of convenience and necessity to construct a water line extension and install fire hydrants along U.S. Route 50 and Pine Swamp Road. The project is to consist of approximately forty six thousand (46,000) feet of water line; fifty (50) valves; forty-five (45) fire hydrants; one hundred (100) meter assemblies; the installation of thirty-three (33) hydrants on the existing lines; a 107,500-gallon water tank; a 72,500-gallon water tank; a new 90-gpm pump station; and the modification of the Association's existing pump station. The Applicant estimated that construction would cost approximately \$2,019,000.00 and would be financed by a grant and a loan from the West Virginia Infrastructure Jobs and Development Council. The Applicant requested an approximate 10.5% rate increase in its rates and charges. Protests were filed against the application and this matter is scheduled for hearing to be held on Tuesday, May 18, 2004, in the Mineral County Courthouse, 150 Armstrong Street, Keyser, West Virginia, to commence at 10:00 a.m., at which time and place the parties and all interested persons shall appear and represent their interests as may be deemed appropriate. Notice is hereby given that, upon review of the application, the Applicant's final rates may be more than or less than those proposed by the Applicant, if, indeed, the project is approved. Notice is further given that Rules 4.4 and 12.7 of the Commission's Rules of Practice and Procedure require that, in all proceedings before the Commission, corporations must be represented by an attorney. Out-of-state attorneys may only practice before the Commission if associated with a West Virginia attorney in good standing with the West Virginia State Bar.

**NEW CREEK WATER ASSOCIATION, INC.**

COPY

PUBLIC SERVICE COMMISSION  
OF  
WEST VIRGINIA

COPY

IN RE: NEW CREEK WATER ASSOCIATION

CASE NO. 04-00310-W-CN

NOTICE OF FILING NEWSPAPER PUBLICATION

Take notice that New Creek Water Association, Inc. has published the New Creek Water Association, Inc. "Rates, Rules and Regulations for Furnishing Water at New Creek" among the legal ads in the Mineral Daily News-Tribune on June 3, 2004, as evidenced by the attached Printer's Certificate.

NEW CREEK WATER ASSOCIATION, INC.  
By Counsel



\_\_\_\_\_  
Timothy M. Sirk  
Attorney at Law  
WVSB# 3428  
108 N. Main Street  
PO Box 356  
Keyser, WV 26726

CERTIFICATE OF SERVICE

I, Timothy M. Sirk, a practicing attorney, do hereby certify that I filed the original plus 12 copies of this Notice and Printer's Certificate with the Public Service Commission of West Virginia by way of First Class U.S. Mail to the address of 201 Brooks Street, PO Box 812, Charleston, WV 25323 and mailed copies to New Creek Water Association, General Delivery, New Creek, WV 26743; John Stump, Esq., Steptoe & Johnson, Bank One Center, PO Box 1588, Charleston, WV 25326-1588; Dave Vanscoy, Engineer, Rummel, Klepper & Kahl, LLP, 1 Grand Central Park, Suite 2040, Keyser, WV 26726; Ken Dyche, Region VIII Planning & Development Council, PO Box 849, Petersburg, WV 26847; Katy, Mallory, Executive Secretary, WVIJDC, 300 Summers Street, Suite 980, Charleston, WV 25301; Mike Bland, Mineral County Commission, 150 Armstrong Street, Keyser, WV 26726; and Tim Michaels, CPA, Huber, Michaels & Company, 111 Josie Drive, Keyser, WV 26726, on this the 10<sup>th</sup> day of June, 2004.

  
\_\_\_\_\_  
TIMOTHY M. SIRK

PUBLIC SERVICE COMMISSION  
OF  
WEST VIRGINIA

COPY

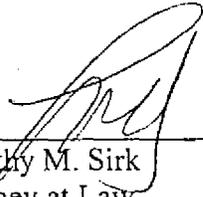
IN RE: NEW CREEK WATER ASSOCIATION

CASE NO. 04-00310-W-CN

NOTICE OF FILING NEWSPAPER PUBLICATION

Take notice that New Creek Water Association, Inc. has filed the newspaper publication  
with  
the Public Service Commission of West Virginia this 10<sup>th</sup> day of May, 2004.

NEW CREEK WATER ASSOCIATION, INC.  
By Counsel



---

Timothy M. Sirk  
Attorney at Law  
WVSB# 3428

**RESERVED**

**ON FILE WITH ISSUER**



UNITED STATES DEPARTMENT OF AGRICULTURE

**RURAL DEVELOPMENT**

Mineral County Clerk  
LEASE/R/W/CONTR Clerk 03  
Date/Time: 11/18/2004 16:05  
Inst #: 44014  
Book/Page: 318- / 198-  
Doc/Tax: 6.00 .00

75 High Street Federal Building, Suite 320, Morgantown, WV 26505-7500  
304.284.4860 • 1.800.295.8228 • fax 304.284.4893 • TTY/TDD 304.284.4836

November 16, 2004

**THE NEW CREEK WATER ASSOCIATION INCORPORATED**  
**Water Refunding Revenue Notes, Series 2004 A**  
**(Branch Banking & Trust Company)**  
**and**  
**Water Revenue Bonds, Series 2004 B**  
**(West Virginia Infrastructure Fund)**  
**and**  
**Water Revenue Bonds, Series 2004 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 Rural Utilities Service, United States Department of Agriculture ("RUS"), the present holder of the Prior Bonds, hereinafter defined and described, hereby (i) consents to the issuance of the Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company) (the "Notes"), in the original aggregate principal amount of \$81,682, the Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund) (the "Series 2004 B Bonds"), in the original aggregate principal amount of \$1,095,000, and the Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund) (the "Series 2004 C Bonds" and together with the Series 2004 B Bonds, collectively referred to herein as the "Bonds"), in the original aggregate principal amount of \$286,000, by The New Creek Water Association Incorporated (the "Issuer"), on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's outstanding promissory note dated October 20, 1992 (the "Prior Bonds"), including, but not limited to, (a) the lien created by that certain Corporate Real Estate Deed of Trust for West Virginia, dated October 20, 1992, by and among the Issuer, the trustee named therein and the United States of America, of record in the Office of the Clerk of the County Commission of Mineral County, West Virginia in Trust Deed Book 262, at page 123, and (b) the security interest created by that certain Loan Agreement dated October 20, 1992, by and between the Issuer and the United States of America, as perfected by that certain UCC-1 Financing Statement number 365475 on file with the West Virginia Secretary of State; (ii) waives any requirements imposed by the Prior Bonds or the resolution authorizing the Prior Bonds (the "Prior Resolution"), regarding the issuance of parity bonds which are not met by the Notes, Bonds or the Resolution; and (iii) consents to any amendments made to the Prior Resolution by the Resolution or the Supplemental Resolution authorizing the Notes and the Bonds.

This consent shall be recorded simultaneously with the Credit Line Deed of Trust, Security Agreement and Fixture Filing to be recorded by the Issuer and shall be filed as an exhibit to

[Http://www.rurdev.usda.gov/wv](http://www.rurdev.usda.gov/wv)



USDA Rural Development is an Equal Opportunity Lender, Provider and Employer  
Complaints of discrimination should be sent to: USDA Director, Office of Civil Rights, Washington, D.C. 20250-9410

**COMMITTED TO THE FUTURE OF RURAL COMMUNITIES**

the UCC-1 Financing Statements to be filed by the Issuer with the West Virginia Secretary of State to perfect the security interests of the secured parties named therein, all in connection with the issuance of the Notes and the Bonds.

IN WITNESS WHEREOF, the United States of America, acting through the Rural Utilities Service, United States Department of Agriculture, has caused its name to be signed by its duly authorized officer, this 16<sup>th</sup> day of November, 2004.

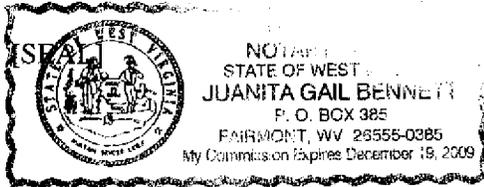
UNITED STATES OF AMERICA, ACTING THROUGH  
THE RURAL UTILITIES SERVICE, UNITED STATES  
DEPARTMENT OF AGRICULTURE

By Richard E. Satterfield  
Its Acting State Director

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

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of November, 2004, by Richard E. Satterfield, the <sup>Acting</sup> State Director of the United States of America, acting through the Rural Utilities Service, United States Department of Agriculture.

My commission expires December 19, 2009.



Juanita Gail Bennett  
Notary Public

# State of West Virginia

## OFFICE OF ENVIRONMENTAL HEALTH SERVICES

815 QUARRIER STREET, SUITE 418

CHARLESTON, WEST VIRGINIA 25301-2616

TELEPHONE 304-558-2981

(Water)

### PERMIT

PROJECT: Water Line Extension Project

PERMIT NO.: 15,921

LOCATION: near New Creek COUNTY: Mineral

DATE: 1-27-2004

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

**New Creek Water Association  
General Delivery  
New Creek, West Virginia 26743**

is hereby granted approval to: to install approximately 18,510 LF of 8", 25,470 LF of 6" and 2,200 LF of 2" water line; one (1) 90 G.P.M. duplex water booster station; one (1) 107,500 gallon and one (1) 72,500 gallon water storage tanks; replace the existing Pine Pointe water booster pumps; install approximately 33 new fire hydrants on existing water lines; and all necessary valves and appurtenances. The two (2) water storage tanks will initially be operated at a lower water level to maintain a minimum 20% daily water turnover, until such time as demands allow for maximum water level storage to meet the 20% daily water turnover requirement.

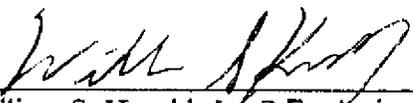
Facilities are to serve approximately 120 new customers along US Route 50, WV Route 93, US Route 220, County Route 220/1, Stoney Run Road, County Route 220/2, Pine Swamp Road, County Route 220/7, Southern Drive, County Route 220/5, Harley O. Staggers Drive, and HARP Route 906 in the New Creek Water Association.

**NOTE:** This permit is contingent upon: 1) All new water line and water storage tanks being flushed, disinfected and bacteriologically tested, prior to use; 2) Maintaining a minimum ten (10) feet horizontal separation between sewer and water lines and a minimum 18" vertical separation between crossing sewer and water lines, with the water line above the sewer line; and 3) The installation of a minimum six (6) feet high fence with a locking gate around the proposed new water storage tanks and the new water booster station.

The Environmental Engineering Division of the OEHS-Kearneysville District Office, telephone (304) 725-9453, 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:sec

pc: ~Rummel, Klepper & Kahl, L.L.C.  
City of Keyser  
James W. Ellars, P.E., PSC-Engineering Division  
Amy Swann, PSC  
Mineral County Health Department  
OEHS-EED Kearneysville District Office

<b>ACORD. CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YYYY) 7/21/2004
PRODUCER Watson Insurance Agency Gary W. Watson PO Box 1487 Keyser, WV 26728	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED New Creek Water Association, Inc. PO Box 50 New Creek, WV 26743	INSURERS AFFORDING COVERAGE	NAIC #
	INSURER A: National Union Fire Insurance Co. of Pittsburgh	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

**COVERAGES**

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADITI LTR INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	3654	July 1, 2004	July 1, 2005	EACH OCCURRENCE \$ 1,000,000
	DAMAGE TO RENTED PREMISES (EA OCCURRENCE) \$				
					MED EXP (Any one person) \$ Not Applicable
					PERSONAL & ADV INJURY \$
					GENERAL AGGREGATE \$ No Aggregate
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO- JECT <input type="checkbox"/> LOC				PRODUCTS - COMP/OP AGG \$ No Aggregate
					Fire Legal 100,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		July 1, 2004	July 1, 2005	COMBINED SINGLE LIMIT (EA ACCIDENT) \$ 1,000,000
					BODILY INJURY (Per person) \$
					BODILY INJURY (Per accident) \$
					PROPERTY DAMAGE (Per accident) \$
A	GARAGE LIABILITY <input checked="" type="checkbox"/> ANY AUTO		July 1, 2004	July 1, 2005	AUTO ONLY - EA ACCIDENT \$ 1,000,000
					OTHER THAN EA ACC \$ 1,000,000 AUTO ONLY: AGG \$ Not Applicable
	EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				EACH OCCURRENCE \$
					AGGREGATE \$
					\$
					\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/>
					E.L. EACH ACCIDENT \$
					E.L. DISEASE - EA EMPLOYEE \$
					E.L. DISEASE - POLICY LIMIT \$
A	OTHER Automobile Physical Damage		July 1, 2004	July 1, 2005	ACV Less \$1,000 deductible
A	Stop Gap		July 1, 2004	July 1, 2005	1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

A \$2500 per occurrence deductible applies to all liability coverage.

1992 Chevrolet Pickup #217058  
2000 Chevrolet Pickup #210216

<b>CERTIFICATE HOLDER</b> GMAC Commercial Mortgage PO Box 1687 Horsesham, PA 19044 Loan #: 10595201	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
AUTHORIZED AGENT <i>Gary Watson</i>	AUTHORIZED REPRESENTATIVE <i>Bob Miles</i>

JUL 2 2 REC'D

**ACORD™ CERTIFICATE OF PROPERTY INSURANCE** DATE  
7/21/2004

<b>PRODUCER</b> Watson Insurance Agency Gary W. Watson PO Box 1467 Keyser, WV 26726	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
<b>INSURED</b> New Creek Water Association, Inc. PO Box 50 New Creek, WV 26743	<b>COMPANIES AFFORDING COVERAGE</b> COMPANY A Westchester Fire Insurance Company COMPANY B The Hartford Steam Boiler Inspection and Insurance Co. COMPANY C COMPANY D

**COVERAGES**  
 THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	COVERED PROPERTY	LIMITS
	<input checked="" type="checkbox"/> PROPERTY				BUILDING	\$
	CAUSES OF LOSS				PERSONAL PROPERTY	\$
	<input type="checkbox"/> BASIC				<input checked="" type="checkbox"/> BUSINESS INCOME	\$ 12 Months
	<input type="checkbox"/> FLOOD				<input checked="" type="checkbox"/> EXTRA EXPENSE	\$ 12 Months
					<input checked="" type="checkbox"/> BURGLARY & THEFT	\$
	CAUSES OF LOSS		July 1, 2004	July 1, 2005		\$
	<input type="checkbox"/> NAMED PERILS					\$
	<input type="checkbox"/> OTHER					\$
<b>A</b>	<input checked="" type="checkbox"/> CRIME		July 1, 2004	July 1, 2005		\$ 2,000,000.00
	TYPE OF POLICY					\$
	Employee Dishonesty					\$
<b>B</b>	<input checked="" type="checkbox"/> BOILER & MACHINERY		July 1, 2004	July 1, 2005		\$ 1,000,000.00
	OTHER					\$

LOCATION OF PREMISES/DESCRIPTION OF PROPERTY Office Building \$29,264.00 4 Pump Buildings \$ 6,072.00 Controls \$29,700.00	
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SPECIAL CONDITIONS/OTHER COVERAGES

<b>CERTIFICATE HOLDER</b> GMAC Commercial Mortgage PO Box 1697 Horsham, PA 19044 Loan #: 10595201	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL <u>10</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.
AUTHORIZED AGENT	AUTHORIZED REPRESENTATIVE

**CERTIFICATE OF LIABILITY INSURANCE**

**ADDITIONAL INSURED:** NEW CREEK WATER ASSOCIATION  
GENERAL DELIVERY  
NEW CREEK, WV 26743

**CERTIFICATE NO:** L 3654 - May 1, 1991

This certifies that the insured named above is an Additional Insured for the Coverage indicated below under General Liability Policy GL 4806295 and Automobile Policy CA 5189013 issued to the State of West Virginia by NATIONAL UNION FIRE INSURANCE CO. OF PITTSBURGH, PA.

**COVERAGE PERIOD:** Jul 1, 2004 to Jul 1, 2005 12:01 a.m. Eastern Time

**COVERAGE AFFORDED:** Comprehensive General Liability Insurance  
Personal Injury Liability Insurance  
Professional Liability Insurance  
Stop Gap Liability Insurance  
Wrongful Act Liability Coverage  
Comprehensive Auto Liability Coverage  
Auto Physical Damage Insurance  
Garagekeepers Insurance

**LIMIT OF LIABILITY:** \$1,000,000 each occurrence\* and is SUBJECT TO \$2,500 DEDUCTIBLE. \*For all coverages combined. This limit is not increased if a claim is insured under more than one coverage or if claim is made against more than one insured.

**SPECIAL LIMITS:** The auto physical damage limit is the actual cash value of each vehicle subject to a deductible of \$1,000.

**CLAIM REPORTING:** Claims should be reported to:  
Claim Manager  
West Virginia Board of Risk & Insurance Management  
90 MacCorkle Avenue S.W. Suite 203  
South Charleston, West Virginia 25303

**Claims Made Prior Acts Date:** May 1, 1991

THE INSURANCE EVIDENCED BY THIS CERTIFICATE IS SUBJECT TO ALL OF THE TERMS, CONDITIONS, EXCLUSIONS AND DEFINITIONS IN THE POLICIES. IT IS A CONDITION PRECEDENT OF COVERAGE UNDER THE POLICIES THAT THE ADDITIONAL INSURED DOES NOT WAIVE ANY STATUTORY OR COMMON LAW IMMUNITY CONFERRED UPON IT.

BY: Bob Math  
AUTHORIZED REPRESENTATIVE

DATED: June 30, 2004

**AGENT OF RECORD:** WATSON, GARY  
WATSON INSURANCE AGENCY  
PO BOX 1467  
KEYSER, WV 26726-1467

CERTIFICATE OF PROPERTY INSURANCE

INSURED: NEW CREEK WATER ASSOCIATION

GENERAL DELIVERY  
NEW CREEK, WV 26743

CERTIFICATE NO: P 3654 - May 1, 1991

This certifies that the Additional Insured named above is insured for first party Property Coverages procured and/or administered by the West Virginia Board of Risk and Insurance Management (BRIM). The coverages are provided through a combination of custom designed and conventional commercial insurance products.

THE INSURANCE EVIDENCED BY THIS CERTIFICATE IS SUBJECT TO ALL OF THE TERMS, CONDITIONS, EXCLUSIONS AND DEFINITIONS CONTAINED IN THE POLICIES.

COVERAGE PERIOD: Jul 1, 2004 to Jul 1, 2005 12:01 a.m. Eastern Time

LIMIT OF LIABILITY: Stated values, for real and personal property, which have been declared to and accepted by BRIM, not to exceed the maximum coverage procured by BRIM.

Individual Faithful Performance Bonds are limited to the amount of coverage that is required by statute.

SPECIAL LIMITS: Each policy shall be governed by the special limits of liability contained therein.

DEDUCTIBLE: The State of West Virginia has a \$1,000,000.00 deductible on coverages it procures. The above listed insured has a \$2,500 deductible that is applicable to each loss.

CLAIM REPORTING: Claims should be reported to:  
Claim Manager  
West Virginia Board of Risk & Insurance Management  
90 MacCorkle Avenue S.W. Suite 203  
South Charleston, West Virginia 25303

BY: Bob Mitty  
AUTHORIZED REPRESENTATIVE

DATED: June 30, 2004

AGENT OF RECORD: WATSON, GARY  
WATSON INSURANCE AGENCY  
PO BOX 1467  
KEYSER, WV 26726-1467

# CLOSING MEMORANDUM

**To:** Financing Team  
**From:** John C. Stump, Esquire  
**Date:** November 18, 2004  
**Re:** The New Creek Water Association Incorporated Water Refunding Revenue Notes, Series 2004 A (Branch Banking and Trust Company), Water Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund) and Water Revenue Bonds, Series 2004 C (West Virginia Infrastructure Fund)

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## DISBURSEMENTS FROM SERIES 2004 A NOTES PROCEEDS

1. Payor: Branch Banking and Trust Company  
Source: Series 2004 A Notes Proceeds  
Amount: \$81,471.52  
Form: Wire Transfer  
Payee: GMAC  
Bank: Bank One- Texas, NA  
Routing #: 111-000-614  
Beneficiary: GMAC Commercial Mortgage Corporation  
Account #: 1825178252  
Reference: Attn: JEANNE BRYANT LN: 01-0595201  
Loan #: 01-0595201  
Purpose: Pay in full the entire outstanding principal of and all accrued interest on the Series 1972 Bonds.
  
2. Payee: Branch Banking and Trust Company  
Amount: \$200.48  
Purpose: Origination Fee
  
3. Payee: Steptoe & Johnson PLLC  
Amount: \$10.00  
Purpose: Reimbursement for UCC-1 Filing Fee

**DISBURSEMENTS TO THE NEW CREEK WATER ASSOCIATION INCORPORATED**

1. Payor: West Virginia Infrastructure Fund  
Source: Series 2004 C Bonds Proceeds  
Amount: \$188,672.00  
Form: Wire Transfer  
Payee: The New Creek Water Association Incorporated  
Bank: Branch Banking and Trust Company  
Routing #: 057000668  
Account #: 5174135241  
Contact: Dianna Barbarito (304.788.7623)  
Account: Series 2004 Bonds Construction Trust Fund

11/16/04  
658370.00001

CH701453.1

**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

**BOND CLOSING ATTENDANCE LIST**

Date November 18, 2004 Time 10:00 a.m. LGA New Creek Water Association Incorporated Program IF

NAME	COMPANY, AGENCY, OR ORGANIZATION	TELEPHONE	FAX	E-MAIL
Samme Coe	Jackson Kelly PLLC	340.1318	340.1080	sgcoe@jacksonkelly.com
Franki Parsons	Jackson Kelly PLLC	340-1283	340-1093	fparsons@jacksonkelly.com
Barbara B Meadows	Water Development Authority	558.3612	558-0299	bmeadows@wvwda.org
John Stump	Steeptoe Johnson PLLC	353.8196	353.8181	stumpj@steeptoe-johnson.com
BERNIE YONKOSKY	WU WDA	558-3612	558-0299	dyonkosky@wvwda.org

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 Virgil Schindler Telephone 304.788.5886 E-Mail \_\_\_\_\_  
 Address General Delivery, New Creek West Virginia 26743

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 or an exception opinion showing whether a rebate amount is due to the US Government under arbitrage requirements in Section 148(f) of the US Internal Revenue Code, 1986, as amended.