

## DISTRIBUTION LIST

\$3,140,000

Southern Jackson County Public Service District  
Water Revenue Bond (West Virginia DWTRF Program)  
Series 2013

### Issuer

Southern Jackson County Public Service District  
P.O. Box 57  
Kenna, WV 25248-0057  
James L. Stover, Chairman  
Karl Vielhaber, General Manager  
Lynn Fouty, Secretary  
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### Bondholder

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### Accountant

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Paying Agent

West Virginia Municipal Bond Comm.  
Ms. Sara Boardman, Executive Director  
900 Pennsylvania Avenue, Suite 1117  
Charleston, West Virginia 25302  
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Fax: (304) 558-1280  
Sara.L.Rogers@wv.gov E-Mail Address

Depository Bank

United Bank, Inc.  
113 North St.  
Ripley, WV 25271  
(304) 372-2121 Telephone  
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rebecca.mullins@bankwithunited.com E-Mail Address

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The Pre-Closing of the sale of \$3,140,000 Southern Jackson County Public Service District, Water Revenue Bond (West Virginia DWTRF Program), Series 2013, will take place at the office of the West Virginia Water Development Authority, 1009 Bullitt Street, Charleston, West Virginia, at 1:30 p.m., Eastern Time, on February 13, 2013. The Closing of the Series 2013 Bond will occur on February 14, 2013.

No transaction shall be deemed to have been completed and no documents shall be deemed to have been delivered unless and until all transactions are complete and all documents are delivered. Any document that references an Exhibit or Schedule to be attached thereto shall be considered completed and attached if the referenced Exhibit or Schedule appears elsewhere in this Transcript.





# WEST VIRGINIA

Infrastructure & Jobs Development Council

Gov. Earl Ray Tomblin  
Chairman

Kenneth Lowe, Jr.  
Public Member

David "Bones" McComas  
Public Member

Ron Justice  
Public Member

Louis R. Spatafore  
Public Member

Joseph Freeland  
Public Member

D. K. "Bud" Carr  
Public Member

James W. Ellars, P.E.  
Executive Director

Barbara J. Pauley  
Administrative Secretary

January 12, 2012

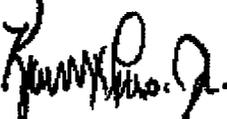
James S. Hutchinson, Chairman  
Southern Jackson County PSD  
P.O. Box 57  
Kenna, WV 25248

Re: Southern Jackson County PSD  
Water Project 2010W-1219  
Binding Commitment  
(Action Required by January 31, 2012)

Dear Mr. Hutchinson:

At its January 10, 2012 meeting, the West Virginia Infrastructure and Jobs Development Council voted to approve that the Southern Jackson County Public Service District receive a binding commitment for a \$530,000 Infrastructure Fund grant (Grant), which will expire January 10, 2013. The Infrastructure Fund Grant will be subject to the terms set forth on Schedule A attached hereto and incorporated herein by reference. Prior to drawing the Grant funds, an executed Grant agreement will be required. A Grant agreement will be mailed for execution under separate cover.

If you have any questions regarding this matter, please contact Jim Ellars at 304-414-6501 (X106).

Sincerely,  
  
Kenneth Lowe, Jr.

**Attachment**

cc: Samme Gee, Esq., Jackson Kelly (via e-mail)  
Bob Decrease, P.E., BPH (via e-mail)  
J.B. Hildreth, P.E., Boyles and Hildreth Consulting Engineers (via e-mail)

**NOTE:** This letter is sent in duplicate. Please acknowledge receipt and immediately return one copy to the Infrastructure Council.

Southern Jackson County Public Service District

By: \_\_\_\_\_

Its: \_\_\_\_\_

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

**WEST VIRGINIA INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL**

Southern Jackson County Public Service District  
Water Project 2010W-1219

**SCHEDULE A**

- A. Approximate Amount: \$530,000 Grant
- B. Grant: \$530,000
1. Grant Advancement Date(s): Monthly, upon receipt of proper requisition.
  2. Special Conditions: The binding commitment for this Grant will expire January 10, 2013.

**NOTICE:** The terms set forth above are subject to change following the receipt of construction bids.

- C. Other Funding: DWTRF loan (1%, 30 yrs) \$3,140,000
- D. Total Project Cost: \$3,670,000
- E. Proposed User Rates: Approximately \$43.56 / 4000 gallons

**GRANT AGREEMENT**  
(2010W-1219)

This Grant Agreement entered into by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority"), at the direction of the WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL (the "Council"), and the SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT (the "Governmental Agency").

**R E C I T A L S**

WHEREAS, the Council has authorized the Authority to make a grant to the Governmental Agency in the amount not to exceed \$530,000 (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:

**T E R M S**

1. Prior to the distribution of the Grant, the Governmental Agency shall provide the Authority with a Project budget and an anticipated monthly draw schedule reflecting the receipt dates and amounts from other funding sources. The Project budget shall not be amended unless the Governmental Agency has received the prior written consent of the Council.

2. The Authority shall advance the Council's share of the Project costs from the Grant from time to time upon receipt of a requisition evidencing the costs incurred, which requisition must be satisfactory to the Authority. Unless agreed to by the Council prior to the commencement of construction, the Grant shall be the last dollars expended on the Project.

3. The monthly requisition will also set forth (i) the amounts requested for that requisition period from all other funding agencies, and (ii) the amounts advanced for the Project to date from all other funding agencies.

4. The Governmental Agency will use the proceeds of the Grant only for the purposes specifically set forth in Exhibit A.

5. The Authority shall wire the approved requisition amount using the wiring instructions provided in Exhibit B, unless the Council and Authority are provided replacement instructions in writing.

6. The Governmental Agency shall comply with and is bound by the Council's rules set forth as Title 167, Series 1 and more particularly Section 5.9 with respect to the sale of the Project.

7. The Governmental Agency acknowledges that the Grant may be reduced, from time to time, to reflect actual Project costs and availability of other funding.

8. The Governmental Agency shall list the Grant provided by the Authority and the Council in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any groundbreaking or dedication of the Project.

9. This Grant Agreement shall be governed by the laws of the State of West Virginia.

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

**SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT**

By: James L. Stover  
Its: Chairman  
Date: February 14, 2013

(SEAL)

Attest: [Signature]  
Its: Secretary

**WEST VIRGINIA WATER DEVELOPMENT AUTHORITY**

By: [Signature]  
Its: Executive Director  
Date: February 14, 2013

(SEAL)

Attest: Sheila A. Miller  
Its: Authorized Officer

## **Exhibit A**

### **Project Description**

The Project consists of construction and acquisition of certain additions, betterments, extensions and improvements to the existing public water system of the Governmental Agency, including the construction and installation of all necessary appurtenant facilities.

**Number of Proposed New Customers to Be Served: 80**

**Location: Faber Hollow, Pigeon Roost Run, Gins Creek and Route 33 area.**

**[TO BE PLACED ON LETTERHEAD]**

**Exhibit B**

**Wiring Instructions**

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**Southern Jackson County Public Service District  
P.O. Box 57  
Kenna, WV 25248-0057**

**Payor:** West Virginia Water Development Authority  
**Source:** Grant Proceeds  
**Amount:** \$ \_\_\_\_\_  
**Date:** \_\_\_\_\_  
**Form:** Electronic Funds Transfer  
**Payee:** Southern Jackson County Public Service District  
P.O. Box 57, Kenna, WV 25248-0057  
**Contact Name:** James L. Stover, Chairman  
**Telephone:** (304) 372-2622  
**Bank Name:** United Bank, Inc.  
**Bank Street Address:** 113 North St., Ripley, WV 25271  
**Bank Contact:** Becky Mullins, Manager  
**Telephone:** (304) 372-2121  
**ABA:** 051900395  
**Account #:** 67778447  
**Account:** Construction Fund



STATE OF WEST VIRGINIA,

COUNTY OF JACKSON, to-wit:

I, Marsha L. Fouty, do hereby certify that I am the duly qualified, elected and acting Secretary of the Public Service Board of the Southern Jackson County Public Service District.

I further certify that attached hereto are Orders of the County Commission of Jackson County, West Virginia, creating the Southern Jackson County Public Service District and subsequently adjusting its boundaries, all of which Orders remain in full force and effect with no changes, insertions, amendments or modifications having been made thereto since their respective dates of adoption.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and affixed the seal of said Public Service District as of the 7<sup>th</sup> day of February, 2013.

  
Secretary

(SEAL)

The County Commission of Jackson County, West Virginia, met this day in regular session held this 22nd day of November, 1975, at 10:00 a.m., pursuant to the call of Carl Warner, President, Raymond Skinner, Commissioner and \_\_\_\_\_, Commissioner, said call being:

"To consider a petition of residents and property owners of Southern Jackson County, residing in Ripley and Washington Magisterial Districts, Jackson County, West Virginia, asking for the creation of a public service district in the area therein described, and to adopt a proposed resolution and enter a proper order fixing a date of hearing on the creation of a public service district in the Southern area of Jackson County, Ripley and Washington Magisterial Districts, Jackson County, West Virginia, as set forth in said petition and to provide for the publication of a notice of such hearing."

The meeting was called to order and the roll being called, there were present, Carl Warner, President, presiding, and the following named Commissioners:

1. Raymond Skinner
- 2.

And were absent:

E. S. Rawlings

Commissioner Skinner introduced and caused to

be read a proposed resolution and order entitled:

"A resolution and order fixing a date of hearing on the creation of a public service district within Jackson County, West Virginia; and providing for the publication of a notice of such hearing."

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

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

WHEREAS, said County Commission Clerk has presented such

petition to this County Commission at this meeting.

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

Section 1. That the County Commission of Jackson County, West Virginia, hereby finds and declares that there has been filed in the office of the County Commission Clerk and presented by said County Commission Clerk to this County Commission a petition for the creation of a public service district within Jackson County, West Virginia, which petition contains a description sufficient to identify the property to be embraced within the proposed public service district and the name of the proposed public service district and which petition has been signed by 217 legal voter residents within and owning real property within the limits of the proposed public service district and said County Commission further finds and declares that said petition in all respects meets the requirements of Article 13A of Chapter 16 of the West Virginia Code.

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

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

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

BEGINNING at a point on the Roane and Jackson County line at the Northern right of way line of U. S. Route 33; thence with the general direction of U. S. Route 33, N. 88° 30' W. 9.8 miles to a point in the Ripley Corporation line; thence following the Ripley Corporation line along its Eastern, Southern and Western boundaries to the intersection of said boundary with the Northern right of way line of U. S. Route 33; thence with the general direction of U. S. Route 33, N. 85° 30' W. 0.7 miles to a point near West Virginia Secondary Route 30/5 (Parchment Valley Road); thence S. 63° 00' W. 5.8 miles to a point in the Mason and Jackson County line; thence with said County 1 the following bearings and distances: S. 34° 00' E. 4.1 miles to a point; thence S. 44° 30' W. 1.7 miles to a point; thence S. 44° 30' E. 3.2 miles to a point where the Mason and Jackson County line intersects the Putnam County line; thence with the Putnam and Jackson County line the following bearings and distances: N. 81° 00' E. 1.3 miles to a point; thence S. 35° 30' E. 4.8 miles to a point where the Putnam and Jackson line intersect the Kanawha County line; thence with the Kanawha and Jackson County line the following bearing and distances: S. 35° 30' E. 5.2 miles to a point; thence N. 86° 30' E. 0.4 miles to a point; thence S. 03° 00' E. 0.9 miles to a point; thence N. 63° 30' E. 3.4 miles to a point; thence N. 51° 00' E. 4.0 miles to a point where the Kanawha and Jackson County line intersects the Roane County line; thence with the Roane and Jackson County line the following bearings and distances: N. 21° 30' W. 2.3 miles to a point; thence N. 14° 00' W. 1.9 miles to a point; thence N. 13° 00' E. 2.2 miles to a point; thence N. 8° 30' E. 2.4 miles to a point; thence N. 5° 30' E. 6.1 miles to the place of beginning, containing 213.32 square miles, more or less, all within Ripley Magisterial District and Washington Magisterial District, of the County of Jackson, State of West Virginia.

are, improve and extend properties supplying water and sewerage services within such territory and also outside such territory to the extent permitted by law.

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

Section 3. That said petition contains more than 100 legal voter residents within and owning real property within the limits of the proposed public service district.

Section 4. That on December 18, 1975, at the hour of 10:30 A.M., this County Commission shall meet in the County Court House at Ripley, West Virginia, for the purpose of conducting a public hearing on the creation of the proposed public service district at which time and place all persons residing in or owning or having any interest in property in the proposed public service district may appear before this County Commission and shall have an opportunity to be heard for and against the creation of said district, and at such hearing, this County Commission shall consider and determine the feasibility of the creation of the proposed public service district.

Section 5. That the County Commission Clerk is hereby authorized and directed to cause notice of such hearing in substantial: the form hereinafter set out to be published on December 3, 1975, in the Jackson Herald, a newspaper of general circulation published in Ripley, Jackson County, West Virginia, and said notice shall also be posted in at least five conspicuous places in the proposed public service district. The posted notice shall be posted not less than ten (10) days before said hearing.

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

BEGINNING at a point on the Roane and Jackson County line at the Northern right of way line of U. S. Route 33; thence with the general direction of U. S. Route 33, N. 88° 30' W. 9.8 miles to a point in the Ripley Corporation line; thence following the Ripley Corporation line along its Eastern, Southern and Western boundaries to the intersection of said boundary with the Northern right of way line of U. S. Route 33; thence with the general direction of U. S. Route 33, N. 85° 30' W. 0.7 miles to a point near West Virginia Secondary Route 30/5 (Parchment Valley Road); thence S. 63° 00' W. 5.8 miles to a point in the Mason and Jackson County line; thence with said County line the following bearings and distances: S. 34° 00' E. 4.1 miles to a point; thence S. 44° 30' W. 1.7 miles to a point; thence S. 44° 30' E. 3.2 miles to a point where the Mason and Jackson County line intersects the Putnam County line; thence with the Putnam and Jackson County line the following bearings and distances: N. 81° 00' E. 1.3 miles to a point; thence S. 35° 30' E. 4.8 miles to a point where the Putnam and Jackson line intersect the Kanawha County line; thence with the Kanawha and Jackson County line the following bearing and distances: S. 35° 30' E. 5.2 miles to a point; thence N. 86° 30' E. 0.4 miles to a point; thence S. 03° 00' E. 0.9 miles to a point; thence N. 63° 30' E. 3.4 miles to a point; thence N. 51° 00' E. 4.0 miles to a point where the Kanawha and Jackson County line intersects the Roane County line; thence with the Roane and Jackson County line the following bearings and distances: N. 21° 30' W. 2.3 miles to a point; thence N. 14° 00' W. 1.9 miles to a point; thence N. 13° 00' E. 2.2 miles to a point; thence N. 8° 30' E. 2.4 miles to a point; thence N. 5° 30' E. 6.1 miles to the place of beginning, containing 213.32 square miles, more or less, all within Ripley Magisterial District and Washington Magisterial District, of the County of Jackson, State of West Virginia.

That the County Commission of Jackson County, by resolution adopted November 22, 1975, proposes the creation of the Southern Jackson County Public Service District of the County of Jackson, West Virginia.

All persons residing in or owning or having any interest in property in said proposed public service district are hereby notified that the County Commission of Jackson County will conduct a public hearing of December 18, 1975, at 10:30 A.M., in the County Court House at Ripley, West Virginia, at which time and place all interested persons may appear before the County Commission and shall have an opportunity to be heard for and against the creation

By order of the County Commission this 22nd day of November, 1975.

C. E. Kessel  
Clerk, County Commission

ADOPTED BY THE COUNTY COMMISSION November 22, 1975.

Carl M. ...  
President

ATTEST:

C. E. Kessel  
Clerk

STATE OF WEST VIRGINIA,  
COUNTY OF JACKSON, to-wit:

I, C. E. Kessel, hereby certify that I am the duly qualified and acting Clerk of the County Commission of Jackson County, West Virginia, and that the foregoing constitutes a true, correct and complete transcript of the proceedings of said County Commission as had under date of November 22, 1975, and a resolution and order then adopted relating to the proposed creation of the Southern Jackson County Public Service District, all as shown by the official records in my office.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and the seal of said Court of Jackson County, West Virginia, this 22nd day of November, 1975.

(SEAL)

C. E. Kessel  
Clerk, County Commission

and moved that all rules otherwise requiring deferred consideration be suspended and said proposed resolution and order be adopted. 763

Mr. Warner seconded the motion and after due consideration the President put the question on the motion, and the roll being called the following voted:

Aye: President Warner  
Commissioner Skinner

Nay:

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

Paul Warner  
President

Cliff / Gould  
Clerk

I, ANNABELLE TAYLOR, DO HEREBY CERTIFY THAT  
THE DOCUMENT TO WHICH THIS STAMP IS AFFIXED  
IS A TRUE COPY OF Minutes RECORDED  
IN THIS OFFICE IN D. I. BOOK P  
PAGE 15F DATE June 17 1996  
ANNABELLE TAYLOR CLERK/DEPUTY  
ANNABELLE TAYLOR, JACKSON COUNTY CLERK

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

~~UNITED STATES OF SOUTH ALABAMA, J  
TO PRESIDENT  
IN THE STATE OF  
JUG  
TUESDAY  
WEST VIRGINIA~~

STATE OF WEST VIRGINIA,  
COUNTY OF JACKSON, to-wit:

CARL DOLIN, who appeared before the undersigned authority, after being duly sworn, upon oath says, that pursuant to Chapter 16, Article 13A, of the Code of West Virginia, as amended, and pursuant to the resolution and order of the County Commission of Jackson County, West Virginia, of November 22, 1975, pertaining to the fixing of a date of hearing on the creation of a proposed Public Service District within Jackson County, West Virginia, the undersigned posted in at least six (6) conspicuous places in the proposed Public Service District, a copy of the Notice set out in the resolution and order of the said County Commission of Jackson County, West Virginia, adopted November 22, 1975, the six (6) conspicuous places being:

1. Shamblin's Grocery Store
2. DeWees Grocery Store
3. Given Grocery Store
4. Simmons General Store
5. Staats Mill Post Office
6. Winter Exxon Station.

Carl Dolin  
Affiant

Taken, subscribed and sworn to before me this 18<sup>th</sup> day of December, 1975.

Ronald H. Adams  
Notary Public

My commission expires: August 30, 1976

WEST VIRGINIA

# The Jackson Herald

Ripley, West Virginia

Dec. 6 1975

Notice

That the appended

was printed in THE JACKSON HERALD, a newspaper published at Ripley, Jackson County, West Virginia, for

successive weeks, to-wit:

Dec. 5

and posted at the front door of the Court House of said county on

5 day of Dec. 1975, and that there

are 646 words thereon, is hereby certified, and that the publisher's fee for the same is \$ 25.84

Signed,

Keith Simmons

Publisher

Subscribed and sworn to before me, a Notary Public in said county and state, this 31 day of December 1975

Mary L. Drake, Notary Public

My Commission expires 16 day of January 1983

(SEAL)

Mailed

Delivered To

This \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

I, ANNABELLE TAYLOR, DO HEREBY CERTIFY THAT THE DOCUMENT TO WHICH THIS STAMP IS AFFIXED IS A TRUE COPY OF \_\_\_\_\_

IN THIS OFFICE IN \_\_\_\_\_ BOOK \_\_\_\_\_ PAGE \_\_\_\_\_ DATE July 13 1976 CLERK/DEPUTY ANNABELLE TAYLOR, JACKSON COUNTY CLERK

Ripley, West Virginia  
December 18, 1975

The County Commission of Jackson County, West Virginia met in special session pursuant to law and to the rules of said Commission at the County Court House, Ripley, West Virginia, at 10:30 a.m. The meeting was called to order and the roll being called, there were present: Carl Warner, President, presiding, and the following named Commissioners:

H. S. Rawlings

Raymond Skinner

Absent: None

This being the date fixed by prior action of the County Commission for conducting the public hearing on the creation of the proposed Southern Jackson County Public Service District, as contemplated and provided for in a resolution and order adopted by the County Commission on November 22, 1975, the president announced that all persons residing in or owning or having any interest in property in said proposed public service district desiring to be heard for or against the creation of said district would be heard and all such interested persons desiring to be heard were given full opportunity.

The County Commission then further discussed the creation of said public service district, whereupon H. S. Rawlings introduced and caused to be read a proposed resolution and order, entitled

"A RESOLUTION AND ORDER creating Southern Jackson County Public Service District in Jackson County, West Virginia."

and moved that all rules otherwise requiring deferred consideration or

several readings be suspended and said proposed resolution and order be adopted. Raymond Skinner seconded the motion and after due consideration the President put the question on the motion and the roll being called, the following voted:

Aye: Carl Warner  
H. S. Rawlings  
Raymond Skinner  
Nay: None

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

On motion and vote the meeting adjourned.

Carl Warner  
President

ATTEST:

C. E. Keiser  
Clerk



Ripley, West Virginia

WHEREAS, the County Commission of Jackson County, West Virginia, did heretofore by a resolution and order adopted November 22, 1975, fix a date for a public hearing on the creation of the proposed Southern Jackson County Public Service District and in and by said resolution and order provide that all persons residing in or owning or having any interest in property in the proposed public service district might appear before the County Commission at this meeting and have the opportunity to be heard for and against the creation of said district; and

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

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

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

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

BEGINNING at a point on the Roane and Jackson County line at the Northern right of way line of U. S. Route 33; thence with the general direction of U. S. Route 33, N. 88° 30' W. 9.8 miles to a point in the Ripley Corporation line; thence following the Ripley Corporation line along its Eastern, Southern and Western boundaries to the intersection of said boundary with the Northern right of way line of U. S. Route 33; thence with the general direction of U. S. Route 33, N. 85° 30' W. 0.7 miles to a point near West Virginia Secondary Route 30/5 (Parchment Valley Road); thence S. 63° 00' W. 5.8 miles to a point in the Mason and Jackson County line; thence with said County line the following bearings and distances: S. 34° 00' E. 4.1 miles to a point; thence S. 44° 30' W. 1.7 miles to a point; thence S. 44° 30' E. 3.2 miles to a point where the Mason and Jackson County line intersects the Putnam County line; thence with the Putnam and Jackson County line the following bearings and distances: N. 81° 00' E. 1.3 miles to a point; thence S. 35° 30' E. 4.8 miles to a point where the Putnam and Jackson line intersect the Kanawha County line; thence with the Kanawha and Jackson County line the following bearings and distances: S. 35° 30' E. 5.2 miles to a point; thence N. 86° 30' E. 0.4 miles to a point; thence S. 03° 00' E. 0.9 miles to a point; thence N. 63° 30' E. 3.4 miles to a point; thence N. 51° 00' E. 4.0 miles to a point where the Kanawha and Jackson County line intersects the Roane County line; thence with the Roane and Jackson County line the following bearings and distances: N. 21° 30' W. 2.3 miles to a point; thence N. 14° 00' W. 1.9 miles to a point; thence N. 13° 00' E. 2.2 miles to a point; thence N. 8° 30' E. 2.4 miles to a point; thence N. 5° 30' E. 6.1 miles to the place of beginning, containing 213.32 square miles, more or less, all within Ripley Magisterial District and Washington Magisterial District, of the County of Jackson, State of West Virginia.

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

Section 3. That the County Commission of Jackson County, West Virginia, has determined that the territory within Jackson County, West Virginia, having the hereinbefore described boundaries, is so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvements and extension

of properties supplying both water and sewerage services within such territory by said public service district will be conducive to the preservation of public health, comfort and convenience of such area.

ADOPTED BY THE COUNTY COMMISSION December 18, 1975

*Paul H. Kessell*  
President

ATTEST:

*C. E. Kessell*  
Clerk

STATE OF WEST VIRGINIA,  
COUNTY OF JACKSON, to-wit:

I, C. E. KESSELL, hereby certify that I am the duly qualified and acting Clerk of the County Commission of Jackson County, West Virginia, and that the foregoing constitutes a true, correct and complete transcript of the proceedings of said County Commission as had under date of December 18, 1975, and resolutions and orders then adopted relating to the creation of the Southern Jackson County Public Service District, and appointment of members to the public service board of said district.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and seal of said Commission at Ripley, West Virginia, this 18th day of December, 1975.

*C. E. Kessell*  
Clerk of County Commission

I, ANNABELLE TULLAR, DO HEREBY CERTIFY THAT  
THE INSTRUMENT TO WHICH THIS STAMP IS AFFIXED  
IS A TRUE COPY OF 70 minutes RECORDED  
IN THE OFFICE OF MINUTE BOOK C  
DATE Feb. 20, 1976 BOOK Volume 25 1446  
ANNABELLE TULLAR CLERK/DEPUTY  
ANNABELLE TULLAR, JACKSON COUNTY CLERK

A RESOLUTION AND ORDER FOR THE REDUCTION OF THE SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT OF JACKSON COUNTY, WEST VIRGINIA.

On this the 24th day of September, 1981, at a regular session of the Jackson County Commission it having been determined that:

WHEREAS, Chapter 16, Article 13A of the Code of West Virginia, as amended, authorizes the County Commission to reduce the boundaries of a public service district, as therein defined, and

WHEREAS, this Commission, by resolution duly adopted, heretofore proposed a certain reduction of the Southern Jackson County Public Service District; set dates for public hearings thereon; caused notice of public hearings to issue; and did conduct said hearings, all in accordance with West Virginia Code Chapter 16, Article 13A, Section 2, and

WHEREAS, after due deliberation, it is the opinion of this Commission that the area within the boundary of the proposed reduction at present have an inadequate means of water supply and that no facilities, equipment, services or materials have been extended into the area; that the extension and enlargement of Evans Public Service District will be able to adequately serve the said area and will be conducive to the preservation of public health, comfort and convenience of the residents of said area; and that it is necessary, feasible and proper to reduce the Southern Jackson County Public Service District.

It is hereby ORDERED that the boundaries of the Southern Jackson County Public Service District are reduced to exclude that area indicated in the attached description (Exhibit One) and map (Exhibit Two), both said exhibits having been prepared by Cerrone & Vaughn, Inc., Consulting Engineers and dated September 1, 1981.

So ORDERED this the 24th day of September, 1981.

JACKSON COUNTY COMMISSION

*H. S. Rawlings*  
\_\_\_\_\_  
President

*Charles E. Harman*  
\_\_\_\_\_  
Commissioner

EVANS PUBLIC SERVICE DISTRICT

ENLARGED BOUNDARY

Beginning at a point in the Jackson and Mason County Line at its intersection with the Right Fork of Cow Run;

Thence, with the meanderings of said Right Fork and said Cow Run, 23,500 feet in a northeasterly direction, to the intersection of said Cow Run and Mill Creek.

Thence, S.  $77^{\circ}27'$  E, 1,400 feet to the intersection of County Route 5 and County Route 87/9;

Thence with County Route 87/9, 1,400 feet in an easterly direction to the intersection of County Route 87/9 and U. S. Route 33;

Thence, S.  $79^{\circ}04'$  E, 8,250 feet to the intersection of Mud Run Road (A.K.A. County Route 5/5) and the private driveway of Triple Oaks Farm;

Thence, S  $60^{\circ}19'$  E, 14,000 feet, more or less, to the intersection of U. S. Route 33 and the westerly Corporation Limit of the City of Ripley;

Thence, with said Corporation Limit, S  $24^{\circ}35'$  E, 700 feet, more or less, to a point in Mill Creek;

Thence, with the meanderings of Mill Creek, 5,000 feet, more or less, to its intersection with a high voltage electric power line;

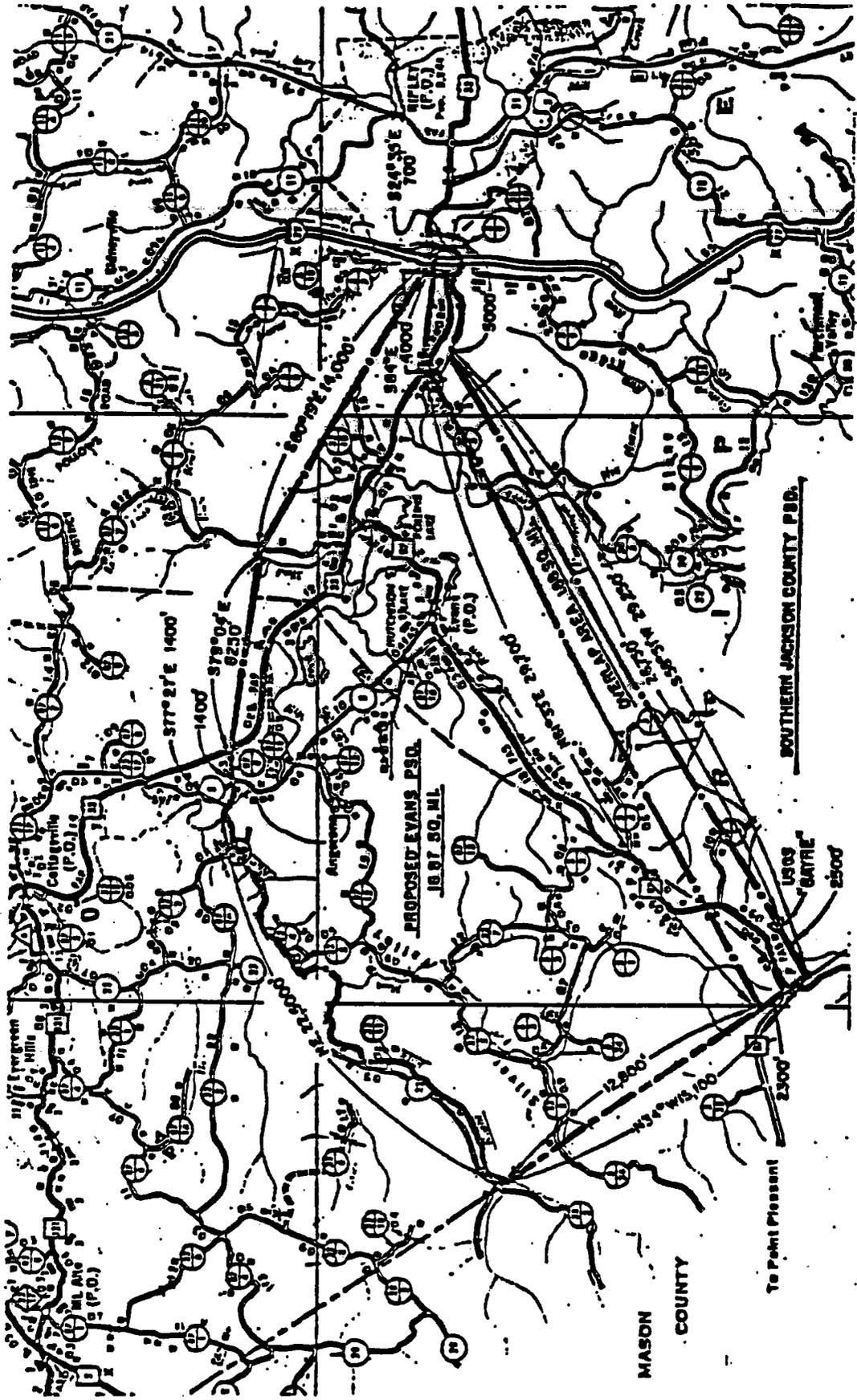
Thence, leaving Mill Creek, S  $58^{\circ}51'$  W, passing through U. S. G. S. Triangulation Station "Sayre" at 26,750 feet, 29,250 feet to a point in the Jackson and Mason County Line;

Thence, with said County Line, N  $34^{\circ}$  W, 15,150 feet to the point of beginning, containing 16.87 square miles, more or less, all within Ripley and Union Magisterial Districts, Jackson County, West Virginia.

EXHIBIT 1

September 1, 1981

Cerrone & Vaughn, Inc.  
Consulting Engineers



EVANS PUBLIC SERVICE DISTRICT  
MASON COUNTY, WEST VIRGINIA.

PROPOSED BOUNDARY  
SCALE 1" = 1 MILE

GERRONE & VAUGHN, INC.  
WHEELING, WV.

Map No. 679



**COPY**



Commissioner  
DICK WAYBRIGHT

# The Jackson County Commission

Jackson County Courthouse  
Ripley, West Virginia 25271  
Phone (304) 373-2220  
Fax (304) 373-0245



Commissioner  
JOE PITTS

Commissioner  
TOMMY NUTTER

**received**  
6-15-11

June 9, 2011

Mr. James Stover  
524 Pleasant Valley Road  
Given, West Virginia 25245

Dear Mr. Stover:

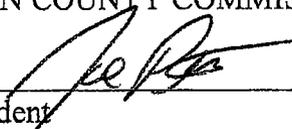
During our regular meeting of Thursday, June 9, 2011, you were appointed by a unanimous vote to serve as a member of the Southern Jackson County Public Service District to fill an unexpired term. This term will expire December 1, 2015, and you may stop by the office of the County Clerk at your convenience to sign your oath of office.

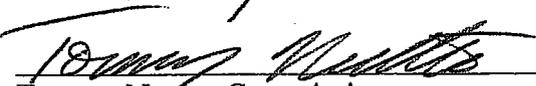
We would like to take this opportunity to thank you for your willingness to accept this appointment. We are sure you will be a valuable asset on this board.

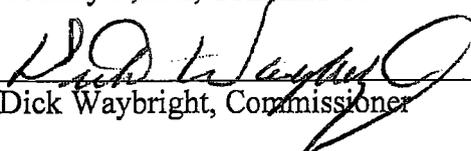
Once again, we thank you, and if you have any questions, please feel free to contact us.

Sincerely,

THE JACKSON COUNTY COMMISSION

  
\_\_\_\_\_  
Joe Pitts, President

  
\_\_\_\_\_  
Tommy Nutter, Commissioner

  
\_\_\_\_\_  
Dick Waybright, Commissioner

JCC:sg

**COPY**



Commissioner  
JOE PITTS

## The Jackson County Commission

Jackson County Courthouse  
Ripley, West Virginia 25271  
Phone (304) 373-2220  
Fax (304) 373-0245

Commissioner  
TOMMY NUTTER



Commissioner  
DICK WAYBRIGHT

**received**  
12-05-11

December 1, 2011

Mr. Paul Strohl  
106 Heritage Court Road  
Ripley, WV 25271

Dear Mr. Strohl:

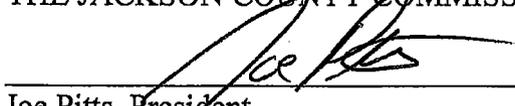
During our regular meeting of Thursday, December 1, 2011, you were appointed by a unanimous vote to serve an additional term as a member of the Southern Jackson County Public Service District. Your new term will expire December 1, 2017, and you may stop by the office of the County Clerk at your convenience to sign your oath of office.

We would like to take this opportunity to thank you for your willingness to accept this additional appointment. We are sure you will continue to be a valuable asset on this board.

Once again, we thank you, and if you have any questions, please feel free to contact us.

Sincerely,

THE JACKSON COUNTY COMMISSION

  
\_\_\_\_\_  
Joe Pitts, President

  
\_\_\_\_\_  
Tommy Nutter, Commissioner

  
\_\_\_\_\_  
Dick Waybright, Commissioner

JCC:sg



# The Jackson County Commission

Jackson County Courthouse  
Ripley, West Virginia 25271  
Phone (304) 373-2220  
Fax (304) 373-0245



Commissioner  
Joe Pitts

Commissioner  
James L. Waybright

Commissioner  
Donald Stephens

December 20, 2007

*renewal -  
6 yr term*

Mr. Jim Hutchinson  
2257 Fisher Ridge  
Kenna, WV 25248

Dear Mr. Hutchinson:

We are pleased to advise you that during our regular meeting of December 20, 2007, you were appointed by a unanimous vote to serve an additional term as a member of the Southern Jackson County Public Service District. Your new term will expire December 1, 2013, and you may stop by the office of the County Clerk at your convenience to sign your oath of office.

We would like to take this opportunity to thank you for your willingness to accept this additional appointment. We are sure you will continue to be a valuable asset on this board.

Once again we would like to thank you, and if we may be of service to you in any way, please feel free to contact us.

Sincerely,

THE JACKSON COUNTY COMMISSION

*Donald G. Stephens*

Donald G. Stephens, President

*James L. Waybright*

James L. Waybright, Commissioner

*Joe Pitts*

Joe Pitts, Commissioner

JCC:ph



OATH OF OFFICE

STATE OF WEST VIRGINIA

COUNTY OF JACKSON, to-wit:

I, James Stover, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties as a member of the Jackson County I.EPC in and for Jackson County, West Virginia, to the best of my skill and judgment, during my continuance in the same. SO HELP ME GOD. Term to expire: December 1, 2015

*James Stover*  
James Stover

Subscribed and sworn to before the County Commissioner of Jackson County, West Virginia, this 6<sup>th</sup> day of December, 2011.

*Jeff Waybright* cc

JACKSON COUNTY COM. WV  
JEFF WAYBRIGHT, CLERK  
PAGE NO

11 DEC -6 PM 1:59

OATH OF OFFICE

STATE OF WEST VIRGINIA

COUNTY OF JACKSON, to-wit:

I, Paul Strohl, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties as a member of the Southern Jackson Public Service District for Jackson County, West Virginia, to the best of my skill and judgment, during my continuance in the same. SO HELP ME GOD. Term to expire December 1, 2017.

Paul Strohl  
Paul Strohl

Subscribed and sworn to before the Clerk of Jackson County, West Virginia, this 8<sup>th</sup> day of December, 2011.

Jeff Weigbright / TV

OATH OF OFFICE

STATE OF WEST VIRGINIA

COUNTY OF JACKSON, to-wit:

I, Jim Hutchinson, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties as a member of the Southern Jackson Public Service District for Jackson County, West Virginia, to the best of my skill and judgment, during my continuance in the same. SO HELP ME GOD. Term to expire <sup>Dec</sup> July 1, 2013

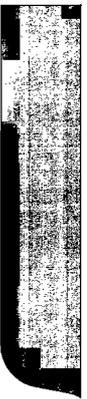
*Jim Hutchinson*  
\_\_\_\_\_  
Jim Hutchinson

Subscribed and sworn to before the County Commissioner of Jackson County,

West Virginia, this 8<sup>th</sup> day of January, 2007: 2008

*Jeff W. Wright*  
\_\_\_\_\_  
Jeff W. Wright, County Clerk





CERTIFICATION

I, Marsha L. Fouty, Secretary of the Public Service Board of the Southern Jackson County Public Service District, hereby certify that the foregoing is a true and correct copy of the Rules of Procedure of said Public Service Board. I further certify that such Rules of Procedure remain in full force and effect and have not been amended or repealed.

WITNESS my signature as of the 7<sup>th</sup> day of February, 2013.

  
Secretary

RULES OF PROCEDURE

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

ARTICLE I

NAME AND PLACE OF BUSINESS

Section 1. The name of this Public Service District shall be SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT (the “District”).

Section 2. The principal office of the District will be located 2 miles south of I-77 exit 132 on State Route 21 between Fairplain and Kenna, Jackson County, West Virginia.

Section 3. The official seal of the District shall consist of 2 concentric circles between which circles shall be inscribed Southern Jackson County Public Service District, and in the center “seal” as follows:

Section 4. The fiscal year of the District shall begin on the 1<sup>st</sup> day of July in each year and shall end on June 30 of the following year.

ARTICLE II

PURPOSE

Section 1. The District is organized and operated exclusively for the purposes set forth in Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the “Act”).

ARTICLE III

MEMBERSHIP

Section 1. The members of the Public Service Board of the District (the “Board”) shall be those persons appointed by The County Commission of Jackson County, West Virginia (the “County Commission”), or otherwise appointed pursuant to the Act, who shall serve for such terms as may be specified in the order of the County Commission or otherwise.

Section 2. Should any member of the Board resign or otherwise become legally disqualified to serve as a member of the Board, the District shall immediately notify the County Commission or other entity provided under the Act and request the appointment of a qualified person to fill such vacancy. Prior to the end of the term of any member of the Board, the District shall notify the County Commission or other entity provided under the Act of the pending termination and request the County Commission or other entity provided under the Act to enter an order of

appointment or re-appointment to maintain a fully qualified membership of the Board.

Section 3. The District shall provide to the Public Service Commission of West Virginia, within 30 days of the appointment, the following information: the new board member's name, home address, home and office phone numbers, date of appointment, length of term, who the new member replaces and if the new appointee has previously served on the board, and such other information required under the Act.

Section 4. Each board member shall, within 6 months of taking office, successfully complete the training program established and administered by the Public Service Commission of West Virginia in conjunction with the West Virginia Department of Environmental Protection and the West Virginia Bureau for Public Health.

Section 5. Board members shall not be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service, or in furnishing any supplies or materials to the District, nor shall a former board member be hired by the District in any capacity within a minimum of 12 months after such board member's term has expired or after such board member has resigned from the Board.

Section 6. Salaries of the board members shall be established as provided in Chapter 16, Article 13A, Section 4 of the Act. The District shall certify the number of customers served to the Public Service Commission of West Virginia on the first day of July each year. Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties.

Section 7. The members of the Board are not personally liable or responsible for any obligations of the District or the Board but are answerable only for willful misconduct in the performance of their duties.

## ARTICLE IV

### MEETINGS OF THE BOARD

Section 1. The members of the Board shall hold regular monthly meetings on such days of each month and at such place and hour as the members shall determine from time to time. If the day stated shall fall on a legal holiday, the meeting shall be held on the following day. Special meetings of the Board may be called at any time by the Chairperson or by a quorum of the Board.

Section 2. At any meeting of the Board, a majority of the members of the Board shall constitute a quorum. Each member of the Board shall have one vote at any meeting and if a quorum is not present, those present may adjourn the meeting to a later date.

Section 3. Unless otherwise waived, notice to members of regular meetings shall be by

letter or telephone. Unless otherwise waived, notice to members of each special meeting shall be by letter or telephone not less than 72 hours before the date fixed for such special meeting. The notice of any special meeting shall state briefly the purposes of such meeting and the nature of the business to be transacted at such meeting, and no business other than that stated in the notice shall be transacted at such special meeting.

Section 4. Pursuant to Chapter 6, Article 9A, Section 3 of the Code of West Virginia, 1931, as amended, notice of the date, time, place and agenda of all regularly scheduled meetings of the Board, and the date, time, place and purpose of all special meetings of the Board, shall be made available, in advance, to the public and news media as follows:

Rule No. 1. Notice of Regularly Scheduled Meetings. Immediately after adoption of these Rules of Procedure and in July of each year thereafter, the Board shall instruct the Secretary to, and the Secretary shall, post, and leave posted throughout the year to which it applies, at the regular meeting place of the Board and at the Jackson County Courthouse, where notices customarily are posted, a notice setting forth the date, time and place of the Board's regularly scheduled meetings for the ensuing year. In addition, a copy of the agenda for each regularly scheduled meeting shall also be posted at the same location by the Secretary not less than 72 hours before such regular meeting is to be held.

The Board shall also instruct the Secretary to, and the Secretary shall, distribute to each of the newspapers and other news media listed below a notice identical to that posted:

<u>News Media</u>	<u>Address</u>
<i>Jackson Herald</i>	Ripley, WV
<i>Star News</i>	Ravenswood, WV

A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed above, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail. In July of each year after the adoption of these Rules of Procedure, the Board shall review the above list and shall amend such list as needed, in the opinion of the Board, to reflect properly all the newspapers and other news media that customarily cover news of the area served by the Board. In addition, a copy of the agenda for each regularly scheduled meeting shall also be distributed to the news media by the Secretary not less than 72 hours before such regular meeting is to be held.

In the event of any modification to the date, time, place or agenda of a regularly scheduled meeting of the Board, notice of such modification shall immediately be given to the public and news media by posting at the places and distributing to the news media in the manner set forth above not less than 48 hours before such regular meeting is to be held. A copy of the notice of such modification shall be attached to and made a part of the minutes of the meeting for which such notice

was given.

Rule No. 2. Notice of Special Meetings. Not less than 72 hours prior to the date set for any special meeting of the Board, the Board shall instruct the Secretary to, and the Secretary shall, post at the regular meeting place of the Board and at the Jackson County Courthouse, where notices customarily are posted, a notice setting forth the date, time, place and purpose or purposes of such special meeting. Business at such special meeting shall be limited to the purpose or purposes specified in said notice.

As soon as practical after the posting of said notice, but not less than 72 hours prior to the date set for such special meeting, the Secretary shall distribute to each of the newspapers and other news media listed in Rule No. 1 hereof, a notice identical to that posted. Amendments made to such news media list, as provided for in said Rule No. 1, shall be incorporated by reference in this Rule No. 2. A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed in said Rule No. 1, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail.

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

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

Rule No. 4. Executive Sessions. The Board may hold an executive session during a regular, special or emergency meeting in accordance with Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended. During the open portion of the meeting, prior to convening an executive session, the Chairperson shall identify the authorization under Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended, for holding the executive session and present it to the Board and to the general public, but no decision may be made in the executive session. An executive session may be held only upon a majority affirmative vote of the Board members present. The Board may hold an executive session and exclude the public only when a closed session is required for any of the actions permitted under Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended.

Rule No. 5. Minutes. The Board shall provide for the preparation of written minutes of all of its meetings. Subject to the exceptions set forth in Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended, minutes of all meetings except minutes of

executive sessions, if any are taken, shall be available to the public within a reasonable time after the meeting and shall include, at least, the following information:

- (1) The date, time and place of the meeting;
- (2) The name of each Board member present and absent;
- (3) All motions, proposals, resolutions, orders, ordinances and measures proposed, the name of the person proposing the same and their disposition; and
- (4) The results of all votes and, upon the request of a Board member, the vote of each Board member, by name.

Rule No. 6. No Actions by Reference. Except as otherwise expressly provided by law, the Board may not deliberate, vote, or otherwise take official action upon any matter by reference to a letter, number or other designation or other secret device or method, which may render it difficult for persons attending a meeting to understand what is being deliberated, voted or acted upon. However, this rule does not prohibit the Board from deliberating, voting or otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted or acted upon, are available for public inspection at the meeting. The Board may not vote by secret or written ballot.

Rule No. 7. Broadcasting of Meetings. Except as otherwise provided in this rule, any radio or television station is entitled to broadcast all or any part of a Board meeting required to be open. The Board may regulate the placement and use of equipment necessary for broadcasting, photographing, filming or recording a meeting, so as to prevent undue interference with the meeting. The Board shall allow the equipment to be placed within the meeting room in such a way as to permit its intended use, and the ordinary use of the equipment may not be declared to constitute undue interference; provided, that if the Board, in good faith, determines that the size of the meeting room is such that all the members of the public present and the equipment and personnel necessary for broadcasting, photographing, filming and tape-recording the meeting cannot be accommodated in the meeting room without unduly interfering with the meeting and an adequate alternative meeting room is not readily available, then the Board, acting in good faith and consistent with the purposes of this rule, may require the pooling of the equipment and the personnel operating it.

Rule No. 8. Telephonic Meetings. Board meetings may be held by telephone conference or other electronic means. All Board members participating by telephone or other electronic means must be audible to all those personally present.

Section 5. All meetings of any committee of the Board shall be subject to the Rules of Procedure set forth in Section 4 above.

## ARTICLE V

### OFFICERS

Section 1. The officers of the Board shall be a Chairperson, Secretary and Treasurer. The Chairperson shall be elected from the members of the Board. The Secretary and Treasurer need not be members of the Board. In addition to the foregoing officers, the Board may designate such other officers or officials as from time to time may be deemed advisable and may prescribe their duties.

Section 2. The officers of the Board shall be elected each year by the members at the first meeting after the first day of January of each year. The officers so elected shall serve until the next annual election by the membership and until their successors are duly elected and qualified. Any vacancy occurring among the officers shall be filled by the members of the Board at a regular or special meeting. Persons selected to fill vacancies shall serve until the next annual organizational meeting of the Board when their successors shall be elected as hereinabove provided.

## ARTICLE VI

### DUTIES OF OFFICERS

Section 1. When present, the Chairperson shall preside as Chairperson at all meetings of the Board. The Chairperson shall, together with the Secretary, sign the minutes of all meetings at which the Chairperson shall preside. The Chairperson shall attend generally to the executive business of the Board and exercise such powers as may be conferred upon the Chairperson by the Board, by these Rules of Procedure, or prescribed by law. The Chairperson shall execute, and if necessary, acknowledge for record, any deeds, deeds of trust, contracts, notes, bonds, agreements, or other documents necessary, requisite, proper or convenient to be executed by or on behalf of the Board when and if directed by the members of the Board.

Section 2. If the Chairperson is absent from any meeting, the remaining members of the Board shall select a temporary chairperson.

Section 3. The Secretary shall keep a record of all proceedings of the Board which shall be available for inspection as other public records. Duplicate records shall be filed with the County Commission and shall include the minutes of all Board meetings. The Secretary shall, together with the Chairperson, sign the minutes of the meetings at which the Secretary is present. The Secretary shall have charge of the minute book, be the custodian of deeds and other documents and papers of the Board. The Secretary shall also perform such other duties as may be required of the Secretary by law or as may be conferred upon the Secretary from time to time by the members of the Board.

Section 4. The Treasurer shall be the lawful custodian of all funds of the District and shall pay same out on orders authorized or approved by the Board. The Treasurer shall keep or cause to be kept proper and accurate books of accounts and proper receipts and vouchers for all

disbursements made by or through the Treasurer and shall prepare and submit such reports and statements of the financial condition of the Board as the members may from time to time prescribe. The Treasurer shall keep and preserve all financial records of the District for 10 years and shall at all times have such records readily available for public inspection. At the end of the Treasurer's term of office, the Treasurer shall promptly deliver all financial records of the District to his successor in office. The Treasurer shall also perform such other duties as may be required of the Treasurer by law or as may be conferred upon the Treasurer from time to time by the members of the Board. The Treasurer shall furnish bond in an amount to be fixed by the Board for the use and benefit of the District.

Section 5. No money may be paid out by the District except upon an order signed by the Chairperson and Secretary, or such other person or persons authorized by the Chairperson or the Secretary, as the case may be, to sign such orders on their behalf. Each order for the payment of money shall specify the purposes for which the amount thereof is to be paid, with sufficient clearness to indicate the purpose for which the order is issued, and there shall be endorsed thereon the name of the particular fund out of which it is payable and it shall be payable from the fund constituted for such purpose, and no other. All such orders shall be reflected in the minutes of the next meeting of the Board.

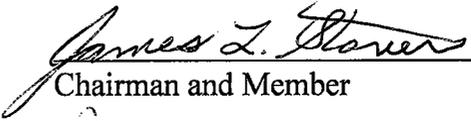
Section 6. The members and officers of the Board shall make available to the County Commission, at all times, all of its books and records pertaining to the District's operation, finances and affairs, for inspection and audit.

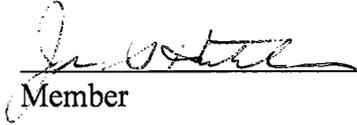
## ARTICLE VII

### AMENDMENTS TO RULES OF PROCEDURE

Section 1. These Rules of Procedure may be altered, changed, amended or added to at any regular or special meeting of the Board when a quorum is present and a majority of those present vote for the alteration, change, amendment or addition; but no such alteration, change, amendment or addition shall be made at any special meeting unless notice of the intention to propose such alteration, change, amendment or addition and a clear statement of the substance thereof be included in the written notice calling such special meeting.

Adopted this 14<sup>th</sup> day of December, 2005.

  
Chairman and Member

  
Member

\_\_\_\_\_  
Member



SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
January 10, 2013

**MINUTES – WATER**

Present: Jim Stover, Chairman  
Frank Strohl, Member  
Jim Hutchinson, Member  
Lynn Fouty, Board Secretary  
Linda Parsons, Treasurer  
Karl Vielhaber, General Manager

Guest: Jim Hildreth, Boyles & Hildreth Consulting Engineers

The regular meeting of Southern Jackson County Public Service District board of commissioners was held January 10, 2013. Chairman Jim Stover called the meeting to order.

Minutes of December 13, 2012 meeting were read and approved.

Linda Parsons read the Treasurer's Report for December 2012.

The invoices presented were reviewed and approved for payment.

**UNFINISHED BUSINESS –**

**Pigeonroost Run, Faber Hollow, Route 33 East, Gin's Creek Waterline Extension and Route 21 Upgrade:**

*Engineer Update-* Jim Hildreth discussed obtaining the DOH Permit and title from City of Ripley, for a 20 ft. easement, before loan closing.

*Bid Underrun Monies:* A bid underrun narrative for the proposed use of funds was provided to IJDC (WV Infrastructure & Jobs Development Council) by Engineer Jim Hildreth. The District has submitted all required forms. IJDC will have a meeting January 29, 2013 to approve underrun monies. Jim Hildreth suggested that a board member or residents that are interested in obtaining water should attend the meeting.

*Loan Closing Date:* There is no definite date for the loan closing, tentatively February 13 & 14, 2013.

**Unaccounted Water:** December – 8.5%

**City of Ripley Water Rate Increase:** District's response has been communicated to the Mayor and City Clerk. Their last response to the District was the City Attorney will prepare a joint petition to file with the Public Service Commission as to determination of any resale rate increase. There has been no response from the City Attorney.

**NEW BUSINESS -**

**Election of Board Officers:**

**A motion was made by Frank Strohl, seconded by Jim Hutchinson to retain James L. Stover , as Chairman of Southern Jackson County Public Service District board of commissioners, effective January, 2013. Motion carried unanimously.**

**A motion was made by James Stover, seconded by Jim Hutchinson to retain Frank Strohl as Vice-Chairman of Southern Jackson County Public Service District board of commissioners, effective January, 2013. Motion carried unanimously.**

**James Stover made a motion, seconded by Frank Strohl, to unanimously approve officers of the board of commissioners of Southern Jackson County Public Service District as follows:**

<b>James L. Stover, Chairman</b>	<b>(Voting)</b>
<b>Frank Strohl, Vice Chairman</b>	<b>(Voting)</b>
<b>James Hutchinson, Member</b>	<b>(Voting)</b>
<b>Lynn Fouty, Secretary</b>	<b>(Non-Voting)</b>
<b>Linda Parsons, Treasurer</b>	<b>(Non-Voting)</b>

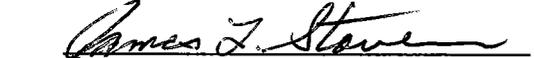
**Motion carried.**

**Executive Session** convened at 7:40 p.m. for annual employee wage review. Linda Parsons and Lynn Fouty departed the meeting; Commissioners met with General Manager Karl Vielhaber).

Regular session reconvened at 8:00 p.m.

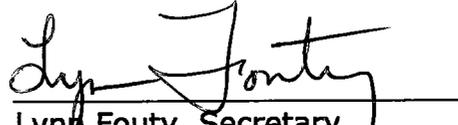
**ADJOURN:** There being no further business, the meeting adjourned. The next regular meeting will be held Thursday, **February 7, 2013**, at the District office, beginning at 7:00 p.m.

**BOARD MEMBERS:**

  
James L. Stover, P.E. Chairman

  
P. Frank Strohl, Member

  
Jim S. Hutchinson, Member

  
Lynn Fouty, Secretary



\$3,140,000  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM)  
SERIES 2012

BOND RESOLUTION

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SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF PUBLIC SERVICE PROPERTIES AND ISSUANCE OF A WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM), SERIES 2012, OF THE SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, IN THE AMOUNT OF NOT MORE THAN \$3,140,000, TO FINANCE THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO A PUBLIC WATER SYSTEM; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND; PLACING LIMIT ON SALE OF SYSTEM; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITY OF THE HOLDER OF THE BOND; AUTHORIZING THE DISTRICT TO ENTER INTO A LOAN AGREEMENT WITH THE PURCHASER OF THE BOND; PROVIDING STATUTORY LIEN ON REVENUES AND SYSTEM; PROVIDING FOR THE ADOPTION, RATIFICATION, APPROVAL AND COLLECTION OF RATES AND CHARGES FOR THE PUBLIC WATER SYSTEM; AND PROVIDING GENERAL TERMS AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT.

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, JACKSON COUNTY, WEST VIRGINIA:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS  
AND DEFINITIONS

Section 1.01. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of Chapter 16, Article 13A and Chapter 16, Article 13C of the West Virginia Code, as amended (collectively, the “Act”) and other applicable provisions of law.

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

A. Southern Jackson County Public Service District (the “PSD” or “Issuer”) is a public service district created, expanded and contracted pursuant to the Act by orders issued by The County Commission of Jackson County, located in Jackson County, West Virginia.

B. The Issuer now has a public water system and desires to improve and expand that system. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer and, accordingly, it is hereby ordered, that there be acquired and constructed certain additions, betterments, extensions and improvements to the existing public water system of the Issuer, including the construction and installation of all necessary appurtenant facilities (the “Project” , sometimes referred to herein as the “System”) so as

to improve the public health, comfort and convenience of residents of the Public Service District. The Project generally consists of water line extensions, pumps, pumping stations, water plant improvements and necessary appurtenances particularly described in and according to the plans and specifications prepared by the Consulting Engineer for the Project and heretofore filed in the office of the Secretary of the Public Service Board (the "Governing Body") of the Issuer. The construction and acquisition of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

C. It is necessary for the Issuer to issue its revenue bond in the aggregate principal amount of not more than \$3,140,000 to finance the cost of such construction in the manner hereinafter provided.

D. The estimated maximum cost of the construction of the Project is \$3,140,000, which will be obtained from the proceeds of sale of the Series 2012 Bond herein authorized. The cost of such construction shall be deemed to include, without being limited to, the construction or acquisition of the Project, the acquisition of any necessary property, real or personal, or any interest therein; interest on the Bond prior to, during and for six (6) months after completion of such construction to the extent that revenues of the System are not sufficient therefor; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and such other expenses as may be necessary or incidental to the construction of the Project and the financing authorized hereby.

E. The period of usefulness of the System after completion of the Project is not less than thirty (30) years.

F. There are currently outstanding the obligations of the Issuer with which the Bond, as hereinafter defined, will rank on parity as to lien and source of and security for payment as follows:

(i) Water Revenue Bonds, Series 1977, of the Issuer, dated March 13, 1978 (the "1977 Bond") issued in the original principal amount of \$470,000 secured under the terms of the 1977 Resolution (hereinafter defined);

(ii) Water System Revenue Bonds, Series 1991, of the Issuer, dated March 18, 1991 (the "1991 Bond") issued in the original principal amount of \$143,500 secured under the terms of the 1991 Resolution (hereinafter defined);

(iii) Water Revenue Bonds, Series 1997, of the Issuer, dated March 21, 1997 (the "1997 Bond") issued in the original principal amount of \$500,000 secured under the terms of the 1997 Resolution (hereinafter defined);

(iv) Water Revenue Bonds (West Virginia Infrastructure Fund), Series 1998 A of the Issuer, dated May 22, 1998 (the "1998 Bond") issued in the original principal amount of \$380,000 secured under the terms of the 1998 Resolution (hereinafter defined);

(v) Water Revenue Bond, Series 2001A of the Issuer, dated December 21, 2001 (the "2001A Bond") issued in the original principal amount of \$1,310,000 secured under the terms of the 2001 Resolution (hereinafter defined);

(vi) Water Revenue Bond, Series 2001B of the Issuer, dated December 21, 2001 (the "2001B Bond") issued in the original principal amount of \$60,000 secured under the terms of the 2001 Resolution; and

(vii) Water Revenue Bond, Series 2005 of the Issuer, dated September 21, 2005 (the "2005 Bond" and, together with the 1977 Bond, the 1991 Bond, the 1997 Bond, the 1998 Bond, the 2001A Bond and the 2001B Bond, collectively, the "Prior Bonds") issued in the original principal amount of \$1,137,000 secured under the terms of the 2005 Resolution

With the exception of the bonds described above, there are no other outstanding bonds or obligations of the Issuer, which will rank prior to or on parity with the Bond as to lien, pledge and/or source of and security for payment.

G. The Issuer is not in default under the terms of the 1977 Resolution, the 1991 Resolution, the 1997 Resolution, the 1998 Resolution, the 2001 Resolution and the 2005 Resolution or any document in connection therewith, and has complied with all requirements of all the foregoing with respect to the issuance of parity bonds or has obtained a sufficient and valid waiver thereof.

H. The estimated revenues to be derived in each year from the operation of the System after completion of the Project will be sufficient to pay all the costs of the operation and maintenance of the System, the principal of and interest on the Bond and the Prior Bonds (as hereinafter defined) and all debt service, reserve fund and other payments provided for herein.

I. It is in the best interests of the Issuer that the Bond be sold to the West Virginia Water Development Authority, as administrator of the Drinking Water Treatment Revolving Fund (the "Purchaser"), pursuant to the terms and provisions of a commitment letter dated December 22, 2011 (the "Commitment Letter"), and the terms and provisions of a loan agreement by and between the Issuer and the Purchaser (the "Loan Agreement"), which Loan Agreement is in form satisfactory to both parties, is approved hereby if not previously approved by resolution of the Issuer.

J. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the acquisition, construction and operation of the Project and the System, and the issuance of the Bond, or will have so complied prior to issuance of any thereof, including, among other things, the approval of the Project and the financing thereof, by the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") and obtaining of a certificate of public convenience and necessity from the Public Service Commission of West Virginia (the "PSC") by final order, the time for rehearing and appeal of which expired prior to the issuance of the Bond.

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

Section 1.03. Resolution to Constitute Contract. In consideration of the acceptance of the Bond by the Purchaser, this Resolution (the “Resolution”) shall be deemed to be and shall constitute a contract between the Issuer and the Purchaser, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owner of the Bond.

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

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

“Administrative Fee” means the administrative fee required to be paid under the Loan Agreement for the Bond.

“Authority” means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Bond, or any other agency, board or department of the State that succeeds to the functions of the Authority, acting in its own capacity and in its administrative capacity and upon authorization from the BPH under the Act.

“2012 Bond”, “2012 Series Bond” or “Bond” means the \$3,140,000 Southern Jackson County Public Service District, Water Revenue Bond (West Virginia DWTRF Program), Series 2012, authorized by this resolution.

“Bonds” means the 1977 Bond, the 1991 Bond, the 1997 Bond, the 1998 Bond, the 2001A Bond, the 2001B Bond, the 2005 Bond, the 2012 Bond and any Parity Bonds.

“1977 Bond” means the outstanding Bond of the Issuer dated March 13, 1978, described in Section 1.02 F. (i) herein.

“1991 Bond” means the outstanding Bond of the Issuer dated March 18, 1991, described in Section 1.02 F. (ii) herein.

“1997 Bond” means the outstanding Bond of the Issuer dated March 21, 1997, described in Section 1.02 F. (iii) herein.

“1998 Bond” means the outstanding Bond of the Issuer dated May 22, 1998, described in Section 1.02 F. (iv) herein.

“2001A Bond” means the outstanding Bond of the Issuer dated December 21, 2001, described in Section 1.02 F. (v) herein.

“2001B Bond” means the outstanding Bond of the Issuer dated December 21, 2001, described in Section 1.02 F. (vi) herein.

“2005 Bond” means the outstanding Bond of the Issuer dated September 21, 2005, described in Section 1.02 F. (vii) herein.

“BPH” means the West Virginia Bureau for Public Health, a division of the West Virginia Department of Health and Human Resources, or any other agency, board or department of the State that succeeds the function of the BPH.

“Chairman” means the Chairman of the Governing Body.

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

“Commitment Letter” means the Commitment Letter of the West Virginia Department of Health and Human Services, Bureau for Public Health, Office of Environmental Health Services, dated December 22, 2011, and any other amendments thereto.

“Consulting Engineer” means Boyles & Hildreth, Spencer, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

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

“Depository Bank” means initially United Bank, Inc., Ripley, West Virginia, a bank or trust company, which is a member of FDIC and its successors and assigns or such other qualified bank or trust company designated now or hereafter by Issuer.

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

“FDIC” means the Federal Deposit Insurance Corporation.

“Fiscal Year” means each year beginning on July 1 and ending on the succeeding June 30.

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

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

“Herein” means in this Resolution.

“Holder of the Bond” or any similar term means any person who shall be the registered owner of the Bond.

“Issuer” or “PSD” means Southern Jackson County Public Service District, Jackson County, West Virginia, and, where appropriate, also means the Governing Body.

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

“Operating Expenses” means the current expenses, paid or accrued, of operation and maintenance of the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the System, the Administrative Fee, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting practices, and retention of a sum not to exceed one-sixth of the budgeted operating expenses stated above for the current year as working capital, and language herein requiring payment of operating expenses means also retention of not to exceed such sum as working capital, provided that all monthly amortization payments upon the Bonds and into the Reserve Fund have been made to the last monthly payment date prior to the date of such retention.

“Parity Bonds” means any additional parity bonds issued in the future pursuant to Section 6.07 of this Resolution.

“Paying Agent” means the Commission or other entity designated as such for the 2012 Bond in the Supplemental Resolution.

“Prior Bonds” means, collectively, the 1977 Bond, 1991 Bond, 1997 Bond, 1998 Bond, 2001A Bond, 2001B Bond and 2005 Bond.

“Prior Resolutions” means, collectively, the 1977 Resolution, 1991 Resolution, 1997 Resolution, 1998 Resolution, 2001 Resolution and 2005 Resolution.

“Project” shall have the meaning stated in Section 1.02 B. of this Resolution.

“Purchaser” means West Virginia Water Development Authority, as administrator of the Drinking Water Treatment Revolving Fund, and any successor thereof.

“Qualified Investments” means and include 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 evidence 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 Board of Treasury Investments pursuant to Chapter 12, Article 6C, of the West Virginia Code of 1931, as amended; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is 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.

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

"Resolution" means this Resolution and all resolutions supplemental hereto.

"1977 Resolution" means the resolution providing for the 1977 Bond, adopted March 13, 1978.

"1991 Resolution" means the resolution providing for the 1991 Bond, adopted March 18, 1991.

"1997 Resolution" means the resolution providing for the 1997 Bond, adopted February 27, 1997.

"1998 Resolution" means the resolution providing for the 1998 Bond, adopted May 21, 1998.

"2001 Resolution" means the resolution providing for the 2001A Bond and the 2001B Bond, adopted December 5, 2001.

"2005 Resolution" means the resolution providing for the 2005 Bond, adopted September 14, 2005.

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

"Secretary" means the Secretary of the Governing Body.

"Series 2012 Construction Fund" means the 2012 Bond Construction Fund created by Section 5.01 of this Resolution.

"Series 2012 Bond Reserve Account" means the Series 2012 Bond Reserve Account created by Section 4.02 hereof.

"Series 2012 Bond Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the 2012 Bond in the then current or any succeeding year.

“Series 2012 Bond Sinking Fund” means the Series 2012 Bond Sinking Fund created by Section 4.02 hereof.

“Sinking Funds” means, collectively, the respective sinking funds of the 2012 Bond and the Prior Bonds.

“System” means the Project initially, and all existing water facilities owned by the Issuer and all Facilities and other property of every nature, real or personal, now or hereafter acquired and/or owned, held or used in connection with the System, including mains, hydrants, meters, valves, standpipes, storage tanks, pump tanks, pumping stations, intakes, wells, impounding reservoirs, pumps, machinery, purification plants, softening apparatus and all other facilities necessary, appropriate, useful, convenient or incidental in connection with or to a public water system; and shall also include any and all additions, extensions, improvements, replacements, properties or other facilities at any time acquired or constructed for said water system after completion of the Project.

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

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations; words importing the masculine, feminine or neuter genders shall include any other gender; and any requirement for execution, sealing and/or attestation of the Bond or any certificate or other document by the Chairman or Secretary shall mean that such Bond certificate or other document may be executed, sealed and/or attested by an Acting Chairman or Acting Secretary.

## ARTICLE II

### AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized the acquisition and construction of the Project, at an estimated cost of \$3,140,000 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 Bond hereby authorized shall be applied as provided in Article V hereof.

## ARTICLE III

### AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUANCE OF BOND

Section 3.01. Authorization of Bond. Subject and pursuant to the provisions hereof, the Bond of the Issuer to be known as “Southern Jackson County Public Service District, Water Revenue Bond, Series 2012” in the principal amount of \$3,140,000, is hereby authorized to be

issued for the purpose of financing a portion of the cost of the construction and acquisition of the Project and paying the costs of issuance of the Bond.

Section 3.02. Description of Bond. The Bond shall be issued as a single registered bond, No. R-1, and shall be dated on the date of delivery. The Bond shall bear no interest, but shall be subject to a one percent administration fee payable monthly over a thirty (30) year term.

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

Section 3.03. Execution of Bond. The Bond shall be executed in the name of the Issuer by its Chairman, and its corporate seal shall be affixed thereto and attested by its Secretary, and the Chairman and the Secretary are hereby authorized to execute the Bond and such other documents as are necessary to finalize this transaction. In case any one or more of the officers who shall have signed or sealed the Bond shall cease to be such officer of the Issuer before the Bond so signed and sealed have been actually sold and delivered, such Bond may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bond had not ceased to hold such office. Any Bond may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bond shall hold the proper office of the Issuer, although at the date of such Bond such person may not have held such office or may not have been so authorized.

Section 3.04. Negotiability, Registration, Transfer and Exchange of Bond. The Bond shall be and have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, but the Bond may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.05 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Bond for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Registrar. No interest in the Bond shall be transferable except by means of transfer of registration of a Bond representing such interest and delivery of a new Bond or Bonds in exchange therefor in accordance with this Bond Resolution.

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

No registration of transfer of the Bond shall be permitted to be made after the 15th day next preceding any installment payment date on that Bond.

Section 3.05. Registrar. The Registrar for the 2012 Bond shall be the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns. No such 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 Bond, substantially in the form set forth in Section 3.08 hereof, shall have been manually executed by the Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Resolution. The Certificate of Authentication and Registration on any such Bonds shall be deemed to have been executed by the Registrar if manually signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of such Bonds issued hereunder.

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

Section 3.07. Bond Secured by Pledge of Revenues. The payment of the debt service of the Bond shall be secured forthwith by a parity lien with the 1977 Bond, the 1991 Bond, the 1997 Bond, the 1998 Bond, the 2001 Bonds and the 2005 Bond on the net revenues derived from the System in addition to the statutory mortgage lien on the System hereinafter provided for. The net revenues derived from the System in an amount sufficient to pay the principal of and interest on the Bond and the Prior Bonds, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Bond as the same become due.

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

(FORM OF BOND)

\$3,140,000

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM)  
SERIES 2012

No. R-1

Date: \_\_\_\_\_, 2012

FOR VALUE RECEIVED, the SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, a public service district created, expanded and contracted pursuant to the Act by orders issued by The County Commission of Jackson County, in Jackson County, West Virginia (herein called "Issuer"), hereby promises to pay to the order of the West Virginia Water Development Authority, as administrator of the Drinking Water Treatment Revolving Fund (the "Authority") or registered assigns, at 180 Association Drive, Charleston, West Virginia 25311, or at such other place as the Authority may hereafter designate in writing, the principal sum of Three Million One Hundred Forty Thousand and 00/100 Dollars (\$3,140,000), 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 \_\_\_\_\_ 1, 201\_, as set forth on the Debt Service Schedule attached as EXHIBIT B hereto and incorporated herein by reference. The Administration Fee (as defined in the hereinafter described Bond Legislation) on this Bond shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 201\_, as set forth on EXHIBIT B attached hereto.

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 Bureau for Public Health (the "BPH"), 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 BPH, dated \_\_\_\_\_, 2012.

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

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

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

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

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

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A and Chapter 16, Article 13C of the West Virginia Code (collectively, the "Act").

**THIS BOND IS ON PARITY AS TO LIEN AND SOURCE OF PAYMENT WITH THE WATER REVENUE BONDS, SERIES 1977, WATER SYSTEM REVENUE BONDS, SERIES 1991, WATER REVENUE BONDS, SERIES 1997, WATER REVENUE BONDS (WEST VIRGINIA INFRASTRUCTURE FUND), SERIES 1998, WATER REVENUE BOND, SERIES 2001A, WATER REVENUE BOND, SERIES 2001B, AND WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM), SERIES 2005 (COLLECTIVELY, THE "PRIOR BONDS") OF THE ISSUER DESCRIBED IN THE RESOLUTIONS ISSUED WITH RESPECT TO EACH SERIES.**

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Resolution) to be derived from the System, on a parity with the pledge of Net Revenues in favor of the registered owners of the Parity Bonds, and from moneys in the reserve account created under the Resolution for this Bond (the "Series 2012 Bond Reserve Account") and unexpended proceeds of this Bond. Such Net 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. This Bond does not constitute an

indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the moneys in the Series 2012 Bond Reserve Account and unexpended proceeds of this Bond. 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 of principal of and interest, if any, on this Bond payable in any year and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Parity Bonds; provided however, that so long as there exists in the Series 2012 Bond Reserve Account, an amount at least equal to the maximum amount of principal and interest, if any, which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the Parity 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 Owner (as defined in the Resolution) of this Bond for the terms of which reference is made to the Resolution. Remedies provided the Registered Owner of this Bond are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

The initial address of Authority for purposes of bond registration is 180 Association Drive, Charleston, WV 25311.

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

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

(SEAL)

By: \_\_\_\_\_

Chairman  
P.O. Box 57  
Kenna, WV 25248-0057

ATTEST:

By: \_\_\_\_\_  
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Series 2011 Bond described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_, 2012.

United Bank, Inc., as Registrar

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

EXHIBIT A

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$	__/__/12	(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	
		TOTAL \$	_____

(Form of Assignment)

ASSIGNMENT

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

DATED: \_\_\_\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

EXHIBIT B

DEBT SERVICE SCHEDULE

BOND REGISTER

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM)  
SERIES 2012

<u>Bond Number</u>	<u>Principal Amount</u>	<u>Date of Bond</u>
No. R-1	\$3,140,000	_____, 2012

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

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

Signature of Registrar:

United Bank, Inc.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Section 3.09. Sale of Bond; Approval and Ratification of Execution of Loan Agreement. The Loan Agreement, including all schedules and exhibits attached thereto, is hereby approved and incorporated into this Bond Legislation. The Bond shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance or resolution, the Chairman is specifically authorized and directed to execute the Loan Agreement, and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

Section 3.10. Filing of Amended Schedule. Upon completion of the acquisition and construction of the Project, the Issuer will file with the Authority and the BPH, the respective schedules, the forms of which will be provided by the Authority and the BPH, setting forth the actual costs of the Project and sources of funds therefor.

## ARTICLE IV

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

Section 4.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created or continued and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and from each other:

- (1) Revenue Fund or System Revenue Fund;
- (2) Operation and Maintenance Fund;
- (3) Renewal and Replacement Fund; and
- (4) Construction Fund.

Section 4.02. Establishment of Funds and Accounts with Commission. The following special accounts are hereby created or continued with the Commission:

- (1) Series 2012 Bond Sinking Fund; and
- (2) Series 2012 Bond Reserve Account.

Section 4.03. 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 this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner provided in and this Bond Legislation. All moneys in the Revenue Fund shall be disposed of only in the following manner and order of priority:

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

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit the amounts required by the Prior Resolutions for payment of the interest on the Prior Bonds in the manner prescribed by the Prior Resolutions.

(3) The Issuer shall first, on the first day of each month, transfer from the Revenue Fund and simultaneously (i) make the interest payments on the Prior Bonds in the amounts required by the Prior Resolutions for payment of interest on the Prior Bonds; and (ii) commencing 3 months prior to the first date of payment of principal of the Bond, remit to the Commission for deposit in the Series 2012 Bond Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Bond on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2012 Bond Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payment 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.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously, (i) make the reserve account payments into the Reserve Accounts for the Prior Bonds in the amounts required by the Prior Resolutions; and (ii) commencing 3 months prior to the first date of payment of principal of the Bond, if not fully funded upon issuance of the Bond, remit to the Commission for deposit in the Series 2012 Bond Reserve Account, an amount equal to 1/120th of the Series 2012 Bond Reserve Requirement; provided that, no further payments shall be made into the Series 2012 Bond Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2012 Bond Reserve Requirement.

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

Moneys in the Series 2012 Bond Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Bond as the same shall become due. Moneys in the Series 2012 Bond Reserve Account shall be used only for the purposes of paying principal of

and interest, if any, on the Bond as the same shall come due, when other moneys in the Series 2012 Bond Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2012 Bond Sinking Fund and the Series 2012 Bond Reserve Account 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 Construction Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2012 Bond Reserve Account which result in a reduction in the balance therein to below the 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 Bond are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay the interest on such additional parity bonds and accomplish retirement thereof at maturity and to accumulate a balance in the reserve account in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the Series 2012 Bond Sinking Fund or the Series 2012 Bond Reserve Account when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Bond issued pursuant to this Bond Legislation then Outstanding.

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

The Commission is hereby designated as the fiscal agent for the administration of the Series 2012 Bond Sinking Fund and the Series 2012 Bond Reserve Account 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.

Moneys in the Series 2012 Bond Sinking Fund and the Series 2012 Bond Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2012 Bond Sinking Fund and the Series 2012 Bond Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Bond under the conditions and restrictions set forth herein.

B. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinabove provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following 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.

C. 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 interest, principal and reserve account payments and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited. The Issuer shall also 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 Administrative Fee as set forth in the Schedule Y attached to the Loan Agreement for the Bond.

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

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 respective parties 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 moneys 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 hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 4.03, and the Gross Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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

## ARTICLE V

## BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 5.01. Application of Bond Proceeds. From the moneys received from time to time from the sale of any or all of the Bond, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Bond, there shall be deposited with the Commission in the Series 2012 Bond Reserve Account the sum, if any, required hereunder for funding the Series 2012 Bond Reserve Account.

B. The remaining moneys derived from the sale of the Bond shall be deposited by the Issuer as received from time to time in the Construction Fund established hereunder.

C. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Construction Fund and shall comply with all requirements with respect to the disposition of the Construction Fund set forth in this Resolution. Moneys in the Construction Fund shall be used solely to pay Costs of the Project and, until so transferred or expended, are hereby pledged as additional security for the Bond.

Section 5.02. Disbursements From the Construction Fund. On or before the Closing Date, the Issuer shall have delivered to the BPH a report listing the specific purposes for which the proceeds of the Bond will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for the costs of the Project shall be made monthly.

Except as provided in Section 5.01 hereof, disbursements of the proceeds of the Bond from the Construction Fund shall be made only after submission to and approval from the BPH of the following:

(1) a completed and signed "Payment Requisition Form," a form of which is attached to the Loan Agreement for the Bond, in compliance with the Issuer's construction schedule, and

(2) 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, moneys in the Construction Fund, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

## ARTICLE VI

### GENERAL COVENANTS

Section 6.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Registered Owner of the Bond. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Registered Owner of the Bond as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as the Bond is Outstanding and unpaid.

Section 6.02. Bond not to be Indebtedness of the Issuer. The Bond shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Registered Owner of the Bond shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Bond.

Section 6.03. Bond Secured by Pledge of Gross Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Bond shall be secured equally and ratably with each other by a first lien on the Gross Revenues derived from the System on a parity with the lien on the Gross Revenues in favor of the Registered Owners of the Prior Bonds. The Gross Revenues in an amount sufficient to pay the principal of and interest, if any, on the Bond and the Prior Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 6.04. Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law, has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal, and has provided an opinion of counsel to the Issuer to such effect. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreement, and the Issuer shall provide a certificate of an Independent Certified Public Accountant to such effect. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the water rate ordinance of the Issuer duly enacted on \_\_\_\_\_, 20\_\_.

So long as the Bond is 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 Bond Legislation and in compliance with the Loan Agreement. In the event the schedule of rates, fees

and charges initially established for the System in connection with the Bond shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement, 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 Bond Legislation and the Loan Agreement.

Section 6.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of the System, except as provided in the Prior Resolutions. So long as the Bond is outstanding and except as otherwise required by law or with the written consent of the Authority and the BPH, 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 the Bond then Outstanding, in accordance with Article IX hereof; provided that, any sale or disposition of the properties of the System in excess of \$100,000 shall require the written consent of the Authority. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Bond, immediately be remitted to the Commission for deposit in the Sinking Fund, and, with the written permission of the Authority and the BPH, or in the event the Authority is no longer a Registered Owner, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of the Bond. Any balance remaining after the payment of the Bond 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 remitted by the Issuer to the Commission for deposit in the Renewal and Replacement Fund. The payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amounts required to be paid into such funds by other provisions of this Bond Legislation.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received

during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding, without the prior approval and consent in writing of the Registered Owners, 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 Registered Owners of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 6.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 6.06 and Section 6.07 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 Bond. All obligations issued by the Issuer after the issuance of the Bond and payable from the revenues of the System, except such additional parity bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Bond; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts established by this Bond Legislation 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 Bond upon any of the income and revenues of the System pledged for payment of the Bond in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Authority and the BPH 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 6.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Resolutions shall be applicable. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Bond pursuant to this Bond Legislation, without the prior written consent of the Authority and the BPH 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 Bond.

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

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

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

The foregoing limitation may be waived or modified by the written consent of the Registered Owners of the Prior Bonds, 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 Department of Agriculture are no longer outstanding, the following parity requirement shall be met:

No Parity Bonds shall be issued at any time, however, unless and until 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 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 be not less than 115% of the largest aggregate amount that will mature and become due in any succeeding year for principal of and interest on the following:

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

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from the improvements to be financed by such Parity Bonds and any increase in rates enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to the date of 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 hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, as stated in a certificate, on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to issuance of such Parity Bonds.

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

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

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

Section 6.08. 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 BPH, 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 BPH 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 BPH, 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 will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Registered Owner of the Bond issued pursuant to this Bond Legislation shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the PSC. 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 Authority and the BPH, or any Registered Owner of the Bond, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation and the status of all said funds and accounts.

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

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by the Independent Certified Public Accountant (and to the extent legally required, in compliance with the applicable OMB Circular, or any successor thereof, and the Single Audit Act, or any successor thereof), and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountant, or a summary thereof, to any Registered Owner of the Bond and shall submit said report to the Authority and the BPH, or any Registered Owner of the Bond. Such audit report submitted to the Authority and the BPH 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 Gross 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 Agreement and the Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the

Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

The Issuer shall permit the Authority and the BPH, 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 BPH, 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 BPH with respect to the System pursuant to the Act.

The Issuer shall provide the BPH with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in Exhibit E of the Loan Agreement for the Bond or as promulgated from time to time.

Section 6.09. Rates. Prior to the issuance of the Bond, 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 (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each Fiscal Year equal to at least 115% of the maximum amount required in any succeeding Fiscal Year for payment of principal of the Bond and all other obligations secured by a lien on or payable from such revenues on a parity with the Bond, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the Reserve Requirement are on deposit in the Series 2012 Bond Reserve Account and the Reserve Accounts for obligations on a parity with the Bond, including the Prior Bonds, are funded at least at the requirement therefor, such balance each Fiscal Year need only equal at least 110% of the maximum amount required in any Fiscal Year for payment of principal of the Bond and all other obligations secured by a lien on or payable from such revenues on a parity with the Bond, including the Prior Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance described in Section 6.04.

Section 6.10. 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 BPH 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

professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of a professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall 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, the BPH and any Registered Owner of the Bond 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, the BPH and any Registered Owner of the Bond or anyone acting for and on behalf of such Registered Owner.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for 2 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 BPH by the 10th day of each month.

Section 6.11. Engineering Services and Operating Personnel. The Issuer shall obtain a certificate of the Consulting Engineers in the form attached to the Loan Agreement, 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 BPH, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the BPH 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 BPH 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 BPH 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 require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the DWTRF Regulations, to the Issuer within 60 days of the completion of the Project. The Issuer shall notify the Authority and the BPH in writing of such receipt.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the DWTRF Regulations, to the Issuer when the Project is 90% completed. The Issuer shall, at all times, provide operation and maintenance of the System in compliance with all State and federal standards.

The Issuer shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator to operate the System during the entire term of the Loan Agreement. The Issuer shall notify the Authority and the BPH in writing of the certified operator employed at the 50% completion stage.

Section 6.12. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 6.13. 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 or authorized by the Act, the rules and regulations of the PSC 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 property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the PSC, 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 PSC, 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 of the System 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 6.14. 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 6.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Bond remains 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 the Project in compliance with West Virginia Code, Section 38-2-39.

(4) FIDELITY BONDS will be provided as to every officer and employee of the Issuer 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 System facilities 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 BPH. 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 6.16. Connections. To the extent permitted by the laws of the State and rules and regulations of the PSC, the Issuer shall require every owner, tenant or occupant of any house, dwelling or building intended to be served by the System to connect thereto.

Section 6.17. Completion of Project; Permits and Orders. The Issuer shall complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and State requirements and standards.

The Issuer has obtained all permits required by State and federal laws for the acquisition and construction of the Project, all orders and approvals from the PSC and the Infrastructure Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for issuance of the Bond required by State law, with all requisite appeal periods having expired without successful appeal.

Section 6.18. Compliance with Loan Agreements and Law. The Issuer shall perform, satisfy and comply with all the terms and conditions of the Loan Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer shall provide the BPH with copies of all documents submitted to the Authority.

The Issuer shall also comply with all applicable laws, rules and regulations issued by the Authority, the BPH 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.

The Issuer shall serve the amount of additional customers and location as required by the Loan Agreement. The Issuer shall not reduce the amount of customers served by the Project without the prior written consent of the Board of the Authority.

Section 6.19. Statutory Mortgage Lien. For the further protection of the Registered Owner of the Bond, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon delivery of the Bond and shall be on a parity with the statutory mortgage lien in favor of the Registered Owners of the Prior Bonds.

Section 6.20. [Reserved]

Section 6.21. Contracts; Public Releases.

A. The Issuer shall, simultaneously with the delivery of the Bond 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 Authority and the BPH for written approval. The Issuer shall obtain the written approval of the Authority and the BPH before expending any proceeds of the Bond held in "contingency" as set forth in the schedule attached to the certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the Authority and the BPH before expending any proceeds of the Bond made available due to bid or construction or project underruns.

C. The Issuer shall list the funding as being provided by the Authority and the BPH 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 VII

RATES, RULES, COVENANTS, ETC.

Section 7.01. Initial Schedule of Rates and Charges.

A. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in an Order of the Public Service Commission dated \_\_\_\_\_, 2012, in Case Number 12-0060-PWD-CN, which order is incorporated herein by reference and is made a part hereof.

B. The Issuer hereby confirms the rates and charges as set out in the above-referenced order and included on a tariff sheet filed with the Public Service Commission, which rates and conditions are as follows:

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY OF SERVICE

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

RATES

Service Charge (based on meter size):

5/8 inch meter	\$ ___ per month
3/4 inch meter	\$ ___ per month
1 inch meter	\$ ___ per month
1 1/2 inch meter	\$ ___ per month

2 inch meter	\$ __. __ per month
3 inch meter	\$ __. __ per month
4 inch meter	\$ __. __ per month
6 inch meter	\$ __. __ per month

Usage Charge:

\$ \_\_. \_\_ per 1,000 gallons of water use per month

MINIMUM BILL

No minimum bill will be rendered for less than the appropriate service charge.

DELAYED PAYMENT PENALTY

The above tariff 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.

RECONNECTION CHARGE OF \$20.00

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

LEAK ADJUSTMENT

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

RETURNED CHECK CHARGE

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

WATER SCHEDULE NO. 2

APPLICABILITY

Applicable within entire territory served.

AVAILABILITY OF SERVICE

Available for private fire protection service.

RATE

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

2 inch Service Line with hydrants,  
sprinklers and/or hose connections \$ \_\_. \_\_ per month

3 inch	Service Line with hydrants, sprinklers and/or hose connections	\$__.__ per month
4 inch	Service Line with hydrants, sprinklers and/or hose connections	\$__.__ per month
6 inch	Service Line with hydrants, sprinklers and/or hose connections	\$__.__ per month
8 inch	Service Line with hydrants, sprinklers and/or hose connections	\$__.__ per month
10 inch	Service Line with hydrants, sprinklers and/or hose connections	\$__.__ per month
12 inch	Service Line with hydrants, sprinklers and/or hose connections	\$__.__ per month

Where connections and hydrants on private property are maintained by the District:

Each Fire Hydrant	\$100.00 per month
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These terms are payable monthly in advance.

Section 7.02. Further Covenants

The Issuer hereby further covenants and agrees as follows:

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

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

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

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

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

## ARTICLE VIII

### INVESTMENTS

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Bond Legislation other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the need for such moneys for the purposes set forth herein and the 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 moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss 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 if 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 the Bond is Outstanding and as long thereafter as necessary to comply with the Code.

Section 8.02. Certificate 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 Bond as a condition to issuance of such Bonds.

The Issuer shall annually furnish to the Authority bank statements and all investment information for the funds and accounts related to the proceeds of the Bond 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 Bond:

(1) If default occurs in the due and punctual payment of the principal of the Bond; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Bond set forth in this Bond Legislation, any supplemental resolution or in the Bond, 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 Authority, the Depository Bank, the Registrar, the Paying Agent or the Registered Owner of the Bond; 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 Resolutions.

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

Section 9.03. Appointment of Receiver. Any Registered Owner of the Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default, any Registered Owner

shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

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

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Bond Legislation for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Bond Legislation shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the 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 the Registered Owners and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of the System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

## ARTICLE X

### PAYMENT OF BOND

Section 10.01. Payment of Bond. The Bond may be prepaid or redeemed prior to their stated dates of maturity only with the written consent of the Authority and upon payment of the outstanding principal due on the 2012 Bond and upon the terms and conditions set forth in the Loan Agreement. If the Issuer shall pay or there shall otherwise be paid to the Registered Owner of the Bond, the principal of and redemption premium, at the times and in the manner stipulated therein and in the Loan Agreement and this Bond Legislation, then the pledge of Gross Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Bond shall thereupon cease, terminate and become void and be discharged and satisfied.

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. Payment of Bond; Bond Not Subject to Defeasance. If the Issuer shall pay or there shall otherwise be paid, to the Holder of the Bond, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Resolution, then with respect to the Bond, the pledge of Net Revenues and other moneys and securities pledged under this Bond Resolution and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Bond, shall thereupon cease, terminate and become void and be discharged and satisfied.

Except through direct payment to the Holder of the Bond of the outstanding principal of and accrued interest on the Bond, the Issuer may not defease the Bond or otherwise provide for payment thereof by escrow or like manner.

Section 11.02. Filing Under Uniform Commercial Code. Contemporaneously with the delivery of the Bond, the Issuer shall execute Financing Statements meeting the requirements of the Uniform Commercial Code of West Virginia and promptly thereafter shall file such Financing Statements in the office of the Secretary of State of West Virginia.

Section 11.03. Delivery of Bond. The Chairman and Secretary of the Governing Body are hereby authorized and directed to cause the Series 2012 Bond, numbered R-1, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 11.04. Severability of Invalid Provision. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Bonds.

Section 11.05. Conflicting Provisions Repealed. The Prior Resolutions and all parts thereof not expressly hereby changed shall continue in full force and effect, and this Bond Resolution shall be supplemental to the Prior Resolutions.

Section 11.06. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 11.07. Modification or Amendment. The Bond Resolution may not be modified or amended in any material manner after final passage without the prior written consent of the Purchaser and/or holder of the Bond.

Section 11.08. 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 applicable thereto; and that the Chairman, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 11.09. Supplemental Resolutions. The Issuer may pass such supplemental resolutions, if necessary, to effectuate the purposes and intent of this Resolution.

Section 11.10. Effective Time. This Resolution shall take effect immediately upon its adoption.

Section 11.11 Statutory Notice of Meeting and Bond Issue. An abstract of this Bond Resolution, determined by the Governing Body to contain sufficient information as to give notice of the contents hereof, has been published once in a qualified newspaper published and of general circulation in the Southern Jackson County Public Service District, together with a notice stating that this Bond Resolution will be considered, that the Issuer contemplates the issuance of the Bond, that any person interested may appear before the Public Service Board upon a date certain, not less than ten (10) days subsequent to the date of publication of such abstract of this Bond Resolution and notice, and present protests, and that a certified copy of the Resolution is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such meeting, all objections and suggestions were heard, and the Governing Body took such action, as it shall deem proper in the premises.

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

[SEAL]

By: James L. Stover  
Chairman

Attest:

By: Brenda Hunt-Winters  
Secretary

CERTIFICATION

I, Brenda Hurt-Winter, Secretary of the Southern Jackson County Public Service District, hereby certify that the foregoing is a true and correct copy of a Resolution approved at a meeting of the Public Service Board of the Southern Jackson County Public Service District held on August 9, 2012. I further hereby certify that the action of said Public Service Board set forth therein remains in full force and effect and has not been amended or repealed.

WITNESS my signature on this 9<sup>th</sup> day of August, 2012.

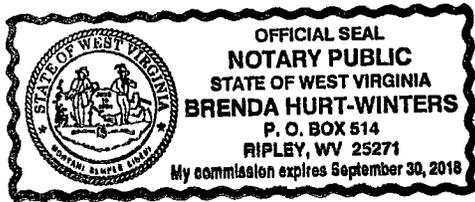
  
Secretary

STATE OF WEST VIRGINIA,

COUNTY OF JACKSON, to-wit:

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of August, 2012, by James L. Stover, the Chairman of the Southern Jackson County Public Service District, a public service district created and expanded pursuant to the Act by orders issued by The County Commission of Jackson County, on behalf of said public service district.

My commission expires September 30, 2018.



*Brenda Hurt-Winters*  
NOTARY PUBLIC

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM)  
SERIES 2013

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATES, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM), SERIES 2013; AUTHORIZING AND APPROVING THE LOAN AGREEMENT RELATING TO SUCH BOND AND THE SALE AND DELIVERY OF SUCH BOND TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BOND.

WHEREAS, the Public Service Board (the “Governing Body”) of the Southern Jackson County Public Service District (the “Issuer”) has duly and officially adopted a Bond Resolution on August 9, 2013 (the “Bond Resolution”), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF PUBLIC SERVICE PROPERTIES AND ISSUANCE OF A WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM), SERIES 2012, OF THE SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, IN THE AMOUNT OF NOT MORE THAN \$3,140,000, TO FINANCE THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO A PUBLIC WATER SYSTEM; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND; PLACING LIMIT ON SALE OF SYSTEM; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITY OF THE HOLDER OF THE BOND; AUTHORIZING THE DISTRICT TO ENTER INTO A LOAN AGREEMENT WITH THE PURCHASER OF THE BOND; PROVIDING STATUTORY LIEN ON REVENUES AND SYSTEM; PROVIDING FOR THE ADOPTION, RATIFICATION, APPROVAL AND COLLECTION OF RATES AND CHARGES FOR THE PUBLIC WATER SYSTEM; AND PROVIDING GENERAL TERMS AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT.

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

WHEREAS, the Resolution provides for the issuance of the Water Revenue Bond (West Virginia DWTRF Program), Series 2012, in the aggregate principal amount of not to exceed \$3,140,000;

WHEREAS, the Water Revenue Bond (West Virginia DWTRF Program), Series 2012, was not issued in 2012, but will be issued in 2013;

WHEREAS, the Governing Body desires to redesignate the Water Revenue Bond (West Virginia DWTRF Program), Series 2012, as the Water Revenue Bond (West Virginia DWTRF Program), Series 2013 (the "Bond");

WHEREAS, the Bond Resolution provides for the issuance of the Bond, and has authorized the execution and delivery of a loan agreement relating to the Bond, including all schedules and exhibits attached thereto, by and between the Issuer and the Authority, on behalf of the West Virginia Bureau for Public Health (the "BPH"), (the "Loan Agreement"), all in accordance with Chapter 16, Article 13A and Chapter 16, Article 13C of the Code of West Virginia, 1931, as amended (collectively, the "Act"); and in the Bond Resolution it is provided that the exact principal amount, dates, maturity date, interest rate, payment schedule, sale price and other terms of the Bond should be established by a supplemental resolution, and that other matters relating to the Bond be herein provided for;

WHEREAS, the Loan Agreement has been presented to the Issuer at this meeting;

WHEREAS, the Bond is proposed to be purchased by the Authority pursuant to the Loan Agreement; and

WHEREAS, the Governing Body 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, dates, maturity date, interest rate, payment schedule, sale price and other terms of the Bond be fixed hereby in the manner stated herein, and that other matters relating to the Bond be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, WEST VIRGINIA, AS FOLLOWS:

Section 1. It is hereby found and determined that:

(A) The Notice of Public Hearing and Abstract of Bond Resolution (the "Notice") was duly published in *The Jackson Herald*, a qualified newspaper of general circulation in the Issuer, with the publication thereof being not less than 10 days before the day set by the Bond Resolution and the Notice for the public hearing at which interested persons may appear before the Governing Body and present protests and suggestions, and a copy of the Affidavit of Publication reflecting such publication is incorporated herein by reference;

(B) In accordance with the Bond Resolution and the Notice, the Secretary has maintained in her office a certified copy of the Bond Resolution for review by interested persons during the regular office hours of such office;

(C) At the Issuer's office in Kenna, West Virginia, on August 9, 2012, at 7:00 p.m., prevailing time, in accordance with the Bond Resolution and the Notice, the Governing Body met for the purpose of hearing protests and suggestions regarding whether the Bond Resolution should be put into effect and heard all protests and suggestions with regard thereto;

(D) At the public hearing, no significant reasons were presented that would require modification or amendment of the Bond Resolution; and

(E) The Bond Resolution was adopted and the Bond contemplated thereby shall be issued, all as provided in the Bond Resolution and this Supplemental Resolution.

Section 2. Pursuant to the Bond Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the following bond of the Issuer:

Water Revenue Bond (West Virginia DWTRF Program), Series 2013, of the Issuer, originally represented by a single Bond, numbered R-1, in the original principal amount of \$3,140,000. The Series 2013 Bond shall be dated the date of delivery, shall finally mature September 1, 2044, and shall bear no interest. The Series 2013 Bond shall be subject to an administration fee of 1% of the principal amount of the Series 2013 Bond, payable quarterly on March 1, June 1, September 1 and December 1 of each year commencing September 1, 2014, as set forth in the Schedule Y attached to the Loan Agreement. The principal of the Series 2013 Bond shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2014, in the amounts as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Series 2013 Bond. The Series 2013 Bond shall be subject to redemption upon the written consent of the Authority and the BPH, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the Registered Owner of the Series 2013 Bond.

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

Section 4. The Issuer hereby ratifies, approves and accepts the Loan Agreement, including all schedules and exhibits attached thereto, copies of which are incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Chairman, 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 Agreement and in the application to the Authority and the BPH. The price of the Bond shall be 100% of par value, there being no interest accrued thereon.

Section 5. The Issuer hereby appoints and designates United Bank, Inc., Charleston, West Virginia, to serve as Registrar (the “Registrar”) for the Bond under the Bond Resolution and approves and accepts the Registrar’s Agreement to be dated the date of delivery of the Bond, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar’s Agreement by the Chairman, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved.

Section 6. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia (the “Commission”), to serve as Paying Agent for the Bond under the Bond Resolution.

Section 7. The Issuer hereby appoints and designates United Bank, Inc., Ripley, West Virginia, to serve as Depository Bank under the Bond Resolution.

Section 8. The Chairman and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bond hereby and by the Bond Resolution approved and provided for, to the end that the Bond may be delivered to the Authority pursuant to the Loan Agreement on or about January 30, 2013.

Section 9. The acquisition and construction of the Project and the financing thereof with proceeds of the Bond are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 10. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Bond Resolution held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer. Moneys in the Series 2013 Bond Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 11. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project.

Section 12. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 13. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 7<sup>th</sup> day of February, 2013.

  
Chairman

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Governing Body of the Southern Jackson County Public Service District on the 7<sup>th</sup> day of February, 2013.

Dated this 7<sup>th</sup> day of February, 2013.

[SEAL]

  
Secretary



**SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT**

**Notice of Regular Monthly Board Meeting**

The Board of Commissioners of Southern Jackson County Public Service District will meet on Thursday, August 9, 2012, at seven o'clock (7:00 p.m.) at the District office, Fairplain, West Virginia, for the following purposes:

- 1) To consider and act upon a proposed Bond Resolution, providing for the issuance of Water Revenue Bond, Series 2012, of the District, in the principal amount of not more than \$3,140,000, to provide a portion of funds to finance the construction and extension of the water system of the Public Service District.
- 2) To authorize the Chairman and Secretary of the Board to sign such documents as may be required to accomplish the purpose set forth above.
- 3) See attached agenda. Conduct any other business deemed necessary.

  
**Secretary**

**Date: July 24, 2012**

AFFIDAVIT OF PUBLICATION

Cost of Publication \$118.64

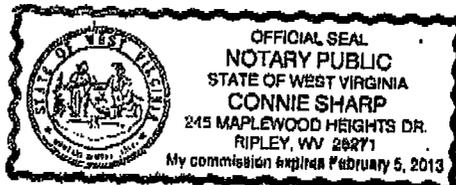
State of West Virginia,  
County of Jackson, to wit:

I, Gregory Matics, being first sworn upon my oath, do depose and say that I am editor of Jackson Newspapers, a newspaper that I have been duly authorized by the board of directors of such corporation to execute all affidavits of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below: that such newspaper is regularly published once weekly for at least fifty weeks during the calendar year, in the municipality of Ripley, Jackson County, West Virginia; that such newspaper is a newspaper of "general circulation" as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended within the publication area or areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover per issue; that such newspaper is circulated to the general public at a definite price of consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, that the annexed notice of Revenue Bond was duly published in said newspaper once a week for 1 successive weeks, commencing with the issue of the 24 day of July, 2012 and ending with the issue of the 24 day of July, 2012.

Gregory Matics  
Gregory Matics, Editor  
Jackson Newspapers

Taken, subscribed and sworn to before me in my said county this 31 day of July, 2012.

Connie Sharp  
Notary Public of Jackson County, West Virginia



**NOTICE TO RESIDENTS  
OF SOUTHERN JACKSON  
COUNTY PUBLIC  
SERVICE DISTRICT AND  
OTHER PERSONS INTER-  
ESTED IN RESOLUTION  
FOR PROPOSED ISSU-  
ANCE OF NOT MORE  
THAN \$3,140,000 WATER  
REVENUE BOND  
(WEST VIRGINIA DWTRF  
PROGRAM), SERIES 2012.**

Pursuant to the provisions of West Virginia Code Chapter 6, Article 9A, Section 6, and in accordance with the provisions of West Virginia Code Chapter 16, Article 13A, as amended, you hereby notified that a meeting of the Public Service Board (the "Board") of the Southern Jackson County Public Service District (the "Public Service District") will be held on the 9th day of August, 2012, to consider for adoption a Resolution entitled "Resolution Authorizing the Acquisition and DWTRF Program), Series 2012, of the Southern Jackson County Public Service District in the Amount of Not More than \$3,140,000 to Finance to Acquisition and Construction of Improvements to a Public Water System; Defining and Prescribing the Terms and Provisions of the Bond; Placing of the Bond; Authorizing the District to enter into a loan agreement with the purchaser of the Bond; and Collection of Rates and Charges of the Public Water System; and Providing General Terms and Providing When This Resolution Shall Take Effect (the "Resolution") to authorize the issuance of Water Revenue Bond (West Virginia DWTRF Program), Series 2012 (the "Bond"), of the Public funds to finance the cost of the acquisition, construction and extension of betterments and improvements to the existing water system of the Public Service District including the construction of new lines and other improvements within the Public Service District.

The entire amount of the principal of and interest on the Bond will be paid solely and only from the revenues received from operation of the water system of the Public Service District to be amortized over a period of 30 years. The Resolution provides provisions with respect to the final interest rate, which may not exceed 0% per annum, plus an administration fee of 1%, and which may be finally determined therein or by supplemental resolution.

A copy of the Resolution and a copy of the plans and specifications of the proposed project are available for examination by any interested person at the Public Service District's office during regular office hours of such office which are from 9:00 a.m. to 4:00 p.m., Monday through Friday.

The meeting will be held at the Public Service District's office located 2 miles South of I-77 exit 132 on State Route 21 between Fairplain and Kenna, West Virginia on the 9th day of August 2012 at 7:00 p.m. and any person or persons interested may appear before the Board and be heard as to whether or not the Resolution shall be put into effect. All suggestions, protests and objections to the issuance of the Bond will be heard by the Board.

Dated this 12th day of July 2012.

**SOUTHERN JACKSON  
COUNTY PUBLIC SERVICE  
DISTRICT**, Jackson County,  
West Virginia

James L. Stover, Chairman  
Brenda Hurt-Winters, Secretary

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
August 9, 2012

**MINUTES - WATER**

Present: Jim Stover, Chairman  
P. Frank Strohl, Vice Chairman  
Jim Hutchinson, Commissioner  
Brenda Winters, Board Secy  
Linda Parsons, Treasurer

Absent: Kart Vielhaber, Maintenance Manager

The regular meeting of Southern Jackson County Public Service District board of commissioners was held August 9, 2012. Chairman Stover called the meeting to order.

Minutes of July 12, 2012 were read and approved.

Treasurer's Report - July 2012

Operating Income	\$97,292
Operating Expense	\$96,112

The invoices presented were reviewed and approved for payment.

**UNFINISHED BUSINESS -**

**Pigeonroost Run, Faber Hollow, Route 33 East, Gin's Creek Waterline Extension and Route 21 Upgrade:**

Bond Resolution - Pursuant to public notice of meeting the board of commissioners Chairman convened the regular meeting (notice is made a part of these Minutes). No person was in attendance as guest for this meeting to voice or file any opposition to a Bond Resolution authorizing issuance of revenue bonds. The *Resolution for Water Revenue Bond, Series 2012*, for the above named water project was reviewed by commissioners and District staff with William Bragg, Bond Counsel of the Law Offices of Goodwin & Goodwin, in a telephone conference setting.

RESOLUTION AUTHORIZING ACQUISITION AND WEST VIRGINIA DWTRF PROGRAM, FOR ISSUANCE OF WATER REVENUE BOND, SERIES 2012, OF THE SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, IN THE AMOUNT OF NOT MORE THAN \$3,140,000 TO FINANCE THE ACQUISITION, CONSTRUCTION OF NEW LINES, THE EXTENSION OF BETTERMENTS AND IMPROVEMENTS FOR THE EXISTING PUBLIC WATER SYSTEM; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND; PLACING LIMIT ON SALE OF SYSTEM; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITY OF THE HOLDER OF THE BOND; PROVIDING

STATUTORY LIEN ON REVENUES AND SYSTEM; PROVING FOR THE ADOPTION, RATIFICATION, APPROVAL AND COLLECTION OF RATES AND CHARGES FOR THE PUBLIC WATER SYSTEM; AND PROVIDING GENERAL TERMS AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT.

**Motion by Frank Strohl, seconded by Jim Hutchinson, to adopt the Resolution for Water Bond Revenue (West Virginia DWTRF), Series 2012, and the execution thereof by the designated District officials. Motion carried unanimously.** (Bond Resolution document is filed herewith in entirety as a part of these minutes).

Agreement with City of Ripley - the *Amendment to Purchase Contract Agreement with City of Ripley/Water Work* was verbally authorized as being acceptable; and upon agreement to the terms therein contained by Ripley City Council, same will be executed by Mayor of Ripley and PSD Board Chairman. Attorney Robert Rodecker will petition Public Service Commission for approval of the Amendment, which will then proceed to IJDC authorizing to advertise bids for this project.

New Tariff – Public Service Commission Case No. 12-0060-PWD-CN Issued approval for increased tariff associated with the water project upon certificated substantial completion. A copy of said Tariff *Supplement No. 1 to PSC WV No. 8* is included as a part of these Minutes.

Right of Entry – Condemnation petition will be filed by Attorney Robert D. Fisher for a right of way thru lands owned by Anna Marie White, for installation of \_\_\_-inch waterline as part of this project upgrade construction.

Rex Scholl - The revised right of way agreement was provided to landowner Rex Scholl for his review as to inclusion of his requested "provisions". Engineer Jim Hildreth and District's Maintenance Manager on prior occasions have reviewed and answered questions as pertains to the water upgrade construction design thru Scholl's land.

Asset Management (AMR) - Andrew Corkrean, P.E., Boyles & Hildreth Consulting Engineers, has submitted District's asset information online as required by IJDC for this project.

**Unaccounted Water:** July – 8%

Yearly Average – 11.9%

**Windstorm 6/29/12:** General Manager Brenda Winters has attended meetings held at Office of Emergency Services for FEMA assistance for windstorm-related loss and expense. Project Specialist, Rod Jeffreys, will

coordinate with the FEMA application process by the District. Expense to operate generators and labor will be eligible.

**Personnel** - Commissioners received *William C. (Skip) Joslin's* written notification of his retirement effective August 31, 2012. Skip has 15 years service and certified as Wastewater Chief Operator.

- ✓ *Phillip D. Johnson* accepted full-time employment, with benefits, and reported to work July 17, 2012, subject to 90-day probationary period. He will perform laborer/meterman duties, and take coursework to obtain operator training and certification.
- ✓ *Marsha Lynn Fouty* accepted part-time employment (no benefits) and reported to work July 16, 2012, subject to 90-day probationary period. She will train to perform clerical duties as assigned for the business office. The offer included her transition to permanent full-time hours, with benefits, in event of retirement/resignation of present clerical staff.
- ✓ *Brenda Winters* confirmed, in writing, her intent to retire at the end of December, 2012, with 13 years service in September. She currently performs duties of General Manager, Human Resource Officer, and Board Secretary.

**IRS Changes** – Accountant Phillip Nuce, Bennett & Dobbins, CPAs, held discussion with Bookkeeper Linda Parsons as to implementation of IRS changes pertaining to employee uniforms, use of company vehicle and fees paid to board commissioners. These items will be treated as either taxable fringe benefit and withholding (respectively) as of first of the calendar year.

- ✓ **Truck Purchase** – Commissioners were advised that instead of obtaining price quotes for the purchase of a new truck with utility bed, that a used 2003 GMC truck with the side tool boxes/utility bed and a crane had been located at Rick Miller's Used Auto and found to be in a good condition for the purchase price of \$7500.00. This purchase is recommended to be in lieu of a new truck for the vehicle fleet. Repairs to the damaged bed of the 2003 GMC Sierra truck is scheduled at Collision Specialists at quoted price of \$2475. (These damages were not turned in as insurance claim in 2008 when it occurred).

#### **NEW BUSINESS –**

**Date of September Meeting:** Due to the long-range planned vacation trips of Commissioners Jim Stover and Frank Strohl, a quorum will not be present for the regular monthly meeting scheduled September 13, 2012.

**Motion by Frank Strohl, second by Jim Hutchinson, to approve next regular meeting of board of commissioners to be held on Thursday, September 6, 2012, beginning at 7:00 p.m. Motion carried unanimously.**

Public notice will be posted for this changed schedule of the District's board meeting in September.

**EXECUTIVE SESSION - Chairman Stover moved to convene executive session at 8:30 p.m. to discuss personnel matters. Motion seconded by Frank Strohl and unanimously passed.** General Manager Brenda Winters was present with board commissioners.

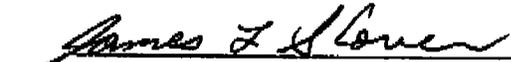
Regular session reconvened at 9:45 p.m.

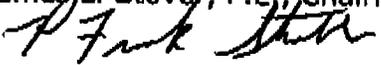
- Personnel - Board will participate in the evaluation of staffing and organizational structure to determine the potential candidate qualifications required for the District's management role, prior to screening applicants for the position and duties now performed by Brenda Winters.
- Employee Loretta Hatcher, Clerk II, (verbal) request to work reduced hours, in lieu of her resignation, is authorized for minimum three days/week for a period of six (6) months, beginning September 1, 2012, with benefits. This decision is not intended to imply, nor guarantee, that the schedule to work less than 40 hours weekly, with benefits, will continue beyond the specified period, to-wit: March 1, 2013. If this employee gives written notice to the Manager, prior to or at six months, that she wants to resume working a full-time 40 hours/week in this position, the Board will be so advised and participate in the evaluation of staffing and any consideration of the request.
- Employee Marsha Lynn Fouty, Clerk II, will assume a full-time 40-hour week schedule beginning September 1, 2012, with benefits, to continue training in the performance of clerical duties as assigned. The time she has already worked and trained will apply to the 90-day probationary period.
- Employee Linda Parsons, Bookkeeper/Clerk III, will continue to participate with the training required for the new employee in the business office and provide backup coverage of duties on the days Loretta Hatcher is not working.

MINUTES - Water  
August 9, 2012  
Page 5

**ADJOURN** - There being no further business, the meeting adjourned. The next (approved and changed) regular meeting will be held Thursday, **September 6, 2012**, at the District office, beginning at 7:00 p.m.

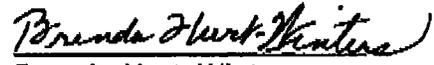
**BOARD MEMBERS:**

  
\_\_\_\_\_  
James L. Stover, P.E., Chairman

  
\_\_\_\_\_  
P. Frank Strohl, Vice Chairman

  
\_\_\_\_\_  
Jim S. Hutchinson, Member

Secretary

  
\_\_\_\_\_  
Brenda Hurt-Winters



\$3,140,000  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM)  
SERIES 2013

GENERAL CERTIFICATE

1. TERMS
2. AWARD OF BOND
3. NO LITIGATION
4. GOVERNMENTAL APPROVALS AND BIDDING
5. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
6. SIGNATURES
7. CERTIFICATION OF COPIES OF DOCUMENTS
8. PUBLIC SERVICE COMMISSION ORDER; RATES
9. INCUMBENCY AND OFFICIAL NAME
10. DELIVERY AND PAYMENT
11. LAND AND RIGHTS OF WAY
12. MEETINGS
13. CONTRACTORS' INSURANCE
14. CONNECTIONS
15. MANAGEMENT
16. RATES AND CHARGES
17. LOAN AND GRANT AGREEMENTS
18. CONFLICT OF INTEREST
19. COMPLIANCE WITH 1977, 1991, 1997, 1998, 2001 AND 2005 RESOLUTIONS AND BONDS

We, the undersigned CHAIRMAN and the undersigned SECRETARY of the SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, Jackson County, West Virginia (the "Issuer"), and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the Southern Jackson County Public Service District, Water Revenue Bond, Series 2013, No. R-1, in the principal amount of \$3,140,000, bearing interest at the rate of 0% per annum, plus an administration fee of 1% per annum, and dated on the date hereof (the "Bond"):

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning as in the Resolution adopted by the Public Service Board of the Issuer (the "Board") and effective on August 9, 2012, as amended by a Supplemental Resolution adopted by the Board and effective on February 7, 2013 (collectively, the "Resolution").

2. AWARD OF BOND: The entire issue of the Bond has been duly awarded to the West Virginia Water Development Authority, acting on behalf of the West Virginia Bureau for Public Health (the "Purchaser"), as reflected in the Resolution.

3. NO LITIGATION: No controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened restraining, enjoining or affecting the issuance and delivery of the Bond, nor questioning the proceedings and authority by which the Issuer authorized the issuance and sale of the Bond, nor affecting the validity of the Bond or any provisions made or authorized for the payment thereof; nor questioning the existence of the Issuer or the Board or the title of the members and officers thereof to their respective offices; nor questioning the additions, betterments and improvements to the water system of the Issuer (the "System") being financed out of the proceeds of sale of the Bond.

4. GOVERNMENTAL APPROVALS AND BIDDING: All applicable approvals and certificates required by law for construction and operation of the System have been duly and timely obtained and remain in full force and effect. This includes a Certificate of Convenience and Necessity from the West Virginia Public Service Commission ("PSC") awarded in Case No. 12-0060-PWD-CN. Competitive bids for construction of the Project were solicited in accordance with West Virginia law.

5. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval by the Purchaser of a loan to assist in the additions, betterments and improvements to the System. Upon issuance and delivery of the Bond, the Issuer will have the Bond and its Water Revenue Bond, Series 1977, Water Revenue Bond, Series 1991, Water Revenue Bond, Series 1997, Water Revenue Bond, Series 1998, Water Revenue Bond, Series 2001A, Water Revenue Bond, Series 2001B and Water Revenue Bond, Series 2005 (collectively, the "Prior Bonds" and together with the Bond, the "Bonds"), as debt outstanding, which Bonds constitute a shared, first parity lien on the Net Revenues of the System. The Issuer has obtained the consents of the holders of the Prior Bonds to the issuance of the Bond.

6. SIGNATURES: The undersigned CHAIRMAN and SECRETARY did, for the Issuer on the date hereof, officially execute and seal the Bonds with the official corporate seal of the Issuer, an impression of which seal is on this certificate above our signatures and said officers are the duly elected, qualified and serving officers as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bonds for the Issuer.

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

- Order Creating the Issuer
- Bond Resolution
- Notice of Meeting to Approve Resolution
- Minutes of Meeting Approving Resolution
- Rules of Procedure

Orders Appointing Members of Public Service Board  
 Oaths of Office of Chairman, Secretary and Members of Board  
 Rate Tariff  
 Public Service Commission Certificate of Convenience and Necessity

8. PUBLIC SERVICE COMMISSION ORDER; RATES: The Issuer hereby covenants that it has filed information with the PSC and taken all action required to maintain the Public Service Commission Order entered on June 1, 2012, in full force and effect. The rates were adopted by Order issued June 1, 2012, and the Issuer has complied with all requirements of the PSC to make the rates valid and effective, and such rates are in full force and effect.

9. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is the "Southern Jackson County Public Service District", and it is a public service district created pursuant to the Act by orders issued by The County Commission of Jackson County, located in Jackson County, West Virginia. The governing body of the Issuer is the Chairman, its Board consisting of three (3) Board Members and the Secretary and Treasurer, whose names, terms and offices are as follows:

<u>Name</u>	<u>Term</u>	<u>Office</u>
James L. Stover	December 1, 2015	Chairman and Member
Paul F. Strohl	December 1, 2017	Vice Chairman and Member
James Hutchinson	December 1, 2013	Member
Marsha L. Fouty	Appointed	Secretary (non-voting)
Linda Parsons	Appointed	Treasurer (non-voting)

The duly appointed and acting Attorney for the Issuer is Robert D. Fisher.

10. DELIVERY AND PAYMENT: On the date hereof, the Bond was delivered to the Purchaser at Charleston, West Virginia, by the undersigned Chairman and at the time of such delivery, the Bond had been duly and fully executed and sealed on behalf of the Issuer in accordance with the Resolution.

At the time of delivery of the Bond, a payment was received by the undersigned Chairman, being a portion of the principal amount of the Bond. Interest on advances upon the Series 2013 Bond at the rate of 0% per annum, plus an administration fee of 1%, is payable upon each advance from the date thereof. The Bond Proceeds have been deposited in accordance with the terms of the Resolution.

The Bond is dated on the date hereof, and interest on the Bond at the rate of 0% per annum, plus an administration fee of 1% per annum, is payable on the Bond from such date.

11. LAND AND RIGHTS OF WAY: All land in fee simple and all rights of way and easements necessary for the construction, 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 Bond.

12. MEETINGS: All actions, resolutions, supplemental resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the construction, acquisition, operation and financing of the System were authorized or adopted at meetings of the Board of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Board and all applicable statutes, and a quorum of duly appointed, qualified and acting members of the Board was present and acting at all times during all such meetings.

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

14. CONNECTIONS: The Issuer has received connection agreements from at least 75 new, bona fide users and has deposited or will deposit forthwith the sum thereof in the Tap Fee Account in full compliance with the requirements of the Purchaser.

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

16. RATES AND CHARGES: Based upon information submitted by the Certified Public Accountant, the rates and charges for the System which became effective upon completion of the Project, will, so long as the Bond and all Prior Bonds are outstanding, provide Net Revenues sufficient to pay (a) the interest upon the Bond and the Prior Bonds, (b) the principal amount of the Bond and the Prior Bonds at or before their maturity and (c) a margin of safety or reserve for the Bond and the Prior Bonds and for the payment into the Reserve Accounts created for the Bond and the Prior Bonds. The Issuer will approve and take the necessary steps to implement the rates approved by the Public Service Commission of West Virginia by on June 1, 2012, in Case No. 12-0060-PWD-CN.

17. BOND PURCHASE AND GRANT AGREEMENTS: As of the date hereof, (i) the representations of the Issuer contained in the Bond Purchase Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Bond Purchase Agreement does not contain any untrue statements of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the Bond Purchase Agreement, which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading; and (iv) the Issuer is in compliance with the Bond Purchase Agreement.

The System serves 2,262 customers, and the Project is intended to add 75 new customers. The Issuer will not reduce the number customers served by the System, except for ordinary customer fluctuation demand, without the prior written approval of the Purchaser. Following completion of the Project, the Issuer shall certify to the Purchaser the number of customers served by the System.

As of the date hereof, the grant from the West Virginia Infrastructure and Jobs Development Council (the "Council") in the amount of \$530,000 is committed for the Project and in full force and effect. The Issuer has executed the grant agreement to be entered into with the Council evidencing the Council's grant in the amount of \$530,000.

18. CONFLICT OF INTEREST: No 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 with respect to a sale or lease of any land, materials, supplies or services to the Issuer, or to any contractor supplying the Issuer, relating to the Bond, the authorizing document 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 five percent (5%) of the particular business enterprise or contract.

19. COMPLIANCE WITH 1977, 1991, 1997, 1998, 2001 AND 2005 RESOLUTIONS AND BONDS: All payments have been made under the 1977, 1991, 1997, 1998, 2001 and 2005 Resolutions, and there are no defaults in the terms and conditions of the 1977, 1991, 1997, 1998, 2001 and 2005 Resolutions or Bonds.

WITNESS our signatures and the official corporate seal of the SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT on this 14<sup>th</sup> day of February, 2013.

(CORPORATE SEAL)

SIGNATURE

OFFICIAL TITLE


Chairman

Secretary

Attorney for Issuer



\$3,140,000  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM)  
SERIES 2013

CERTIFICATE OF CONSULTING ENGINEER

I, James B. Hildreth, P.E., of Boyles and Hildreth Consulting Engineers, Spencer, West Virginia, a Registered Professional Engineer, West Virginia License No. 7719, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain improvements and extensions to the existing public water facilities (the "Project") of Southern Jackson County Public Service District (the "District") to be constructed in Jackson County, West Virginia, which acquisition and construction is being financed in part by the above-captioned revenue bond (the "Bond") of the District. Capitalized terms used and not otherwise defined herein shall have the meaning assigned to such terms in the Bond Resolution adopted by the Public Service Board of the District on August 9, 2012 (the "Resolution"), and the Loan Agreement by and between the District and the West Virginia Water Development Authority (the "Authority"), for the benefit of the West Virginia Bureau for Public Health ("BPH"), dated February 14, 2013.

2. The Bond is being issued for the purposes of (i) paying a portion of the costs of acquiring and constructing 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 BPH, and any change orders approved by the District, BPH and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and will have a useful life of at least 32 years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the District 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, and Goodwin & Goodwin, LLP, counsel to the District, will 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 BPH 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 District 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) the net proceeds of the Bond, 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 therefore, are sufficient to pay the costs of acquisition and construction of the Project

approved by BPH; and (x) attached hereto as Exhibit A is the final amended "Schedule B-Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

4. The System serves 2,248 customers, and the Project is intended to add 60 new customers in the Faber Hollow, Pigeonroost Run and Gins Creek areas of the District and 15 new customers in the U.S. Route 33 East area of the District.

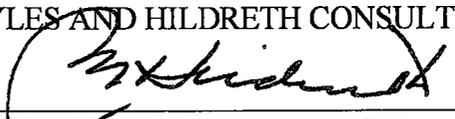
5. I have ascertained that all successful bidders have provided the drug free workplace affidavit, and the contracts contain language that complies with the Drug Free Workplace Act, Article 1D, Chapter 21 of the West Virginia Code. I have also ascertained that all successful bidders have made required provisions for all insurance and payment and performance bonds

WITNESS my signature as of the 14<sup>th</sup> day of February, 2013.

BOYLES AND HILDRETH CONSULTING ENGINEERS

[SEAL]

By:

  
West Virginia License No. 7719



2.12.13

**WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL**  
**Post Bid Schedule B (12/17/2012)**  
 Southern Jackson County Public Service District  
 Water System Improvements Project 2010W-1219  
**TOTAL COST OF PROJECT, SOURCES OF FUNDS AND COST OF FINANCING**

<u>A. COST OF PROJECT</u>	<u>TOTAL</u>	<u>DWTRF Loan</u>	<u>WJD Grant</u>
<b>1 Construction</b>			
a. Contract No. 1 - Tri-State Pipeline	\$ 2,027,841.00	\$ 2,027,841.00	\$ -
b. Contract No. 2 - Mid Atlantic Storage	359,500.00	359,500.00	
c. Alternate Source of Supply facilities	210,000.00	210,000.00	
d. Main extension for additional users	220,000.00	220,000.00	
<b>2 Technical Services - Boyles and Hildreth</b>			
a. Design	224,000.00	0.00	224,000.00
b. Inspection	162,000.00	0.00	162,000.00
c. Special Services	20,000.00	0.00	20,000.00
d. Asset Management Plan	19,500.00	19,500.00	
e. Design - re Items A.1.c & d	42,500.00	0.00	42,500.00
f. Special Services - re Items A.1.c & d	7,000.00	0.00	7,000.00
g. RPR Services - re Items A.1.c & d	32,000.00	0.00	32,000.00
<b>3 Legal &amp; Fiscal</b>			
a. Local Counsel - Adams & Fisher	20,000.00	15,000.00	5,000.00
b. Local Counsel - re items A.1.c & d	10,000.00	10,000.00	
c. PSC counsel - Robert Rodecker	15,000.00	15,000.00	
d. PSC counsel - re Items A.1.c & d	10,000.00	10,000.00	
e. Accounting - Smith, Cochran, Hicks	10,000.00	10,000.00	0.00
f. Special Counsel - Goodwin & Goodwin	5,000.00	5,000.00	
g. Special Counsel - re Items A.1.c & d	5,000.00	5,000.00	
<b>4 Permit fees, Legal ads, &amp; Misc.</b>	10,000.00	10,000.00	0.00
<b>5 Sites &amp; Other Lands</b>	20,000.00	20,000.00	0.00
<b>6 Contingency ( ± 8.5 %)</b>	210,359.00	172,859.00	37,500.00
<b>7 Miscellaneous</b>			
a. Site Utilition	5,000.00	5,000.00	0.00
<b>8 TOTAL of Lines 1 through 8</b>	<b>3,844,500.00</b>	<b>3,114,500.00</b>	<b>530,000.00</b>
 <b><u>B. SOURCES OF FUNDS</u></b>			
9 Federal Grants			
10 State Grants      WJD	530,000.00		
11 TOTAL Lines 9 through 10	530,000.00		
12 Net Proceeds from Bond Issue	3,114,500.00	3,114,500.00	
 <b><u>C. COST OF FINANCING</u></b>			
13 Capitalized Interest	0.00	0.00	
14 Other Costs			
a. Bond Counsel - Goodwin & Goodwin	25,000.00	25,000.00	
b. Registrar Fees	500.00	500.00	
15 Total Cost of Issuance	25,500.00	25,500.00	
16 Size of Bond Issue	3,140,000.00	3,140,000.00	

*James T. Stover*  
 GOVERNMENTAL AGENCY  
 2-1-13  
 DATE

*Michael J. ...*  
 CONSULTING ENGINEER  
 2-31-13  
 DATE



\$3,140,000  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM)  
SERIES 2013

CERTIFICATE OF SECRETARY AS TO TRUTH  
AND ACCURACY OF DOCUMENTS DELIVERED

I, Marsha L. Fouty, the duly elected Secretary of the Southern Jackson County Public Service District (the "District"), hereby certify that the copies of the following documents being delivered in connection with the closing of the sale of the \$3,140,000 Southern Jackson County Public Service District, Water Revenue Bond (West Virginia DWTRF Program), Series 2013 (the "Bond"), are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the District and delivered in the transcript of proceedings, and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

1. County Commission Orders Creating the District.
2. Oaths of Office of the Chairman, Secretary and Members of the Public Service Board.
3. Bond Resolution adopted on August 9, 2012.
4. Supplemental Resolution adopted on February 7, 2013.
5. Loan Agreement dated February 14, 2013.
6. Minutes of the August 9, 2012 and February 7, 2013 meetings of the Board wherein the Bond Resolution and the Supplemental Resolution were considered and approved.
7. Affidavit of publication of the abstract and notice of meeting on the Resolution published in *The Jackson Herald*.
8. Recommended Decision of the Public Service Commission of West Virginia entered on June 1, 2012, in Case No. 12-0060-PWD-CN, which became Final on June 21, 2012.
9. Rate Tariff issued April 4, 2007, as modified by rates approved in PSC Case No. 12-0060-PWD-CN, which will become effective upon completion of the project.
10. Rules of Procedure.
11. Minutes of Current Year Organizational Meeting.
12. Affidavit of Publication.

13. 1977 Bond Resolution.
14. 1991 Bond Resolution.
15. 1997 Bond Resolution.
16. 1998 Bond Resolution.
17. 2001 Bond Resolution.
18. 2005 Bond Resolution.
19. Rural Development Consent to Issuance of Bond.
20. Water Development Authority Consent to Issuance of Parity Bond.
21. Closing Memorandum.
22. Evidence of Insurance.

WITNESS my signature and the official seal of the Southern Jackson County Public Service District as of the 14<sup>th</sup> day of February, 2013.

(SEAL)

  
Secretary





**smithcochranhicks** PLLC  
CERTIFIED PUBLIC ACCOUNTANTS

February 14, 2013

\$3,140,000  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM)  
SERIES 2013

CERTIFIED PUBLIC ACCOUNTANT'S CERTIFICATE

Southern Jackson County Public Service District  
Kenna, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

United States of America, United States Department of Agriculture, Rural Development  
Morgantown, West Virginia

Ladies and Gentlemen:

We have reviewed the water rates of Southern Jackson County Public Service District (the "Issuer"), as approved by an Order of the Public Service Commission of West Virginia, which became final on June 21, 2012, in Case No. 12-0060-PWD-CN, and effective for all bills rendered on and after the date the project is certified as substantially complete, the projected operating expenses and the anticipated customer usage provided by Boyles and Hildreth, the consulting engineer of the Issuer. It is our opinion that such rates are sufficient (i) to provide for all operating expenses of the water facilities of the Issuer (the "System") and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Issuer's (1) Water Revenue Bonds, Series 1977, dated March 13, 1978, issued in the original principal amount of \$470,000, (2) Water System Revenue Bonds, Series 1991, dated March 18, 1991, issued in the original principal amount of \$143,500, (3) Water Revenue Bonds, Series 1997, dated March 21, 1997, issued in the original principal amount of \$500,000, (4) Water Revenue Bonds (West Virginia Infrastructure Fund), Series 1998 A, dated May 22, 1998, issued in the original principal amount of \$380,000, (5) Water Revenue Bond, Series 2001A, dated December 21, 2001, issued in the original principal amount of \$1,310,000, (6) Water Revenue Bond, Series 2001B, dated December 21, 2001, issued in the original principal amount of \$60,000, and (7) Water Revenue Bond, Series 2005, dated September 21, 2005, issued in the original principal amount of \$1,137,000 (collectively, the "Prior Bonds"), and its Water Revenue Bond (West Virginia DWTRF Program), Series 2013 (the "Series 2013 Bond").

It is further our opinion that the Net Revenues for the fiscal year following the year in which the Series 2013 Bond is to be issued will be at least 120% of the average annual debt service requirements on the Prior Bonds and the Series 2013 Bond.

It is further our opinion that 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 Series 2013 Bond, plus the estimated average annual Net Revenues to be received in each of the 3 succeeding years after the issuance of the Series 2013 Bond, will not be less than 115% of the maximum annual amount which will mature and become due in any succeeding year for principal of and interest on the Prior Bonds and the Series 2013 Bond.

Very truly yours,



SMITH, COCHRAN & HICKS, P.L.L.C.





**SOUTHERN JACKSON COUNTY  
PUBLIC SERVICE DISTRICT**

OF

KENNA, WEST VIRGINIA

**RATES, RULES AND REGULATIONS FOR FURNISHING  
WATER**

in the southern portion of Jackson County, West Virginia

Filed with **THE PUBLIC SERVICE COMMISSION**  
of  
**WEST VIRGINIA**

Issued: April 4, 2007

Effective for bills rendered on and after March 22, 2007  
or as otherwise provided herein

RECEIVED  
07 APR -9 4:16  
W VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

Issue by authority of an Order of the  
Public Service Commission of West Virginia  
In Case Nos. 05-0082-PWD-CN dated  
May 26, 2005 and 07-0078-PWD-30B dated  
March 22, 2007

Issued by SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

By *Robert R. Sordide*

ITS ATTORNEY

Title

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
(Water)

P.S.C. W.Va. Tariff No. 8  
Original Sheet No. 1

RULES AND REGULATIONS

- I. Rules and Regulations for the Government of Water Utilities, adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto and modifications thereof hereafter made by said Commission.

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
(Water)

P.S.C. W.Va. Tariff No. 8  
Original Sheet No. 2

APPLICABILITY

Applicable within the entire territory served

(C) AVAILABILITY

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

(C,I) RATES (customers with metered water supply)

Service Charge per month (based on meter size):

5/8 inch meter	\$ 6.75 per month
3/4 inch meter	\$ 10.13 per month
1 inch meter	\$ 16.89 per month
1 - 1/2 inch meter	\$ 33.77 per month
2 inch meter	\$ 54.04 per month
3 inch meter	\$101.32 per month
4 inch meter	\$168.87 per month
6 inch meter	\$337.74 per month

(I) Usage Charge:

\$7.94 per 1,000 gallons of water used per month

(C) MINIMUM CHARGE

No minimum bill will be rendered for less than the appropriate service charge.

DELAYED PAYMENT PENALTY

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

RECONNECTION

\$20.00

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

(C) Indicates change in text

(I) Indicates increase

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
(Water)

P.S.C. W.Va. Tariff No. 8  
Original Sheet No. 3

(C) TAP FEE

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

A tap fee of \$200.00 will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap service.

(C,I) LEAK ADJUSTMENT

\$3.55 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical usage.

(C) RETURNED CHECK CHARGE

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

- (C) Indicates change in text  
(I) Indicates increase

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
(Water)

P.S.C. W.Va. Tariff No. 8  
Original Sheet No. 4

WATER SCHEDULE NO. 2

APPLICABILITY

Applicable within entire territory served

AVAILABILITY OF SERVICE

Available for private fire protection service

RATE

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

2 inch Service Line with hydrants, sprinklers and/or hose connections	\$ 5.02 per month
3 inch Service Line with hydrants, sprinklers and/or hose connections	\$ 6.08 per month
4 inch Service Line with hydrants, sprinklers and/or hose connections	\$ 8.11 per month
6 inch Service Line with hydrants, sprinklers and/or hose connections	\$18.14 per month
8 inch Service Line with hydrants, sprinklers and/or hose connections	\$32.21 per month
10 inch Service Line with hydrants, sprinklers and/or hose connections	\$50.39 per month
12 inch Service Line with hydrants, sprinklers and/or hose connections	\$ 72.56 per month

Where connections and hydrants on private property are maintained by the District:

Each Fire Hydrant \$100.00 per month

These terms are payable monthly in advance.



PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

**FINAL**

Entered: June 1, 2012

6/21/2012

CASE NO. 12-0060-PWD-CN

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT,  
a public utility, Kenna, Jackson County.

Application for a certificate of convenience and necessity for the construction, operation and maintenance of improvements to existing water distribution system in the southern portion of Jackson County including a waterline extension to provide water service to approximately 60 users, for approval of increased water rates and charges, and for approval of financing related thereto.

RECOMMENDED DECISION

This Order approves the certificate of convenience and necessity; approves the financing related thereto; and approves a rate increase to support project costs and financing.

PROCEDURE

On January 19, 2012, Southern Jackson County Public Service District (District) filed an application for a certificate of convenience and necessity for the construction, operation and maintenance of improvements to an existing water distribution system in the southern portion of Jackson County, including a waterline extension to provide water service to approximately 60 users, for approval of increased water rates and charges, and for approval of financing related thereto. The total estimated cost of the project is \$3,670,000 to be funded through a West Virginia Infrastructure and Jobs Development Council (WVIJDC) grant of \$530,000.00 and a Drinking Water Treatment Revolving Fund (DWTRF) loan of \$3,140,000.00 for a period of 30 years at an interest rate of 0% and an administrative fee of 1%. The District proposed a 14.23% increase in its current water rates and charges, to be placed into effect upon completion of the proposed project.

By Commission Order dated January 20, 2012, the District was required to publish a copy of the Notice of Filing once in a qualified newspaper, as provided in W. Va. Code §59-3-1, et seq., published and of general circulation in Jackson County, making due return to the Commission of proper certification of publication within thirty (30) days from the date of publication. Also, within thirty (30) days of the date of the Order, the District was to have completed the mailing

of separate notices to each of its customers and made due return to the Commission of its affidavit as proper certification that the notice was provided.

On January 23, 2012, the District filed certain engineering documents.

By Commission Order dated January 31, 2012, the proceeding was referred to the Division of Administrative Law Judges with a decision due date of on or before June 4, 2012, if there was no substantial protest to the application within thirty (30) days after the required notice had been provided, and on or before July 2, 2012, if substantial protest was received within thirty (30) days after the required notice had been provided.

On February 3, 2012, the District filed the Affidavit of Publication from Jackson Newspapers which indicated that the Notice of Filing had been published on January 31, 2012 in The Jackson Herald.

Also, on February 3, 2012, the District filed a document from the Department of the Army, Corps of Engineers.

On February 14, 2012, Staff filed its first set of data requests to the District.

On February 14, 2012, Staff Attorney Ronald E. Robertson, Jr., filed the Initial Joint Staff Memorandum to which was attached the February 14, 2012 Utilities and Engineering Divisions Initial Memorandum prepared by Karen L. Buckley, Utilities Analyst II, Utilities Division, and Joe Marakovits, Technical Analyst, Engineering Division. Staff reported on the scope of the project and its estimated cost of \$3,670,000.00. Staff indicated that the District's Rule 42 exhibit was deficient by not having supporting documentation for its pro forma adjustments. A final recommendation would be submitted upon completion of Staff's review.

On March 2, 2012, the District filed its responses to Staff's first data requests.

By Procedural Order dated March 26, 2012, Commission Staff was required to file its final substantive recommendations on or before April 18, 2012, and the District was required to request a hearing or file a response or objections, if any, on or before April 30, 2012.

On April 18, 2012, Staff Attorney Robertson filed the Final Joint Staff Memorandum to which was attached the April 17, 2012 Utilities and Engineering Divisions Final Recommendation prepared by Ms. Buckley and Mr. Marakovits. Staff reported that the project proposed to install approximately 6,000 LF of 12-inch, 21,000 LF of 8-inch, 17,000 LF of 6-inch and 3,000 LF of 2-inch water line; replace an existing City of Ripley 100,000-gallon water storage tank with a new 200,000-gallon water storage tank; replace the existing Pleasant Valley Road booster station with a new 440 GPM duplex booster station with chlorination; modify the existing Hillcrest booster station to a 150 GPM duplex booster station; refurbish the existing Route 34 booster station; install a new master meter; and install necessary valves, controls and appurtenances. The estimated project cost of \$3,670,000 results in a project cost of \$1,585 per customer based on 2,315 existing and proposed customers. Debt service of \$3,140,000 equals

\$1,356 per customer. Customer density of 8 customers per mile with approximately 7.5 miles of main is low.

The plans and specifications for the project have been approved by the West Virginia Office of Environmental Health Services and Permit No. 18,946 has been issued. Technical Staff's review of the plans and specifications did not reveal any conflict with the Commission's Water Rules.

Residents living in the project area currently obtain water for drinking, bathing and food preparation from ground wells and cisterns. The quality and quantity of the water is poor. An upgrade of the 6-inch water line along County Route 21 is necessary to allow for full operating level in the existing Mountainview Water Storage Tank. The City of Ripley water storage tank must be replaced with one at higher elevation to supply adequate pressure to the new service areas. A new 440 GPM booster station at Pleasant Valley Road will replace three (3) smaller booster stations and improve operation efficiency and reliability in that area of the District's distribution system. The project will bring safe, reliable water and fire protection to the District's existing and proposed service areas.

The sole source of supply for the existing and proposed customers of this extension is the City of Ripley water treatment facility. Therefore, an upgrade to the District's existing distribution system is the sole viable alternative to provide potable water to the residents of the proposed service area. The District's operation and maintenance expenses will increase approximately \$11,999 as a result of the project. Staff opined that the increase was reasonable.

The District's estimated construction cost of \$3,670,000 is to be financed by a West Virginia Infrastructure and Jobs Development Council grant in the amount of \$530,000 and a Drinking Water Treatment Revolving Fund Loan in the amount of \$3,140,000 at 0% for 30 years with an administrative fee of 1%. The loan requires an annual payment of \$121,194 which includes an administrative fee of \$16,527. The District's application included funding letters. The District sought a 14.23% across-the-board rate increase to become effective upon substantial completion of the project. The total amount of expenses attributable to the project is \$28,526, which includes an administrative fee of \$16,527, and \$11,999 for additional operation and maintenance expenses. Staff recommended an increase in rates of 12.3% to support the project which gives the District a surplus of \$68,980 and bond coverage of 129%. Staff used a 4-year average for capital additions since the years 2006 and 2007 included a project. Staff recommended a surplus of \$68,778.

Under the Staff-recommended rates, the average monthly bill for residential customers using 3,462 gallons will increase from \$34.24 to \$38.46, an increase of \$4.22, or 12.3%; the average monthly bill for commercial customers using 9,122 gallons will increase from \$79.18 to \$88.95, an increase of \$9.77, or 12.3%; and the average monthly bill for public authority customers using 94,167 gallons will increase from \$754.43 to \$847.55, an increase of \$93.12, or 12.3%. Staff also increased the private fire protection fees by the same 12.3% across-the-board increase. Staff recalculated the District's leak adjustment rate and increased it to \$3.65 per M gallons.

Staff recommended, pursuant to West Virginia Code §16-13A-25 and §24-2-11, that the District's application for a certificate of convenience and necessity to construct, operate and maintain improvements to its existing water distribution system in the southern portion of Jackson County, including a waterline extension to provide water service to approximately 60 users, for approval of increased water rates and charges, and for approval of financing related thereto in the amount of \$3,670,000.00, be approved. Staff also recommended *inter alia* that approval of the certificate application include project financing consisting of a WVIJDC grant in the amount of \$530,000.00 and a DWTRF loan in the amount of \$3,140,000.00, at 0% interest and a 1% administrative fee for a term of 30 years.

On May 7, 2012, Staff Attorney Robertson filed the Second Further Final Joint Staff Memorandum to which was attached the May 2, 2012 Further Final Recommendation. Staff reported that, although the Staff-recommended rates included adjusted minimum meter rates, and the 3-inch meter was adjusted to reflect the multiplier provided by the Engineering Division, the District did not have any customers who use a 3-inch meter. Therefore, the change had no effect on revenue.

On May 22, 2012, the District filed a copy of the Binding Commitment Letter issued May 21, 2012, by the Bureau for Public Health for the \$3,140,000.00 Drinking Water Treatment Revolving Fund loan.

As of the date of this Order, no protests have been filed. Additionally, the District has not objected to Staff's final recommendations.

#### FINDINGS OF FACT

1. On January 19, 2012, Southern Jackson County Public Service District (District) filed an application for a certificate of convenience and necessity for the construction, operation and maintenance of improvements to an existing water distribution system in the southern portion of Jackson County, including a waterline extension to provide water service to approximately 60 users, for approval of increased water rates and charges, and for approval of financing related thereto. The total estimated cost of the project is \$3,670,000.00 to be funded through a West Virginia Infrastructure and Jobs Development Council grant of \$530,000.00 and a Drinking Water Treatment Revolving Fund loan of \$3,140,000.00 for a period of 30 years at an interest rate of 0% and an administrative fee of 1%. The District proposed a 14.23% increase in its current water rates and charges, to be placed into effect upon completion of the proposed project. (See, filing dated January 19, 2012; Final Joint Staff Memorandum with attachment filed April 18, 2012).

2. The District submitted the Affidavit of Publication reflecting that the Notice of Filing had been published on January 31, 2012, in The Jackson Herald, a qualified newspaper, published and of general circulation in Jackson County. (See, filing dated February 3, 2012).

3. The separate mailing requirement to the District's non-resale customers was completed with the District's January 2012 postcard billings. The District has no resale customers. (See, filing dated March 2, 2012).

4. As of the date of this Order, no protests have been filed. (See, case file generally).

5. The project will provide potable water service to 60 new customers who currently do not have access to treated water and whose present water supply is insufficient and of poor quality. The project will bring safe, reliable water and fire protection to the District's existing and proposed service areas. (See, Final Joint Staff Memorandum with attachment filed April 18, 2012).

6. Commission Staff recommended, pursuant to West Virginia Code §16-13A-25 and §24-2-11, that the District's application for a certificate of convenience and necessity to construct, operate and maintain improvements to its existing water distribution system in the southern portion of Jackson County including a waterline extension to provide water service to approximately 60 users, for approval of increase water rates and charges, and for approval of financing related thereto in the amount of \$3,670,000.00, be approved. Staff also recommended *inter alia* that approval of the certificate application include project financing consisting of a WVJDC grant in the amount of \$530,000.00 and a DWTRF loan in the amount of \$3,140,000.00, at 0% interest and a 1% administrative fee for a term of 30 years. (See, Final Joint Staff Memorandum with attachment filed April 18, 2012).

7. Commission Staff recommended an increase in rates of 12.3% to support the project which gives the District a surplus of \$68,980 and bond coverage of 129% at the completion of the project. The coverage requirement for the proposed bond is 120%. (See, Final Joint Staff Memorandum with attachment filed April 18, 2012).

8. Commission Staff recommended an increase in the fire protection rates, but, since the District had not requested such an increase, notice of an increase in the fire protection rates was not provided to the District's customers. (See, Affidavit of Publication filed February 3, 2012; Notice of Filing issued January 20, 2012).

9. Commission Staff recommended an increase in the service charge for 3-inch meters greater than the service charge which was published. However, the District currently does not have any customers using a 3-inch meter and the change has no effect on revenues. (See, Final Joint Staff Memorandum with attachment filed April 18, 2012; Second Further Final Joint Staff Memorandum with attachment filed May 7, 2012).

10. Under the Staff-recommended rates, the average monthly bill for residential customers (3,462 gallons) will increase from \$34.24 to \$38.46, an increase of \$4.22, or 12.3%; the average monthly bill for commercial customers (9,122 gallons) will increase from \$79.18 to \$88.95, an increase of \$9.77, or 12.3%; and the average monthly bill for public authority customers (94,167 gallons) will increase from \$754.43 to \$847.55, an increase of \$93.12, or 12.3%. (See, Final Joint Staff Memorandum with attachment filed April 18, 2012).

11. As of the date of this Order, the District has not objected to Staff's final recommendations. (See, case file generally).

### CONCLUSIONS OF LAW

1. The public convenience and necessity require the issuance of a certificate of convenience and necessity to Southern Jackson County Public Service District for the construction, operation and maintenance of improvements to its existing water distribution system in the southern portion of Jackson County. Approval is contingent upon the filing of any outstanding permits and clearances.

2. It is reasonable to approve the financing for the project, which consists of a West Virginia Infrastructure and Jobs Development Council grant in the amount of \$530,000.00 and a Drinking Water Treatment Revolving Fund loan in the amount of \$3,140,000.00 for a period of 30 years at an interest rate of 0% and an administrative fee of 1%.

3. The Staff-recommended rates, attached hereto as Appendix A, are sufficient, but not more than sufficient, to cover the District's operation and maintenance expenses, taxes other than income taxes, debt service requirements and routine capital additions, including the additional expenses and debt service requirements generated by the project certificated herein. Accordingly, the Staff-recommended rates should be approved to become effective for all service rendered by the District on and after the date of substantial completion of the project certificated herein, with the exception of the Staff-recommended fire protection rates.

4. It is not reasonable to approve the Staff-recommended fire protection rates, since the customers were not provided with any notice of such an increase.

### ORDER

IT IS, THEREFORE, ORDERED that the application for a certificate of convenience and necessity filed herein on January 19, 2012, by the Southern Jackson County Public Service District for the construction, operation and maintenance of improvements to its existing water distribution system in the southern portion of Jackson County and to add 60 new customers, be, and hereby is, granted.

IT IS FURTHER ORDERED that the proposed financing for the project, consisting of a West Virginia Infrastructure and Jobs Development Council grant in the amount of \$530,000.00 and a Drinking Water Treatment Revolving Fund loan in the amount of \$3,140,000.00 for a period of 30 years at an interest rate of 0% and an administrative fee of 1%, be, and hereby is, approved.

IT IS FURTHER ORDERED that the rates and charges, attached hereto as Appendix A, be, and hereby are, approved for use by the Southern Jackson County Public Service District for all service rendered on and after the date the project certificated herein is certified as

substantially complete. The approved rates retain the current fire protection rates for the reason discussed previously in this Order.

IT IS FURTHER ORDERED that, within thirty (30) days of filing the certificate of substantial completion for the project, Southern Jackson County Public Service District file an original and at least five (5) copies of a proper tariff setting forth the rates and charges hereby approved.

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

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

IT IS FURTHER ORDERED that Southern Jackson County Public Service District submit a copy of the certified tabulation of bids to the Commission, making the bids a part of the Commission's file in this case, as soon as the bids are tabulated.

IT IS FURTHER ORDERED that Southern Jackson County Public Service District submit to the Commission the project engineer's certificate of substantial completion and inspection of the project as soon as it is received.

IT IS FURTHER ORDERED that, if this project requires the use of the Division of Highways' rights-of-way, Southern Jackson County Public Service District comply with all rules and regulations of the Division of Highways regarding the use of those rights-of-way.

IT IS FURTHER ORDERED that Southern Jackson County Public Service District submit all permits as soon as they are issued by governmental agencies prior to commencing construction.

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

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

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

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

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

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

*Deborah Yost VanDervort*  
Deborah Yost VanDervort  
Administrative Law Judge

DYV:s:cdk  
120060aa.docx

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
CASE NO. 12-0060-PWD-CN

APPROVED RATES

SCHEDULE NO. 1

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

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

RATES (customers with metered water supply)

Service charge per month (based on meter size:

5/8-inch meter	\$ 7.58 per month
3/4-inch meter	\$ 11.37 per month
1 -inch meter	\$ 18.95 per month
1-1/2-inch meter	\$ 37.90 per month
2 -inch meter	\$ 60.64 per month
3 -inch meter	\$121.28 per month
4 -inch meter	\$189.50 per month
6 -inch meter	\$379.00 per month

Usage Charge:

\$8.92 per 1,000 gallons of water used per month

MINIMUM CHARGE

No bill will be rendered for less than the appropriate service charge

DELAYED PAYMENT PENALTY

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

RECONNECTION - \$20.00

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

TAP FEE

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

A tap fee of \$200.00 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.

LEAK ADJUSTMENT

\$3.65 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

RETURNED CHECK CHARGE

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

SECURITY DEPOSIT

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

SCHEDULE NO. 2

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for private fire protection service

RATE

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

2-inch Service Line with hydrants, sprinklers, and/or hose connections	\$ 5.02
3-inch Service Line with hydrants, sprinklers, and/or hose connections	\$ 6.08
4-inch Service Line with hydrants, sprinklers, and/or hose connections	\$ 8.11
6-inch Service Line with hydrants, sprinklers, and/or hose connections	\$ 18.14

8-inch Service Line with hydrants, sprinklers, and/or hose connections	\$ 32.21
10-inch Service Line with hydrants, sprinklers, and/or hose connections	\$ 50.39
12-inch Service Line with hydrants, sprinklers, and/or hose connections	\$ 72.56

Where connections and hydrants on private property are maintained by the District:

Each fire hydrant \$100.00 per month

These terms are payable monthly in advance





STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BUREAU FOR PUBLIC HEALTH  
OFFICE OF ENVIRONMENTAL HEALTH SERVICES

Earl Ray Tomblin  
Governor

Michael J. Lewis, M.D., Ph.D.  
Cabinet Secretary

May 21, 2012

*L. Stover*  
Mr. James S. Hutchinson, Chairman  
Southern Jackson County Public Service District  
P. O. Box 57  
Kenna, WV 25248

**RE:** Binding Commitment Letter  
Southern Jackson County PSD  
IJDC Project No.: 2011W-1219  
SRF Project No.: 11DWTRFB008  
Jackson County

*Stover*  
Dear Mr. Hutchinson:

The Bureau for Public Health (Bureau) provides this contingent binding offer for a loan of approximately \$3,140,000 for the Southern Jackson Public Service District (SJPSD) proposed project to replace undersized lines and extend service to 60 new customers by providing waterline extensions along Faber Hollow, Pigeonroost Run, Gins Creek and US Route 33 East areas in Jackson County.

Included in the replacement and extension scope will be approximately 10.2 miles of waterline, the installation of (1) 150,000 gallon water storage tank and all necessary valves, controls and appurtenances; with water to be provided by the City of Ripley.

The loan will be subject to the terms set forth on "Schedule A" attached hereto and incorporated herein by reference. The final loan amount will be established after the SJPSD has received bids for the project. The loan agreement will be between the SJPSD and West Virginia Water Development Authority (WDA), who is the administrator of the DWTRF, acting on behalf of the Bureau.

This loan commitment is contingent upon the SJPSD's meeting the following:

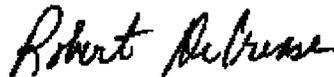
- a. Advertise bids for the project by **August 1, 2012**
- b. Closing the construction loan by **November 30, 2012**

If the SJPSD becomes aware that it will not be able to comply with the milestones listed above, they should immediately notify the Bureau of this fact and the circumstances which have caused the project delay.

Mr. James S. Hutchinson, Chairman  
Southern Jackson County PSD – 2011W-1219  
May 21, 2012  
Page Two

If you have any questions regarding this loan commitment, please contact me at (304) 356-4301 or email [robert.w.decrease@wv.gov](mailto:robert.w.decrease@wv.gov).

Very truly yours,



Robert W. DeCrease, P.E., Manager  
Infrastructure & Capacity Development  
Environmental Engineering Division

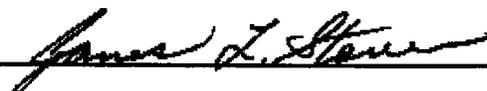
RWD:kla

Enclosures

pc: Chris Jarrett, Executive Director, Water Development Authority (via e-mail)  
Samme L. Gee, Esquire, Jackson & Kelly (via e-mail)  
Walter M. Ivey, P.E., Director, BPH/OEHS/EED (via e-mail)  
Dave Cobb, OEHS St. Albans District Office (via e-mail)  
Ingrid Ferrell, Public Service Commission (via e-mail)  
John Stump, Steptoe & Johnson (via e-mail)  
Katy Mallory, Steptoe & Johnson (via e-mail)  
Jim Ellars, JDC (via e-mail)  
Jim Hildreth, Boyles and Hildreth (via e-mail)

**NOTE:** This letter is sent in triplicate. Please acknowledge receipt on two copies and immediately return them both to the Bureau for Public Health, Attention: Robert W. DeCrease, 350 Capitol Street, Room 313, Charleston, WV 25301-3713.

Southern Jackson PSD

By:   
Title: CHAIRMAN  
Date: MAY 23, 2012

**WEST VIRGINIA BUREAU FOR PUBLIC HEALTH  
DRINKING WATER TREATMENT REVOLVING FUND**

**(Binding Commitment)**

**“SCHEDULE A”**

May 21, 2012

**A. PROJECT:**

Southern Jackson Public Service District  
Distribution System Upgrade and Water Line Extension  
Jackson County  
IJDC No.: **2011W-1219**  
DWTRF No.: **11DWTRFB008**

**B. DRINKING WATER TREATMENT REVOLVING FUND:**

**Loan A**

(DWTRF Base Program):	<b>\$ 3,140,000</b>
Terms:	0%
Maturity Date:	30 years
Administration Fee:	1% (Paid evenly over 30 years)
Special Conditions:	Annual debt service and administration fee payment is estimated to be \$121,280 plus reserve requirement.

**NOTE 1:** Final loan amount will be determined upon receipt of contract bids.

**C. OTHER FUNDING SOURCES:** IJDC Grant - \$530,000

**D. TOTAL PROJECT COST:** **\$3,670,000**

**E. PROPOSED USER RATES:** Post-project user rates are expected to be \$42.35 monthly rate for 4,000 gallons.





United States Department of Agriculture  
Rural Development  
West Virginia State Office

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM)  
SERIES 2013

RURAL DEVELOPMENT CONSENT TO ISSUANCE OF PARITY BOND

United States of America, Rural Development (the "Government"), represents that it is the sole and only registered owner of the (1) Water Revenue Bonds, Series 1977, dated March 13, 1978, issued in the original principal amount of \$470,000, (2) Water System Revenue Bonds, Series 1991, dated March 18, 1991, issued in the original principal amount of \$143,500, (3) Water Revenue Bonds, Series 1997, dated March 21, 1997, issued in the original principal amount of \$500,000, (4) Water Revenue Bond, Series 2001A, dated December 21, 2001, issued in the original principal amount of \$1,310,000, (5) Water Revenue Bond, Series 2001B, dated December 21, 2001, issued in the original principal amount of \$60,000, and (6) Water Revenue Bond, Series 2005, dated September 21, 2005, issued in the original principal amount of \$1,137,000 (collectively, the "Prior Bonds").

The Government does hereby consent to the issuance by the Southern Jackson County Public Service District, Kenna, West Virginia (the "Issuer"), of its parity bond, Water Revenue Bond (West Virginia DWTRF Program), Series 2013 (the "Series 2013 Bond"), in the amount of \$3,140,000, to be sold to the West Virginia Water Development Authority, as administrator of the Drinking Water Treatment Revolving Fund. The Government hereby consents that the Series 2013 Bond may be payable from the Net Revenues of the water system of the Issuer and otherwise secured on a parity basis with the Prior Bonds.

In addition, the Government consents to a waiver of any requirement that Net Revenues for the fiscal year following the year in which any Additional Bonds are to be issued will be at least 120% of the average annual debt service requirements on all Prior Bonds. By consenting to such waiver, the Government consents to a reduction in such requirement to 115%.

By the execution of this consent, the undersigned hereby certifies that he/she is fully empowered and authorized to execute this consent on behalf of the Government.

WITNESS my signature this 14<sup>th</sup> day of February, 2013.

UNITED STATES OF AMERICA  
UNITED STATES DEPARTMENT OF AGRICULTURE  
Rural Development

By:   
State Director

1550 Earl Core Road • Suite 101 • Morgantown, WV 26505  
Phone: 304.284.4860 • 1.800.295.8228 • Fax: 304.284.4893 • TTY/TDD: 304.284.4836 • Web: <http://www.rurdev.usda.gov/wv>

Committed to the future of rural communities.

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



\$3,140,000  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM)  
SERIES 2013

CONSENT TO ISSUANCE OF PARITY BOND AND PARITY LIEN

In reliance upon the certificate of Smith, Cochran & Hicks, P.L.L.C., CPAs, an independent certified public accountant, and the opinion of Goodwin & Goodwin, LLP, as Bond Counsel, stating that the coverage and parity requirements have been met (copy attached), the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the Series 1998 Bond, hereinafter defined, hereby consents to the issuance by the Southern Jackson County Public Service District (the "Issuer"), of the Water Revenue Bond (West Virginia DWTRF Program), Series 2013, in the principal amount of \$3,140,000 (the "Series 2013 Bond"), to be sold to the West Virginia Water Development Authority, for the benefit of the West Virginia Bureau for Public Health, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Water Revenue Bond (West Virginia Infrastructure Fund), Series 1998 A (the "Series 1998 Bond").

WITNESS my signature as of the 14<sup>th</sup> day of February, 2013.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: \_\_\_\_\_

Authorized Representative





Goodwin & Goodwin, LLP  
300 Summers Street  
Suite 1500  
Charleston, WV 25301-1678

T (304) 346-7000  
F (304) 344-9692

**COPY**

[www.goodwingoodwin.com](http://www.goodwingoodwin.com)

February 11, 2013

Ms. Sara Boardman, Executive Director  
West Virginia Municipal Bond Commission  
900 Pennsylvania Avenue, Suite 1117  
Charleston, West Virginia 25302

Re: Southern Jackson County Public Service District  
Water Revenue Bond (West Virginia DWTRF Program), Series 2013

Dear Ms. Boardman:

Enclosed please find the New Issue Report Form that has been prepared in connection with the above-referenced transaction and sent to you for filing in your office in regard to the same. Upon completion of the transcript, we will forward a bound copy to you for your reference. In the meantime, if you have any questions concerning this transaction, please feel free to contact me.

Sincerely yours,

William K. Bragg, Jr.

WKB/aks  
Enclosure

WV MUNICIPAL BOND COMMISSION  
900 Pennsylvania Avenue, Suite 1117  
Charleston, WV 25302  
(304) 558-3971

NEW ISSUE REPORT FORM  
Date of Report: February 14, 2013

ISSUE: Southern Jackson County Public Service District  
Water Revenue Bond (West Virginia DWTRF Program), Series 2013  
ADDRESS: P.O. Box 57  
Kenna, WV 25248-0057 COUNTY: Jackson  
PURPOSE: New Money X  
OF ISSUE: Refunding \_\_\_ Refunds issue dated: N/A  
ISSUE DATE: February 14, 2013 CLOSING DATE: February 14, 2013  
ISSUE AMOUNT: \$3,140,000 RATE: 0% (1% administration fee)  
1ST DEBT SERVICE DUE: September 1, 2014 1ST PRINCIPAL DUE: September 1, 2014  
1ST DEBT SERVICE AMT.: \* PAYING AGENT: Muni. Bond Comm.

BOND COUNSEL: Goodwin & Goodwin, LLP LENDER: WV Water Develop. Auth.  
Contact Person: W.K. Bragg, Jr. Contact Person: Chris Jarrett  
Phone 346-7000 Phone: (304) 558-3612

KNOWLEDGEABLE ISSUER CONTACT:

Contact Person: James L. Stover  
Position: Chairman  
Phone: (304) 372-2622

-----DEPOSITS TO MBC AT CLOSE:-----

By \_\_\_ Wire \_\_\_ Accrued Interest: \$ \_\_\_ 0  
\_\_\_ Check \_\_\_ Capitalized Interest: \$ \_\_\_ 0  
\_\_\_ Reserve Account: To be funded over a 10 year period  
\_\_\_ Other: \$ \_\_\_\_\_

-----REFUNDS & TRANSFERS BY MBC AT CLOSE:-----

By \_\_\_ Wire \_\_\_ To Escrow Trustee: \$ \_\_\_ N/A  
\_\_\_ Check \_\_\_ To Issuer: \$ \_\_\_ N/A  
\_\_\_ IGT \_\_\_ To Cons. Invest. Fund: \$ \_\_\_ N/A  
\_\_\_ Other: \$ \_\_\_\_\_

Notes: \* Subject to actual amount advanced at closing.

Notes: \_\_\_\_\_

FOR MUNICIPAL BOND COMMISSION USE ONLY:  
DOCUMENTS  
REQUIRED: \_\_\_\_\_  
TRANSFERS  
REQUIRED: \_\_\_\_\_



\$3,140,000  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM)  
SERIES 2013

No. R-1

Date: February 14, 2013

FOR VALUE RECEIVED, the SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, a public service district created, expanded and contracted pursuant to the Act by orders issued by The County Commission of Jackson County, in Jackson County, West Virginia (herein called "Issuer"), hereby promises to pay to the order of the West Virginia Water Development Authority, as administrator of the Drinking Water Treatment Revolving Fund (the "Authority") or registered assigns, at 1009 Bullitt Street, Charleston, West Virginia 25301, or at such other place as the Authority may hereafter designate in writing, the principal sum of Three Million One Hundred Forty Thousand and 00/100 Dollars (\$3,140,000), 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, 2014, as set forth on the Debt Service Schedule attached as EXHIBIT B hereto and incorporated herein by reference. The Administration Fee (as defined in the hereinafter described Bond Legislation) on this Bond shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2014, as set forth on EXHIBIT B attached hereto.

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 Bureau for Public Health (the "BPH"), 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 BPH, dated February 14, 2013.

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

This Bond and the Prior Bonds, as hereinafter defined, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of

providing funds for financing costs of construction of improvements to a water system (the "System") of the Issuer, is payable solely from the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation.

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

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

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A and Chapter 16, Article 13C of the West Virginia Code (collectively, the "Act").

THIS BOND IS ON PARITY AS TO LIEN AND SOURCE OF PAYMENT WITH THE WATER REVENUE BONDS, SERIES 1977, WATER SYSTEM REVENUE BONDS, SERIES 1991, WATER REVENUE BONDS, SERIES 1997, WATER REVENUE BONDS (WEST VIRGINIA INFRASTRUCTURE FUND), SERIES 1998, WATER REVENUE BOND, SERIES 2001A, WATER REVENUE BOND, SERIES 2001B, AND WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM), SERIES 2005 (COLLECTIVELY, THE "PRIOR BONDS") OF THE ISSUER DESCRIBED IN THE RESOLUTIONS ISSUED WITH RESPECT TO EACH SERIES.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Resolution) to be derived from the System, on a parity with the pledge of Net Revenues in favor of the registered owners of the Prior Bonds, and from moneys in the reserve account created under the Resolution for this Bond (the "Series 2013 Bond Reserve Account") and unexpended proceeds of this Bond. Such Net 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. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the moneys in the Series 2013 Bond Reserve Account and unexpended proceeds of this Bond. 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 of

principal of and interest, if any, on this Bond payable in any year and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Prior Bonds; provided however, that so long as there exists in the Series 2013 Bond Reserve Account, an amount at least equal to the maximum amount of principal and interest, if any, which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the Prior Bonds, 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 Owner (as defined in the Resolution) of this Bond for the terms of which reference is made to the Resolution. Remedies provided the Registered Owner of this Bond are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

The initial address of Authority for purposes of bond registration is 1009 Bullitt Street, Charleston, WV 25301.

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

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

(SEAL)

By: James H. Stone  
Chairman  
P.O. Box 57  
Kenna, WV 25248-0057

ATTEST:

By: [Signature]  
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Series 2013 Bond described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: February 14, 2013.

United Bank, Inc., as Registrar

By: \_\_\_\_\_

Authorized Officer

SPECIMEN  
*[Handwritten Signature]*

EXHIBIT A

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$74,922.00	2/14/13	(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	

SPLC 11/11/13

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

(Form of Assignment)

ASSIGNMENT

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

DATED: \_\_\_\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

EXHIBIT B

DEBT SERVICE SCHEDULE

SPECIMEN

**Net Debt Service**  
Southern Jackson County PSD  
DWTRF  
\$3,140,000  
0% Interest Rate  
1% Administrative Fee

Date	Principal	Interest	30 Years		Reserve Fund	Net Debt Service
			Total Debt	Admin Fee		
12/01/14	26,167		26,167	3,957.68	2,616.70	32,741.38
03/01/15	26,167		26,167	3,957.68	2,616.70	32,741.38
06/01/15	26,167		26,167	3,957.68	2,616.70	32,741.38
09/01/15	26,167		26,167	3,957.68	2,616.70	32,741.38
12/01/15	26,167		26,167	3,957.68	2,616.70	32,741.38
03/01/16	26,167		26,167	3,957.68	2,616.70	32,741.38
06/01/16	26,167		26,167	3,957.68	2,616.70	32,741.38
09/01/16	26,167		26,167	3,957.68	2,616.70	32,741.38
12/01/16	26,167		26,167	3,957.68	2,616.70	32,741.38
03/01/17	26,167		26,167	3,957.68	2,616.70	32,741.38
06/01/17	26,167		26,167	3,957.68	2,616.70	32,741.38
09/01/17	26,167		26,167	3,957.68	2,616.70	32,741.38
12/01/17	26,167		26,167	3,957.68	2,616.70	32,741.38
03/01/18	26,167		26,167	3,957.68	2,616.70	32,741.38
06/01/18	26,167		26,167	3,957.68	2,616.70	32,741.38
09/01/18	26,167		26,167	3,957.68	2,616.70	32,741.38
12/01/18	26,167		26,167	3,957.68	2,616.70	32,741.38
03/01/19	26,167		26,167	3,957.68	2,616.70	32,741.38
06/01/19	26,167		26,167	3,957.68	2,616.70	32,741.38
09/01/19	26,167		26,167	3,957.68	2,616.70	32,741.38
12/01/19	26,167		26,167	3,957.68	2,616.70	32,741.38
03/01/20	26,167		26,167	3,957.68	2,616.70	32,741.38
06/01/20	26,167		26,167	3,957.68	2,616.70	32,741.38
09/01/20	26,167		26,167	3,957.68	2,616.70	32,741.38
12/01/20	26,167		26,167	3,957.68	2,616.70	32,741.38
03/01/21	26,167		26,167	3,957.68	2,616.70	32,741.38
06/01/21	26,167		26,167	3,957.68	2,616.70	32,741.38
09/01/21	26,167		26,167	3,957.68	2,616.70	32,741.38
12/01/21	26,167		26,167	3,957.68	2,616.70	32,741.38
03/01/22	26,167		26,167	3,957.68	2,616.70	32,741.38
06/01/22	26,167		26,167	3,957.68	2,616.70	32,741.38
09/01/22	26,167		26,167	3,957.68	2,616.70	32,741.38
12/01/22	26,167		26,167	3,957.68	2,616.70	32,741.38
03/01/23	26,167		26,167	3,957.68	2,616.70	32,741.38
06/01/23	26,167		26,167	3,957.68	2,616.70	32,741.38
09/01/23	26,167		26,167	3,957.68	2,616.70	32,741.38
12/01/23	26,167		26,167	3,957.68	2,616.70	32,741.38
03/01/24	26,167		26,167	3,957.68	2,616.70	32,741.38
06/01/24	26,167		26,167	3,957.68	2,616.70	32,741.38
09/01/24	26,167		26,167	3,957.68	2,616.70	32,741.38
12/01/24	26,167		26,167	3,957.68		30,124.68
03/01/25	26,167		26,167	3,957.68		30,124.68
06/01/25	26,167		26,167	3,957.68		30,124.68
09/01/25	26,167		26,167	3,957.68		30,124.68
12/01/25	26,167		26,167	3,957.68		30,124.68

03/01/26

26,167

26,167

3,957.68

30,124.68

Jan 30, 2013 1:09 pm

(WDA:LOANS-SJACK113) 2

SPECIMEN

SPECIMEN

**Net Debt Service**  
 Southern Jackson County PSD  
 DWTRF  
 \$3,140,000  
 0% Interest Rate  
 1% Administrative Fee  
 30 Years

Date	Principal	Interest	Total Debt		Reserve Fund	Net Debt Service
			Service	Admin Fee		
06/01/26	26,167		26,167	3,957.68		30,124.68
09/01/26	26,167		26,167	3,957.68		30,124.68
12/01/26	26,167		26,167	3,957.68		30,124.68
03/01/27	26,167		26,167	3,957.68		30,124.68
06/01/27	26,167		26,167	3,957.68		30,124.68
09/01/27	26,167		26,167	3,957.68		30,124.68
12/01/27	26,167		26,167	3,957.68		30,124.68
03/01/28	26,167		26,167	3,957.68		30,124.68
06/01/28	26,167		26,167	3,957.68		30,124.68
09/01/28	26,167		26,167	3,957.68		30,124.68
12/01/28	26,167		26,167	3,957.68		30,124.68
03/01/29	26,167		26,167	3,957.68		30,124.68
06/01/29	26,167		26,167	3,957.68		30,124.68
09/01/29	26,167		26,167	3,957.68		30,124.68
12/01/29	26,167		26,167	3,957.68		30,124.68
03/01/30	26,167		26,167	3,957.68		30,124.68
06/01/30	26,167		26,167	3,957.68		30,124.68
09/01/30	26,167		26,167	3,957.68		30,124.68
12/01/30	26,167		26,167	3,957.68		30,124.68
03/01/31	26,167		26,167	3,957.68		30,124.68
06/01/31	26,167		26,167	3,957.68		30,124.68
09/01/31	26,167		26,167	3,957.68		30,124.68
12/01/31	26,167		26,167	3,957.68		30,124.68
03/01/32	26,167		26,167	3,957.68		30,124.68
06/01/32	26,167		26,167	3,957.68		30,124.68
09/01/32	26,167		26,167	3,957.68		30,124.68
12/01/32	26,167		26,167	3,957.68		30,124.68
03/01/33	26,167		26,167	3,957.68		30,124.68
06/01/33	26,167		26,167	3,957.68		30,124.68
09/01/33	26,167		26,167	3,957.68		30,124.68
12/01/33	26,167		26,167	3,957.68		30,124.68
03/01/34	26,167		26,167	3,957.68		30,124.68
06/01/34	26,167		26,167	3,957.68		30,124.68
09/01/34	26,166		26,166	3,957.68		30,123.68
12/01/34	26,166		26,166	3,957.68		30,123.68
03/01/35	26,166		26,166	3,957.68		30,123.68
06/01/35	26,166		26,166	3,957.68		30,123.68
09/01/35	26,166		26,166	3,957.68		30,123.68
12/01/35	26,166		26,166	3,957.68		30,123.68
03/01/36	26,166		26,166	3,957.68		30,123.68
06/01/36	26,166		26,166	3,957.68		30,123.68
09/01/36	26,166		26,166	3,957.68		30,123.68
12/01/36	26,166		26,166	3,957.68		30,123.68
03/01/37	26,166		26,166	3,957.68		30,123.68

06/01/37	26,166	26,166	3,957.68	30,123.68
09/01/37	26,166	26,166	3,957.68	30,123.68

Jan 30, 2013 1:09 pm

(WDA:LOANS-SJACK113) 3

ORIGINAL

**Net Debt Service**  
Southern Jackson County PSD  
DWTRF  
\$3,140,000  
0% Interest Rate  
1% Administrative Fee  
30 Years

Date	Principal	Total Debt		Reserve Fund	Net Debt Service
		Interest	Service Admin Fee		
12/01/37	26,166		3,957.68		30,123.68
03/01/38	26,166		3,957.68		30,123.68
06/01/38	26,166		3,957.68		30,123.68
09/01/38	26,166		3,957.68		30,123.68
12/01/38	26,166		3,957.68		30,123.68
03/01/39	26,166		3,957.68		30,123.68
06/01/39	26,166		3,957.68		30,123.68
09/01/39	26,166		3,957.68		30,123.68
12/01/39	26,166		3,957.68		30,123.68
03/01/40	26,166		3,957.68		30,123.68
06/01/40	26,166		3,957.68		30,123.68
09/01/40	26,166		3,957.68		30,123.68
12/01/40	26,166		3,957.68		30,123.68
03/01/41	26,166		3,957.68		30,123.68
06/01/41	26,166		3,957.68		30,123.68
09/01/41	26,166		3,957.68		30,123.68
12/01/41	26,166		3,957.68		30,123.68
03/01/42	26,166		3,957.68		30,123.68
06/01/42	26,166		3,957.68		30,123.68
09/01/42	26,166		3,957.68		30,123.68
12/01/42	26,166		3,957.68		30,123.68
03/01/43	26,166		3,957.68		30,123.68
06/01/43	26,166		3,957.68		30,123.68
09/01/43	26,166		3,957.68		30,123.68
12/01/43	26,166		3,957.68		30,123.68
03/01/44	26,166		3,957.68		30,123.68
06/01/44	26,166		3,957.68		30,123.68
09/01/44	26,167		3,957.68		30,124.68
	3,140,000		474,921.60	104,668.00	3,719,589.60

Notes:

Estimated Monthly Net Debt Service Payments rounded up to the nearest cent:

\$10,913.80 September 1, 2014 through August 1, 2024 (based on maximum quarterly payment of \$32,741.38)

\$10,041.56 September 1, 2024 through August 1, 2044 (based on maximum quarterly payment of \$30,124.68)

Admin Fee calculated based on 1.0% of bond value computed quarterly paid in equal quarterly payments rounded up to the nearest cent.

SPECIMEN

BOND REGISTER

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM)  
SERIES 2013

SPECIMEN

<u>Bond Number</u>	<u>Principal Amount</u>	<u>Date of Bond</u>
No. R-1	\$3,140,000	February 14, 2013

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

West Virginia Water Development Authority  
1009 Bullitt Street  
Charleston, WV 25301

Signature of Registrar:

United Bank, Inc.

By: 

Its: Vice President



201338721899

Friday, August 16, 2013  
2:24 PM

**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS

WV SECRETARY OF STATE

A. NAME & PHONE OF CONTACT AT FILER (optional) <b>William K. Bragg, Jr. (304) 346-7000</b>
B. E-MAIL CONTACT AT FILER (optional) <b>wkb@goodwingoodwin.com</b>
C. SEND ACKNOWLEDGMENT TO: (Name and Address) <b>William K. Bragg, Jr. Goodwin &amp; Goodwin, LLP P.O. Box 2107 Charleston, WV 25328-2107</b>

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here  and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME <b>Southern Jackson County Public Service District</b>				
OR	1b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
1c. MAILING ADDRESS <b>P.O. Box 57</b>		CITY <b>Kenna</b>	STATE <b>WV</b>	POSTAL CODE <b>25248</b>
			COUNTRY <b>USA</b>	

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here  and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME				
OR	2b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
2c. MAILING ADDRESS		CITY	STATE	POSTAL CODE
			COUNTRY	

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME <b>West Virginia Water Development Authority, for the benefit of the WV Bureau of Public Health</b>				
OR	3b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
3c. MAILING ADDRESS <b>1009 Bullitt Street</b>		CITY <b>Charleston</b>	STATE <b>WV</b>	POSTAL CODE <b>25301</b>
			COUNTRY <b>USA</b>	

4. COLLATERAL: This financing statement covers the following collateral:  
**Statutory mortgage lien on accounts, revenues, water system and other property as provided by Bond Resolution and Supplemental Resolution authorizing the issuance of \$3,140,000 Southern Jackson County Public Service District, Water Revenue Bond, Series 2013 (West Virginia DWTRF Program), and by Chapter 16, Article 13A and 13C of the Code of West Virginia of 1931, as amended.**

**This Financing Statement is filed in connection with a public-finance transaction of the Southern Jackson County Public Service District, Jackson County, West Virginia. Pursuant to the provisions of Section 46-9-515(b) of the Code of West Virginia of 1931, as amended, this financing statement shall be effective for a period of thirty-two (32) years from its date of filing, unless the underlying debt is repaid sooner.**

5. Check <u>only</u> if applicable and check <u>only</u> one box: Collateral is <input type="checkbox"/> held in a Trust (see UCC1Ad, item 17 and Instructions) <input type="checkbox"/> being administered by a Decedent's Personal Representative	
6a. Check <u>only</u> if applicable and check <u>only</u> one box: <input checked="" type="checkbox"/> Public-Finance Transaction <input type="checkbox"/> Manufactured-Home Transaction <input type="checkbox"/> A Debtor is a Transmitting Utility	6b. Check <u>only</u> if applicable and check <u>only</u> one box: <input type="checkbox"/> Agricultural Lien <input type="checkbox"/> Non-UCC Filing
7. ALTERNATIVE DESIGNATION (if applicable): <input type="checkbox"/> Lessee/Lessor <input type="checkbox"/> Consignee/Consignor <input type="checkbox"/> Seller/Buyer <input type="checkbox"/> Bailee/Bailor <input type="checkbox"/> Licensee/Licenser	
8. OPTIONAL FILER REFERENCE DATA:	



*ADAMS, FISHER AND CHAPPELL,  
PLLC*

**Attorneys at Law**

Ronald H. Adams (1929-1987)  
Robert D. Fisher  
Leah R. Chappell

Post Office Box 326  
122 South Court St.  
Ripley, WV 25271

Telephone: (304)372-6191  
Facsimile: (304) 372-2175  
e:mail:  
adamsfisher@citynet.net

February 14, 2013

West Virginia Water Development  
Authority  
1009 Bullitt Street  
Charleston, WV 25301

Southern Jackson County Public Service  
District  
P.O. Box 57  
Kenna, WV 25248-0057

Re: \$3,140,000 Southern Jackson County Public Service District,  
Water Revenue Bond (West Virginia DWTRF Program), Series 2013

Gentlemen:

As attorney for the Southern Jackson County Public Service District, Jackson County, West Virginia (the "District"), I have examined the record of proceedings relating to the issue of the Southern Jackson County Public Service District, Water Revenue Bond, Series 2013 (the "Bond") and have considered the validity of the bond issue. In this connection, I have examined and am familiar with the Constitution and statutes of the State of West Virginia, including Chapter 16, Article 13A and Chapter 16, Article 13C of the Code of West Virginia of 1931, as amended (collectively, the "Act"), the Orders of the Jackson County Commission creating, expanding and contracting the District, related minutes and certified copies of the Resolution and Supplemental Resolution passed by the District (collectively, the "Resolution"), the Bond Purchase Agreement for the Bond, dated February 14, 2013, including all schedules and exhibits attached thereto (the "Agreement"), by and between the District and the West Virginia Water Development Authority (the "Authority"), and the West Virginia Bureau for Public Health ("BPH"), a copy of the certificate of convenience and public necessity issued by the West Virginia Public Service Commission, the water rates necessary to pay for the Bond as described in the Resolution, copies of contracts and other documents relating to the funding and approval for the project by the District, including but not limited to the construction contract, plans and specifications, and other documents relating to the project, the commitment letter from BPH to the District, and other documents incidental and material to the issuance by the District of the Bond. From such familiarity and examination, I am of the opinion as follows:

1. The District is a duly created and presently existing public service district of the State of West Virginia with full power and authority to construct and acquire and to operate and maintain the Water System and to issue and sell the Bond, all under the provisions of Chapter 16, Article 13A (the "Act"), of the West Virginia Code of 1931, as amended, and other applicable provisions of law.

2. The District, through its Board, has legally and effectively enacted the Resolution and has duly authorized the issuance and delivery of the Bond to the Authority, for the benefit of BPH, and the Chairman of the Board is duly and lawfully entitled and authorized to execute the Bond. The Agreement has been duly authorized, executed and delivered by the District and, assuming due authorization, execution and delivery by the Authority and BPH, constitutes a valid and binding agreement of the District, enforceable in accordance with its terms.

3. The Bond constitutes a valid and legally enforceable special obligation of the District secured by and payable solely from a parity lien on and pledge of the net revenues of the System on parity with the Series 1977 Bond, the Series 1991 Bond, the Series 1997 Bond, the Series 1998 Bond, the Series 2001 Bonds and the Series 2005 Bond (collectively, the "Prior Bonds"), as described in the Resolution, all in accordance with the terms of the Bond and the Resolution.

4. The District, through its Board, has legally and effectively enacted the water rates necessary to make the payments on the Bond and the Prior Bonds from the rates described in the Resolution, and it has lawfully enacted and has filed a tariff which has been approved by the West Virginia Public Service Commission for the water rates that are described in the Resolution.

5. The District has obtained from the West Virginia Public Service Commission a valid, final and non-appealable certificate of convenience and necessity under Case No. 12-0060-PWD-CN, which lawfully authorizes the District to proceed with the construction and operation of the District's Water System and approval of and issuance of the Bond.

6. The District, through its Board, has legally and effectively enacted all other resolutions, contracts and agreements that are necessary to comply with the commitment letter previously forwarded and conditions required therein, as well as complied with all necessary provisions of the Resolution necessary before the Bond may be issued and delivered, and that the Bond can in fact be lawfully issued and delivered.

7. The execution and delivery of the Bond and the adoption of the Resolution and compliance with the provisions of them will not conflict with nor constitute a breach of or default under any agreement or other instrument known to me to which the District is a party, or any court order or consent decree known to me to which the District is subject, or any law or administrative regulation to which the District is subject.

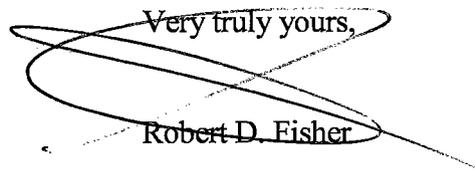
8. All authorizations, consents, approvals and reviews by governmental bodies or regulatory authorities then required for the District's adoption, execution or performance of the Bond and the Resolution have been obtained or affected, and I have no reason to believe that the District will be unable to obtain or affect any additional such authorizations, consents or approvals that may be required in the future for performance of any of them by the District.

9. I have ascertained that all successful bidders have provided the drug free workplace affidavit, submitted their drug free workplace plan, and the contracts contain language that comply with the Drug Free Workplace Act, Article 1D, Chapter 21 of the West Virginia Code. I have also ascertained 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 District; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Resolution and the Agreement with the Authority, for the benefit of BPH; and (5) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

10. To my knowledge, there is no action, suit, proceeding or investigation at law or in equity by any court, public board or body, pending or threatened against or affecting the District or any member of the Board, and no facts exist relating to the composition of the Board or the exercise of their duties, wherein an unfavorable decision, ruling or finding would have a materially adverse effect upon the validity of the Bond or the Resolution.

The foregoing opinion is qualified to the extent that the enforceability of the liens, pledges and terms set forth in the Bond and in the Bond Resolution may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally.

Very truly yours,  
  
Robert D. Fisher



# *ADAMS, FISHER & CHAPPELL, PLLC*

*Attorneys at Law*

RONALD H. ADAMS (1929-1987)  
ROBERT D. FISHER  
LEAH R. CHAPPELL

Post Office Box 326  
122 South Court Street  
Ripley, WV 25271

Telephone: (304) 372-6191  
Facsimile: (304) 372-2175  
e-mail: adamsfisher@citynet.net

February 1, 2013

Bureau of Public Health  
1 Davis Square, Suite 200  
Capitol and Washington Streets  
Charleston, WV 25301-1798

West Virginia Water Development Authority  
180 Association Drive  
Charleston, WV 25311-1751

Re: Southern Jackson County Public Service District

Project Description: Water System Improvements Project

Ladies and Gentlemen:

This firm represents the Southern Jackson County Public Service District with regard to proposed project to construct the Water System Improvements Project (the "Project"), and provides this final title opinion on behalf of the Southern Jackson County Public Service District to satisfy the requirements of the West Virginia Drinking Water Treatment Revolving Loan Fund Program (the "Program") with regard to the financing proposed for the project. Please be advised of the following:

1. That I am of the opinion that the Southern Jackson County Public Service District is a duly created and existing municipal/public corporation possessed with all the powers and authority granted to the municipal/public corporations under the laws of the State of West Virginia and through said District has the full power and authority to construct, operate and maintain the Project as approved by the Bureau for Public Health.

2. That the Southern Jackson County Public Service District has obtained all necessary permits and approvals for the construction of the Project.

3. That I have investigated and ascertained the location of and am 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 of the Project prepared by Boyles and Hildreth, the consulting engineers for the Project.

4. That I have examined the records on file in the Office of the Clerk of the County Commission of Jackson County, West Virginia, the county in which the Project is to be located, and, in my opinion, the Southern Jackson County Public Service District has acquired legal title or such other estate or interest in the necessary site components for the Project, including all necessary easements and/or rights-of-way, sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the facilities to be constructed, except and subject to the following:

Legal title, including, as appropriate, easements and/or rights of way, have been acquired through formal condemnation proceedings. Proceedings have been instituted and a right of entry has been ordered in that certain condemnation action styled Southern Jackson County Public Service District vs. Anna Marie White, Civil Action 12-C-111.

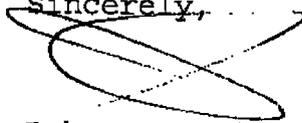
The Southern Jackson County Public Service District is duly vested with the right of eminent domain and may acquire legal title to the properties listed above.

5. That any deeds or other documents which have been acquired to date by the Southern Jackson County Public Service District have been duly recorded in the aforesaid Clerk's Office in order to protect the legal title to and interest of the Southern Jackson County Public Service District.

6. The Southern Jackson County Public Service District has obtained from the West Virginia Department of Highway, approval for a permit authorizing the construction of the Project as described in the plans upon, over and through public rights of way as shown in the plans.

If you have any questions regarding any of the information contained in this final title opinion, please contact this office.

Sincerely,



- Robert D. Fisher  
Attorney at Law  
Adams Fisher and Chappell, PLLC



February 14, 2013

Southern Jackson County Public Service District  
P. O. Box 57  
Kenna, WV 25248-0057

West Virginia Water Development Authority  
1009 Bullitt Street  
Charleston, WV 25301

Re: \$3,140,000 Southern Jackson County Public Service District  
Water Revenue Bond (West Virginia DWTRF Program), Series 2013

Ladies and Gentlemen:

We have served as bond counsel to Southern Jackson County Public Service District (the "Issuer") in connection with the issuance of its Water Revenue Bond (West Virginia DWTRF Program), Series 2013, dated the date hereof (the "Bond").

We have examined certified copies of proceedings and other papers relating to the authorization of (i) a loan agreement for the Bond, dated February 14, 2013, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), as administrator of the Drinking Water Treatment Revolving Fund, and (ii) the Bond to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bond is issued in the principal amount of \$3,140,000, in the form of one bond, registered as to the Authority, bearing interest at the rate of zero percent (0%) per annum for thirty (30) years, plus an administration fee of one percent (1%) per annum payable over the term of the Bond, all as set forth in Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Bond.

The 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 16, Article 13A and Chapter 16, Article 13C of the Code of West Virginia, 1931, as amended (collectively, the "Act"), for the purposes of (i) financing a portion of the costs of acquiring and constructing certain improvements and extensions to the existing public water facilities for the Issuer (the "Project"); and (ii) paying costs of issuance and related costs.

February 14, 2013

Page 2

We have also examined the applicable provisions of the Act and a Bond Resolution duly adopted by the Issuer on August 9, 2012, as supplemented by a Supplemental Resolution duly adopted by the Issuer on February 7, 2013 (collectively, the "Resolution"), pursuant to and under which Act and Resolution the Bond is authorized and issued, and the Loan Agreement is entered into. The Bond is subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Resolution and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution 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 a duly created and validly existing public service district and is a public corporation and a political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Resolution and to issue and sell the Bond, all under the Act and other applicable provisions of law.

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

3. The Loan Agreement inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Issuer without the written consent of the Authority.

4. The Issuer has legally and effectively adopted the Resolution and all other necessary resolutions in connection with the issuance and sale of the Bond. The Resolution constitutes a valid and binding obligation of the Issuer enforceable against the Issuer in accordance with its terms thereof and contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Bond has been duly authorized, issued, executed and delivered by the Issuer to the Authority and is a valid, legally enforceable and binding special obligation of the Issuer. There are outstanding obligations of the Issuer which will rank

February 14, 2013

Page 3

on parity with the Bond as to liens, pledge and source of and security for payment, being the Water Revenue Bonds, Series 1977, Water System Revenue Bonds, Series 1991, Water Revenue Bonds, Series 1997, Water Revenue Bonds (West Virginia Infrastructure Fund), Series 1998, Water Revenue Bond, Series 2001A, Water Revenue Bond, Series 2001B, and Water Revenue Bond (West Virginia DWTRF Program), Series 2005 (collectively, the "Bonds"). The Issuer has no other obligations outstanding that are payable from any source from which the Bond is payable.

6. Under the Act, the Bond and the interest thereon are exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

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

No opinion is given herein as to the effect upon the enforceability of the Bond under any applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or the exercise of judicial discretion or principles of equity in appropriate cases.

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

Respectfully submitted,

*Goodwin + Goodwin, LLP*  
GOODWIN & GOODWIN, LLP



SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

\$470,000 Water Revenue Bond, Series 1977

BOND RESOLUTION

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SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ISSUANCE OF \$470,000 WATER REVENUE BOND, SERIES 1977, OF SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT TO FINANCE ACQUISITION AND CONSTRUCTION OF A NEW WATERWORKS; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITIES OF THE HOLDER OF THE BOND AND FOR A STATUTORY MORTGAGE LIEN; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for This Resolution. This Resolution is adopted pursuant to the provisions of Article 13A, Chapter 16 of the West Virginia Code and other applicable provisions of law. Southern Jackson County Public Service District (the "District") is a public service district created pursuant to said Article 13A by The County Commission of Jackson County.

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

- (A) The District does not now have a public waterworks system.
- (B) It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the District, and, accordingly, it is hereby ordered, that there be acquired and constructed a new waterworks system of the District consisting of *three water storage tanks, pump station, transmission and distribution line* with all necessary appurtenant facilities (the "Project"), particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Secre-

*Water to be furnished as a water system for the City of Ripley, West Virginia.*

tary of the Public Service Board of the District (the "Board"). Water will be purchased, pursuant to agreement, from the City of Ripley.

(C) It is necessary for the District to issue its revenue bond in the principal amount of \$470,000 to finance the cost of the Project in the manner hereinafter provided.

(D) The estimated maximum cost of the construction of the Project is \$1,367,000, of which \$470,000 will be obtained from the proceeds of sale of the Bond herein authorized, \$516,200 from a grant by the Government, and \$380,800 from a grant by Economic Development Administration.

(E) The cost of such construction shall be deemed to include, without being limited to, the construction or acquisition of the Project, the acquisition of any necessary property, real or personal, or interest therein; interest on the Bond prior to, during and for six months after completion of such construction to the extent that revenues of the System are not sufficient therefor; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and such other expenses as may be necessary or incidental to the construction of the Project and the financing authorized by this resolution.

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

(G) There are not any obligations of the District which will rank prior to or on a parity with the Bond as to liens and source of and security for payment.

(H) The Government is expected by the Board to purchase the entire principal amount of the Bond.

(I) The District has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Bond, or will have so complied prior to issuance of the Bond including, among other things, the consent and

approval, pursuant to the Act, of the issuance of the Bond by the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired.

Section 1.03. Resolution to Constitute Contract. In consideration of the acceptance of the Bond by the Government, this Resolution shall be deemed to be and shall constitute a contract between the District and such Bondholder, and the covenants and agreements set forth in this Resolution to be performed by the District shall be for the benefit, protection and security of the Government as holder of the Bond.

Section 1.04. Definitions. The following terms shall have the following meanings in this resolution unless the text otherwise expressly requires:

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

"Board" means the Public Service Board of the District, the governing body of the District under the Act.

"Bond" means the \$470,000 Water Revenue Bond, Series 1977, originally authorized to be issued pursuant to this Resolution.

"Chairman" means the Chairman of the Board.

"Consulting Engineer" means Pitthan & Starcher, Inc., Ripley, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the District as Consulting Engineer for the System.

"District" means Southern Jackson County Public Service District, of Jackson County, West Virginia, and, where appropriate, also means the Public Service Board thereof.

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

<sup>Government</sup>  
~~Fiscal Year~~ means United States Department of Agriculture, Farmers Home Administration and any successor thereof.

"Fiscal Year" means

"Herein" means in this Resolution.

"Holder of the Bond" or "Bondholder" or any similar term means any person who shall be the bearer or owner of any outstanding Bond registered to bearer or not registered, or the registered owner of any outstanding Bond which shall at the time be registered other than to the bearer.

"Net Revenues" means the balance of the gross revenues, as defined below, remaining after deduction only of operating expenses, as defined below.

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the District relating and chargeable solely to the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting practices, and retention of a sum not to exceed one-sixth of the budgeted operating expenses stated above for the current year as working capital, and language herein requiring payment of operating expenses means also retention of not to exceed such sum as working capital.

"Original Purchaser" means the purchaser, directly from the District, of the Bond.

"Project" shall have the meaning stated in Section 1.02(B) above.

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

"Secretary" means the Secretary of the Board.

"System" means the complete waterworks system of the District, including all water facilities owned by the District and all facilities and other property of every nature, real or personal, now or hereafter.

owned, held or used in connection with the System; and shall also include any and all additions, extensions, improvements, properties or other facilities at any time acquired or constructed for the System after completion of the Project.

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

ARTICLE II

AUTHORIZATION, TERMS, EXECUTION,  
REGISTRATION AND ISSUE OF BOND

Section 2.01. Authorization of Bond. Subject and pursuant to the provisions of this Resolution, the Bond of the District, to be known as "Water Revenue Bond, Series 1977", is hereby authorized to be issued in the aggregate principal amount of not exceeding Four Hundred Seventy Thousand Dollars (\$470,000) for the purpose of financing the cost of the construction and acquisition of the Project.

Section 2.02. Description of Bond. The Bond shall be issued in single form, No. 1, and shall be dated on the date of delivery. The Bond shall bear interest from date, payable monthly at the rate of five per centum (5%) per annum, and shall be sold for the par value thereof.

The Bond shall be subject to prepayment of scheduled installments, or any portion thereof, at the option of the District, and shall be payable as provided in the bond form hereinafter set forth.

Section 2.03. Execution of Bond. The Bond shall be executed in the name of the District by the Chairman and its corporate seal shall be affixed thereto and attested by the Secretary.

Section 2.04. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Bond shall become mutilated or be destroyed, stolen or lost, the District may in its discretion issue and deliver a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the holder's furnishing the District proof of his ownership thereof and complying with such other reasonable regulations and conditions as the District may require. The Bond so surrendered shall be canceled and held for the account of the District. If the Bond shall have matured or be about to mature, instead of issuing a substitute Bond the District may pay the same, and, if such

Bond be destroyed, stolen or lost, without surrender thereof.

Section 2.05. Bond Secured by Pledge of Revenues. The payment of the debt service of the Bond shall be secured forthwith by a first

lien on the net revenues derived from the System in addition to the statutory mortgage lien on the System hereinafter provided for, which liens shall be on a parity with such liens in favor of the Note. The net revenues derived from the System in an amount sufficient to pay the principal of and interest on the Bond, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Bond as the same become due and on a parity with the Note.

Section 2.06. Form of Bond. Subject to the provisions of this Resolution, the text of the Bond and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted by this Resolution or any subsequent resolution adopted prior to the issuance thereof:

(Form of Bond)

WATER REVENUE BOND, SERIES 1977

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

\$470,000

No. 1

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

FOR VALUE RECEIVED, SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture (herein called the "Government"), at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of Four Hundred Seventy Thousand Dollars (\$470,000), plus interest on the unpaid principal balance at the rate of five per cent (5%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Installments of interest only on the first day of each month for the first twenty-four months after the date hereof and \$2,308, covering principal and interest, thereafter on the first day of each month, except that the final installment shall be paid at the end of forty (40) years from the date of this Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

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

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

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

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

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower, and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the

Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

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

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

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Article 13A of Chapter 16 of the West Virginia Code (herein called the "Act").

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

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

SOUTHERN JACKSON COUNTY PUBLIC SERVICE  
DISTRICT

[CORPORATE SEAL]

(Name of Borrower)

(Signature of Executive Official)

Chairman, Public Service Board  
(Title of Executive Official)

ATTEST:

Rt. 1, Box 6  
(Post Office Box No. or Street Address)

Kenna, West Virginia 25248  
(City, State and Zip Code)

(Signature of Attesting Official)

Secretary, Public Service Board  
(Title of Attesting Official)

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$		(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	

TOTAL \_\_\_\_\_

Pay to the Order of \_\_\_\_\_

UNITED STATES OF AMERICA  
FARMERS HOME ADMINISTRATION

By \_\_\_\_\_

(Title)

ARTICLE III  
BOND PROCEEDS; REVENUES AND  
APPLICATION THEREOF

Section 3.01. Bond Proceeds; Project Construction Account. All moneys received from the sale of the Bond shall be deposited on receipt by the District in Bank of Ripley, Ripley, West Virginia, a member of Federal Deposit Insurance Corporation (herein called "FDIC"), in a special account hereby created and designated as "~~East~~ *South* Public Service District Construction Account" (the "Project Construction Account"). The moneys in the Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by such bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia Law. Moneys in the Project Construction Account shall be expended by the District solely for the purposes provided in this Resolution.

Until completion of construction of the Project, the District will transfer from the Project Construction Account and pay to the National Finance Office named in the Bond, not later than the next interest payment date, such sums as shall be from time to time required to pay the interest becoming due on the Bond on such interest payment date.

If the District shall determine at any time that all funds on deposit in the Project Construction Account exceed the estimated disbursements on account of the Project for the ensuing 90 days, the District may invest such excess funds in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America, which shall mature not later than eighteen months after the date of such investment. All such investments and the income therefrom shall be carried to the credit of the Project Construction Account.

When construction of the Project has been completed and all costs thereof have been paid or provision for such payment has been made,

any balance remaining in the Project Construction Account shall be disposed of in accordance with the regulations of the Government.

Section 3.02. Covenants of the District as to Revenues and Funds.

So long as any of the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Reserve Account hereinafter established, a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of all the Bonds remaining unpaid, together with interest accrued and to accrue thereon, the District further covenants with the holders of the Bonds as follows:

(A) Revenue Fund. The entire gross revenues derived from the operation of the System, and all parts thereof, and all tap fees received, shall be deposited as collected by the District in a special fund in a bank or trust company in the State of West Virginia which is a member of FDIC, which Fund, known as the "Revenue Fund" is hereby established with said Bank. The Revenue Fund shall constitute a trust fund for the purposes provided in this Resolution and shall be kept separate and distinct from all other funds of the District and used only for the purposes and in the manner provided in this Resolution.

(B) Disposition of Revenues. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

(1) The District shall first each month pay from the moneys in the Revenue Fund all current Operating Expenses.

(2) The District shall next, by the fifteenth day of each month, transfer from the Revenue Fund and pay to the National Finance Office designated in the Bond the amounts required to pay the interest on the Bond and to amortize the principal of the Bond over the life of the Bond issue.

(3) The District shall next, by the fifteenth day of each month, transfer from the Revenue Fund and deposit with said Bank in the Reserve Account hereby established with said Bank, one-one hundred twentieth

of the maximum amount of principal of and interest on the Bond payable in any year, such sum being herein called the "Minimum Reserve". After the Minimum Reserve has been accumulated in the Reserve Account, the District shall monthly deposit into the Reserve Account such part of the moneys remaining in the Revenue Fund, after such provision for payment of monthly installments on the Bond and for payment of operating expenses of the System, as shall be required to maintain the Minimum Reserve in the Reserve Account. Moneys in the Reserve Account shall be used solely to make up any deficiency for monthly installments required to be paid on the Bond as the same shall become due or for prepayment of installments or for mandatory prepayment of the Bond as hereinafter provided, and for no other purpose.

(4) The District shall next, by the fifteenth day of each month, transfer from the Revenue Fund and deposit in the Depreciation Reserve hereby established with said Bank the moneys remaining in the Revenue Fund and not permitted to be retained therein, until there has been accumulated in the Depreciation Reserve the aggregate sum of \$42,000 and thereafter such sums as shall be required to maintain such amount therein. Moneys in the Depreciation Reserve shall be used first to make up any deficiencies for monthly payments of installments on the Bond as the same become due, and next to restore to the Reserve Account any sum or sums transferred therefrom. Thereafter, and provided that payments into the Reserve Account are current and in accordance with the foregoing provisions, moneys in the Depreciation Reserve may be withdrawn by the District and used for extraordinary repairs and for replacements of equipment and improvements for the System, or any part thereof.

(5) After all the foregoing provisions for use of moneys in the Revenue Fund have been fully complied with, any moneys remaining therein and not permitted to be retained therein may be used to prepay install-

ments of the Bond or for any lawful purpose.

Whenever the moneys in the Reserve Account shall be sufficient to prepay the Bond in full, it shall be the mandatory duty of the District, anything to the contrary in this Resolution notwithstanding, to prepay the Bond at the earliest practical date and in accordance with applicable provisions hereof.

The said Bank (and any successor appointed by the District) is hereby designated as the Fiscal Agent for the administration of the Reserve Account and the Depreciation Reserve as herein provided, and all amounts required therefor will be deposited by the District upon transfers of funds from the Revenue Fund at the times provided herein, together with written advice stating the amount remitted for deposit into each such fund.

All the funds provided for in this Section shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Government shall have a lien thereon for further securing payment of the Bond and the interest thereon. The moneys in excess of the sum insured by FDIC in any of such funds shall at all times be secured, to the full extent thereof in excess of such insured sum, in a manner lawful for securing deposits of State and municipal funds under the laws of the State of West Virginia. The Bank shall not be a trustee as to such funds.

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

The Fiscal Agent shall keep the moneys in the Reserve Account and the Depreciation Reserve invested and reinvested to the fullest extent practicable in direct obligations of, or obligations the payment of the principal of and interest on which are guaranteed by, the United States of America and having maturities not exceeding two years. Earnings upon moneys in the Reserve Account, so long as the Minimum Reserve is on deposit and maintained therein, shall be paid annually in January into the Revenue Fund by the Fiscal Agent.

(C) Additional User Contracts. The District shall, prior to delivery of the Bond, obtain user agreements from not less than 350 bona fide full time users, and shall collect from such users, and deposit in the Project Construction Account, not less than \$17,500, based on a tap fee of \$50.

ARTICLE IV

GENERAL COVENANTS

Section 4.01. General Statement. So long as the Bond shall be outstanding and unpaid, or until there shall have been set apart in the Reserve Account a sum sufficient to prepay the entire principal of the Bond remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the District and the Bondholder.

Section 4.02. Rates. The District will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide revenues in each fiscal year sufficient to produce net revenues equal to not less than 110% of the average annual debt service on the Bond and to make the payments required herein into the Reserve Account and the Depreciation Reserve and all the necessary expenses of operating and maintaining the System during such fiscal year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate revenues for such purposes.

Section 4.03. Sale of the System. The System will not be sold without the prior written consent of the Government so long as the Bond is outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 4.04. Issuance of Additional Parity Bonds. No additional parity Bonds payable out of the revenues of the System shall be issued after the issuance of the Bond pursuant to this Resolution except with the prior written consent of the Government.

Section 4.05. Insurance and Bonds. The District hereby covenants and agrees that, so long as the Bond remains outstanding, it will, as an expense of operation and maintenance of the System, procure, carry

and maintain insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured at once if not now in effect, on all above-ground structures of the System in an amount equal to the actual cost thereof. In the event of any damage to or destruction of any portion of the System, the District will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The District will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the District during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than \$500,000 for one or more persons, or injured or killed in one accident to protect the District from claims for bodily injury and/or death, and not less than \$200,000 from claims for damage to property of others which may arise from the District's operation of the System, such insurance to be procured at the commencement of construction of the Project.

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

(d) Workmen's Compensation Coverage for all Employees of the District Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds will be filed with the

Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

(e) Fidelity Bonds will be provided as to every member of the Board and as to every officer and employee thereof having custody of the Revenue Fund or of any revenues or other funds of the District in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount of \$10,000 upon the treasurer, provided, however, that no bond shall be required insofar as custody of the Project Construction Account is concerned.

(f) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Bond is outstanding, the District will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the District, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Government may specify, with insurance carriers or bonding companies acceptable to the Government.

Section 4.06. Statutory Mortgage. For the further protection of the holder of the Bond, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of the Bond.

Section 4.07. Events of Default. Each of the following events is hereby declared an "Event of Default":

(A) Failure to make payment of any monthly amortization installment on the Bond at the date specified for payment thereof;

(B) Failure duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the District contained in the Bond or in this resolution, or violation of or failure to observe any provision of any pertinent law.

Section 4.08. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, the Government may proceed to protect and enforce its rights by an appropriate action ~~in any court of competent jurisdiction, either for the specific performance~~ of any covenant or agreement or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights.

Upon application by the Government, such court may, upon proof of such default, appoint a receiver for the affairs of the District and the System. The receiver so appointed shall administer the System on behalf of the District, shall exercise all the rights and powers of the District with respect to its System and shall have the power to collect and receive all revenues and apply the same in such manner as the court may direct.

Section 4.09. Fiscal Year; Budget. While the Bond is outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a fiscal year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than thirty days prior to the beginning of each fiscal year, the District agrees to adopt the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such fiscal year unless unanimously authorized and directed by the Board. Copies of each Annual Budget shall be delivered to the Government by the beginning of each fiscal year.

If for any reason the District shall not have adopted the Annual Budget before the first day of any fiscal year, it shall adopt a Budget of Current Expenses from month to month until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the year next preceding by more than ten per centum; and provided further, that adoption of a Budget of Current Expenses

shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the District. Each such Budget of Current Expenses shall be mailed immediately to the Government.

Section 4.10. Compensation of Board Members. The District hereby covenants and agrees that no compensation for policy direction shall be paid to the members of its Board in excess of the amount permitted by the Act. Payment of any compensation to any member of the Board for policy direction shall not be made if such payment would cause the Net Revenues to fall below the amount required to meet all payments provided for herein, nor when there is default in the performance of or compliance with any covenant or provision of this resolution.

Section 4.11. Covenant to Proceed and Complete. The District hereby covenants to proceed as promptly as possible with the construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer and on file with the Secretary of the Board on the date of adoption of this resolution, subject to permitted changes.

Section 4.12. Books and Records. The District will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the District, in which complete and correct entries shall be made of all transactions relating to the System, and the Government shall have the right at all reasonable times to inspect the System and all records, accounts and data of the District relating thereto.

The District shall, at least once a year, cause said books, records and accounts of the System to be properly audited by an independent competent firm of certified public accountants and shall mail a copy of such audit report to the Government.

Section 4.13. Maintenance of System. The District covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Bond is outstanding.

Section 4.14. No Competition. The District will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to, or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the District or within the territory served by the System.

Section 4.15. Concerning Arbitrage. The proceeds of sale of the Bond will not be invested in such a way as to violate the operating rules in the regulations of the Internal Revenue Service or of the Treasury Department of the United States of America in connection with the arbitrage provisions of Section 103(c) of the Internal Revenue Code of 1954, as amended.

ARTICLE V

RATES, ETC.

Section 5.01. Initial Schedule of Rates and Charges; Rules.

A. The schedule of rates and charges for the services and facilities of the System shall be as follows, subject to change consonant with the provisions of this Resolution:

AVAILABILITY OF SERVICE

Available for all domestic, commercial, institutional and industrial consumers within the District's service area.

RATES FOR WATER USED PER MONTH

First	3,000 gallons	\$3.66 per 1,000 gallons
Next	4,000 gallons	3.35 per 1,000 gallons
Next	4,000 gallons	3.00 per 1,000 gallons
Next	10,000 gallons	2.75 per 1,000 gallons
All over	20,000 gallons	2.50 per 1,000 gallons

MINIMUM CHARGE

No monthly bill shall be rendered for less than the following amounts based on size of meter:

5/8 x 3/4" meter or smaller	\$ 11.00
3/4" meter	15.84
1" meter	28.16
1 1/2" meter	63.36
2" meter	112.64
3" meter	253.44
4" meter	450.56
6" meter	1,013.76

TAP FEES FOR NEW SERVICE

Prior to award of construction contract \$50.00.  
After award of construction contract \$150.

DELAYED PAYMENT PENALTY

The above rates are net. On all accounts not paid in full within 30 days after date of billing, a penalty of ten per cent will be added to the net amount of the bill.

If any bill is not paid within 60 days of the date thereof, the bill will be considered delinquent and subject to disconnection. However, water service shall not be disconnected to any customer for nonpayment of the bill without first having diligently tried to induce the customer to pay the same and until after at least twenty-four (24) hours' written notice to the customer. Service shall not be restored until all amounts in arrears, including accrued penalties, plus a reconnection fee of \$15 have been paid.

### MULTIPLE OCCUPANCY

Apartment buildings, or other multiple occupancy buildings, shall be provided with a master meter, and each family or business unit shall be required to pay not less than \$11.00 multiplied by the number of units on the site at the time the meter is read, or the actual charge for the water used or the minimum bill for the size of the meter, whichever is greater. Motels and hotels shall pay according to the size of meter installed.

### TRAILER COURTS

House trailer courts shall be provided with a master meter. No bill shall be rendered for less than \$11.00 multiplied by the number of units situated on the court site at the time the meter is read, the minimum bill for the size meter installed or the actual charge for the size meter installed, whichever is greater. House trailer (as used hereinabove) shall include both mobile and immobile units.

House trailers, either mobile or immobile, located on sites other than a park or court, shall be billed in the same manner as any other family or business unit.

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

C. All delinquent fees, rates and charges for services or facilities of the System shall be liens on the premises served of equal degree, rank and priority with the lien on such premises of state, county, school and municipal taxes, as provided in the Act. When such fees, rates and charges have been delinquent for thirty days, the District shall have power forthwith to foreclose the lien on the premises served in the same manner provided by the laws of the State of West Virginia for the foreclosure of mortgages on real property.

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

E. The District may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment

of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

ARTICLE VI

MISCELLANEOUS

Section 6.01. Filing Under Uniform Commercial Code. Contemporaneously with the delivery of the Bond, the District shall execute Financing Statements meeting the requirements of the Uniform Commercial Code of West Virginia and promptly thereafter, shall file such a Financing Statement in the offices of the Secretary of State of the State of West Virginia and of the Clerk of the County Commission of said County.

Section 6.02. Delivery of Bond No. 1. The Chairman, Secretary and Treasurer of the Board are hereby authorized and directed to cause Bond No. 1, hereby awarded to the Government pursuant to agreement, to be delivered to the Government as soon as the Government will accept such delivery.

Section 6.03. Severability of Invalid Provision. If any one or more of the covenants, agreements or provisions of this Resolution should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions, and shall in no way affect the validity of all the other provisions of this Resolution or the Bond.

Section 6.04. Conflicting Provisions Repealed. All resolutions and orders, or parts thereof, in conflict with the provisions of this Resolution, are, to the extent of such conflicts, hereby repealed; provided, that this provision shall not apply to the Loan Resolution (Form FmHA 442-47).

Section 6.05. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 6.06. Effective Time. This Resolution shall take effect immediately upon its adoption.

Adopted \_\_\_\_\_, 197\_\_\_\_\_

\_\_\_\_\_  
Chairman of Public Service Board

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member



SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

## WATER REVENUE BOND, SERIES 1991

## BOND RESOLUTION

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SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF PUBLIC SERVICE PROPERTIES AND ISSUANCE OF \$143,500 WATER SYSTEM REVENUE BOND, SERIES 1991 OF SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT TO FINANCE THE ACQUISITION AND CONSTRUCTION OF CERTAIN BETTERMENTS AND IMPROVEMENTS AND EXTENSION OF AN EXISTING PUBLIC WATER SYSTEM; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND; PLACING LIMIT ON SALE OF SYSTEMS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITY OF THE HOLDERS OF THE BOND; PROVIDING STATUTORY LIEN ON REVENUES AND SYSTEM; PROVIDING GENERAL TERMS AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT.

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT:

## ARTICLE I

STATUTORY AUTHORITY, FINDINGS  
AND DEFINITIONS

Section 1.01. Authority for This Resolution. This Resolution is adopted pursuant to the provisions of Article 13A, Chapter 16 of the West Virginia Code, as amended (the "Act") and other applicable provisions of law.

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

A. Southern Jackson County Public Service District (the "Issuer") is a public service district created pursuant to the Act by The County Commission of Jackson County.

B. The Issuer does not now have an adequate public water system and desires to improve and expand the system and it is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer and, accordingly, it is hereby ordered, that there be acquired and constructed certain improvements, expenditures, extensions and betterments to the existing public water system of the Issuer known as the "System" so as to secure the residents of the Southern Jackson County area, and a few residents outside the district (sometimes referred to herein as the "System"), with all necessary appurtenant facilities (the "Project"), and generally described as a waterline extension of approximately 10,550 feet of eight inch waterline, 26,490 feet of six inch waterline, 585 feet of two inch line, a booster station, a 96,000 gallon storage tank and necessary appurtenances particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Secretary-Treasurer of the Public Service Board (the "Governing Body") of the Issuer. The

construction and acquisition of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

C. It is necessary for the Issuer to issue its revenue bonds in the aggregate principal amount of \$143,500 to finance a portion of the cost of such construction in the manner hereinafter provided.

D. The estimated maximum cost of the construction of the Project \$773,500, of which \$143,500 will be obtained from the proceeds of sale of the Series 1991 Bond herein authorized, \$120,000 from a FmHA grant and Small Cities Block Grants of \$510,000. The cost of such construction shall be deemed to include, without being limited to, the construction or acquisition of the Project, the acquisition of any necessary property, real or personal, or interest therein; interest on the Bond prior to, during and for six months after completion of such construction to the extent that revenues of the System are not sufficient therefor; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and such other expenses as may be necessary or incidental to the construction of the Project and the refunding and the financing authorized hereby.

E. The period of usefulness of the System after completion of the Project is not less than forty years.

F. There are currently outstanding the obligations of the Issuer with which the Bond will rank on a parity as to lien and source of and security for payment as follows:

(i) Water Revenue Bond of the Issuer, dated March 13, 1978 (the "1977 Bonds") issued in the original principal amount of \$470,000 secured under the terms of the 1977 Resolution (hereinafter defined). Prior to the issuance of the Bond authorized herein, the Issuer shall certify that all payments required by the 1977 Resolution have been made to the date of issuance of the Bond as required in the 1977 Resolution and that the Issuer is not in default under any provision of the 1977 Resolution.

G. The estimated revenues to be derived in each year from the operation of the System after completion of the Project will be sufficient to pay all the costs of the operation and maintenance of the System, the principal of and interest on the Bond (as hereinafter defined) and all debt service, reserve fund and other payments provided for herein.

H. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction,

acquisition and operation of the Project and issuance of the Bond, or will have so complied prior to issuance of the Bond including, among other things, the imposition of rates and charges, the consent and approval, pursuant to the Act, of the issuance of the Bond by the Public Service Commission of West Virginia by final order and has entered into an intergovernmental agreement with the Putnam County Commission relating to service to a few customers outside the District.

I. It is in the best interests of the Issuer that the Bond be sold to the United States Department of Agriculture, Farmers Home Administration (the "Purchaser"), pursuant to the terms and provisions of a letter of conditions dated November 8, 1989, and all amendments thereto (collectively, the "Letters of Conditions").

Section 1.03. Resolution to Constitute Contract. In consideration of the acceptance of the Bond by the Purchaser, this Resolution (the "Resolution") shall be deemed to be and shall constitute a contract between the Issuer and the Purchaser, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owner of the Bond.

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

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

"Bond" means the \$143,500 Water System Bond, Series 1991, authorized hereby to be issued.

"1977 Bonds" means the outstanding Bonds of the Issuer dated March 13, 1978, described in Section 1.02 (F) herein.

"Chairman" means the Chairman of the Governing Body.

"Consulting Engineer" means Boyles and Hildreth, Ripley, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

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

"Facilities" or "water facilities" means all the tangible properties of the System and also any tangible properties which may hereafter be added to the water system by addition, betterments, extensions and improvements thereto and properties, furniture,

fixtures or equipment therefor, hereafter at any time constructed or acquired.

"FDIC" means the Federal Deposit Insurance Corporation.

"Fiscal Year" means each year beginning on July 1 and ending on the succeeding June 30.

"Governing Body" means the Public Service Board of the Issuer.

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

"Herein" means in this Resolution.

"Holder of the Bond" or any similar term means any person who shall be the registered owner of the Bond.

"Issuer" or "District" means Southern Jackson County Public Service District, of Jackson County, West Virginia, and, where appropriate, also means the Governing Body.

"Net Revenues" means the balance of the gross revenues, as defined below, remaining after deduction only of Operating Expenses, as defined below.

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting practices, and retention of a sum not to exceed one-sixth of the budgeted operating expenses stated above for the current year as working capital, and language herein requiring payment of operating expenses means also retention of not to exceed such sum as working capital.

"Project" shall have the meaning stated in Section 1.02 (B) above.

"Purchaser", "FmHA", "Farmers Home Administration" or "Government" means United States of America, United States Department of Agriculture, Farmers Home Administration and any successor thereof.

"Qualified Investments" means and include 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 evidence 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 State Board of Investments 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.

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

"1977 Resolution" means the resolution providing for the 1977 Bonds, dated March 13, 1978.

"Resolution" means this Resolution and all resolutions supplemental hereto.

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

"Secretary" means the Secretary of the Governing Body.

"System" means the Project initially, and all existing water 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 System; and shall also include any and all additions, extensions, improvements, properties or other facilities at any time acquired or constructed for said water system after completion of the Project.

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

## ARTICLE II

### AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized the acquisition and construction of the Project, at an estimated cost of \$773,500, 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 Bond hereby authorized shall be applied as provided in Article IV hereof.

### ARTICLE III

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

Section 3.01. Authorization of Bond. Subject and pursuant to the provisions hereof, the Bond of the Issuer to be known as "Water System Revenue Bond, Series 1991" in the principal amount of \$143,500 is hereby authorized to be issued for the purpose of financing a portion of the cost of the construction and acquisition of the Project.

Section 3.02. Description of Bond. The Bond shall be issued in single registered form, No. R-1, and shall be dated on the date of delivery. The Series 1991 Bond shall bear interest from date, payable monthly at the rate of six per centum (6%) per annum or such lower rate that FmHA will make available at closing, and shall be sold for the par value thereof.

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

Section 3.03. Execution of Bond. The Bond shall be executed in the name of the Issuer by the Chairman and its corporate seal shall be affixed thereto and attested by the Secretary, and the Chairman and the Secretary are hereby authorized to execute the Bond and such other documents as are necessary to finalize this transaction. In case any one or more of the officers who shall have signed or sealed the Bond shall cease to be such officer of the Issuer before the Bond so signed and sealed have been actually sold and delivered, such Bond may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bond had not ceased to hold such office. Any Bond may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bond shall hold the proper office in the Issuer, although at the date of such Bond such person may not have held such office or may not have been so authorized.

Section 3.04. Negotiability, Registration, Transfer and Exchange of Bond. The Bond shall be and have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, but the Bond may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.05 hereof, by the party

in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Bond for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Registrar. No interest in the Bond shall be transferable except by means of transfer of registration of a Bond representing such interest and delivery of a new Bond or Bonds in exchange therefor in accordance with this Bond Legislation.

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

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

Section 3.05. Registrar. The Issuer shall be the Bond Registrar and will keep or cause to be kept by its agent at its office, sufficient books for the registration and transfer of the Bond, and upon presentation for such purpose, the Registrar shall, under such reasonable regulations as it may prescribe, register the Bond initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Bond as hereinbefore provided.

The Registrar shall accept the Bond for registration or transfer only if ownership thereof is to be registered in the name of an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or social security numbers of the settlor and beneficiaries of each trust and the name of the trustee of each trust and/or such other identifying number and information as may be required by law.

Section 3.06. Bond Mutilated, Destroyed, Stolen or Lost. In case the Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of his, her or its ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Bond so surrendered shall be canceled and held for the account of the Issuer. If the Bond shall have matured or be about to mature,

instead of issuing a substitute Bond the Issuer may pay the same, and if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 3.07. Bond Secured by Pledge of Revenues. The payment of the debt service of the Bond shall be secured forthwith by a parity lien on the net revenues derived from the System in addition to the statutory mortgage lien on the System hereinafter provided for. The net revenues derived from the System in an amount sufficient to pay the principal of and interest on the Bond, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Bond as the same become due.

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

WATER SYSTEM REVENUE BOND, SERIES 1991

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
\$143,500

No. R-1

Date: March \_\_, 1991

FOR VALUE RECEIVED, SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT (herein called "Issuer") promises to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture (the "Government"), or its registered assigns at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of One Hundred Forty-three Thousand Five Hundred Dollars (\$143,500), plus interest on the unpaid principal balance at the rate of six per cent (6%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing on the 30th day following delivery of the Bond and continuing on the corresponding day of each month for the first twenty-four (24) months after the date hereof, and \$801 covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of forty (40) years from the date of this Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

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

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

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

While this Bond is held by an insured lender, prepayments as above authorized made by Issuer may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every

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

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

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

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

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

This Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only

be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Articles 13A of Chapter 16 of the West Virginia Code (herein called the "Act").

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

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

THIS BOND IS ON A PARITY AS TO LIEN AND SOURCE OF PAYMENT WITH THE CERTAIN WATER REVENUE BONDS, SERIES 1977 OF THE ISSUER (THE "SERIES 1977 BONDS") DESCRIBED IN THE 1977 RESOLUTION ADOPTED MARCH 13, 1978.

The initial address of Government for purposes of bond registration is P.O. Box 678, Morgantown, WV 26505.

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

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

(SEAL)

By \_\_\_\_\_

Its Chairman  
P.O. Box 57  
Kenna, WV 25248

ATTEST:

By \_\_\_\_\_

Its Secretary

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$		(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	
		TOTAL \$ _____	

(Form of Assignment)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

DATED: \_\_\_\_\_.

In the presence of:

\_\_\_\_\_

## REVENUES AND APPLICATION THEREOF

Section 4.01. Project Construction Account. All moneys received from the sale of any or all the Bonds shall be deposited on receipt by the Issuer in United National Bank, Ripley, Jackson County, West Virginia, a member of Federal Deposit Insurance Corporation (FDIC), in a special account hereby now established and designated as "\$143,500 Southern Jackson County Public Service District Water System Construction Account" (herein called the "Project Construction Account"). The moneys in the Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by such bank by securities or in a manner lawful for the securing of deposits of state and municipal funds under West Virginia law. Moneys in the Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

Until completion of the construction of the Project, the Issuer will transfer from the Project Construction Account and pay to the Purchaser on or before the fifteenth day of each month, such sums as shall be from time to time required to make the monthly installment payments on the Bond if there are not sufficient Net Revenues to make such monthly payment.

If the Issuer shall determine at any time that all funds on deposit in the Project Construction Account exceed the estimated disbursements on account of the Project for the ensuing 90 days, the Issuer may invest such excess funds in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America, or agencies thereof, which shall mature not later than eighteen months after the date of such investment. All such investments and the income therefrom shall be carried to the credit of the Project Construction Account.

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

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

Section 4.02. Covenants of the Issuer as to Revenues and Funds. So long as the Bond shall be outstanding and unpaid, or until there shall have been set apart in the Water Reserve Fund hereinafter established, a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the

Bond remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the holder of the Bond as follows:

(A) Water Revenue Fund. The entire gross revenues derived from the operation of the System, and all parts thereof, and all tap fees received, shall be deposited as collected by the Issuer in a special fund in a bank or trust company in the State of West Virginia which is a member of FDIC, which Fund, known as the "Water Revenue Fund" originally established under the 1977 Resolution and which is hereby continued hereunder with United National Bank, Ripley, Jackson County, West Virginia (the Depository Bank). The Water Revenue Fund shall constitute a trust fund for the purposes provided herein and shall be kept separate and distinct from all other funds of the Issuer and used only for the purposes and in the manner provided herein.

(B) Disposition of Revenues. All revenues at any time on deposit in the Water Revenue Fund shall be disposed of only in the following order and priority:

(1) The Issuer shall first each month pay from the moneys in the Water Revenue Fund all current Operating Expenses.

(2) The Issuer shall next, each month, on or before the due date of payment of each installment on the Bond, and the 1979 Bond, transfer from the Revenue Fund and remit to the National Finance Office designated in the Bond (or such other place as may be provided pursuant to the Bond), the amount required to pay the interest on the Bond, and to amortize the principal of the Bond over the life of the Bond issue; providing, however, that if insufficient funds are available to pay the installments set forth herein, the interest portion of such installments and the payment set forth in this paragraph 2 shall be made simultaneously and without preference to one another before any principal portion of such installments are made.

(3) The Issuer shall next, on each date that payment is made, as set out in (2) above, transfer from the Water Revenue Fund and deposit with the Depository Bank in the Water Reserve Fund initially established with said Bank in the 1977 Resolution and hereby continued 1/12 of 1/10 of the amount of principal and interest becoming due on the Bond in any year until the amount in the Water Reserve Fund equals the amount required by the 1977 Resolution such sum being herein called the "Minimum Reserve."

(4) The Issuer shall next, simultaneously and without preference to the payment required under paragraph 3, by the fifteenth day of each month, transfer from the Water Revenue Fund, 1/12 of 1/10 of the amount of principal and interest becoming due on the Bond in any year until the amount in the 1991 Water Reserve Fund equals the sum of \$9612, such sum being herein called the

"1991 Minimum Reserve." After the Minimum Reserves have been accumulated in the 1977 and 1991 Water Reserve Fund, the Issuer shall monthly deposit into the 1977 and then the 1991 Water Reserve Fund such part of the moneys remaining in the 1991 Water Revenue Fund, after such provision for payment of monthly installments on the Bond and 1977 Bond and for payment of operating expenses of the System and as shall be required to maintain the Minimum Reserves in the 1977 and 1991 Water Reserve Fund and 1977 Depreciation Reserve Fund. Moneys in the 1991 Water Reserve Fund shall be used solely to make up any deficiency for monthly payments of the principal of and interest on the Bond to said National Finance Office as the same shall become due or for prepayment of installments on the Bond, or for mandatory prepayment of the Bond as hereinafter provided, and for no other purpose.

(5) The Issuer shall next, by the fifteenth day of each month, transfer from the Water Revenue Fund and deposit in the 1977 Water Depreciation Reserve, previously established with said Bank, the moneys remaining in the Water Revenue Fund and not permitted to be retained therein, until there has been accumulated in the 1977 Water Depreciation Reserve for the 1977 Bonds the aggregate sum required by the 1977 Resolution and thereafter such sums as shall be required to maintain such amount therein. Moneys in the Water Depreciation Reserve shall be used first to make up any deficiencies for monthly payments of principal of and interest on the Bond as the same become due, and next to restore to the Water Reserve Fund any sum or sums transferred therefrom. Thereafter, and provided that payments into the Water Reserve Fund are current and in accordance with the foregoing provisions, moneys in the Water Depreciation Reserve may be withdrawn by the Issuer and used for capital improvements extraordinary repairs and replacements of equipment and improvements for the System, or any part thereof.

(6) After all the foregoing provisions for use of moneys in the Water Revenue Fund have been fully complied with, any moneys remaining therein and not required to be retained therein may be used to prepay installments of the Bond or for any lawful purpose.

Whenever the moneys in the 1991 Water Reserve Funds shall be sufficient to prepay the Bond in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Bond at the earliest practical date and in accordance with applicable provisions hereof.

The Depository Bank (and any successor appointed by the Issuer) is hereby designated as the Fiscal Agent for the administration of the 1991 Water Reserve Fund as herein provided, and all amounts required therefor will be deposited therein by the Issuer upon transfers of funds from the Water Revenue Fund at the times provided herein, together with written advice stating the amount remitted for deposit into each such Fund.

All the funds provided for in this Section shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a lien thereon for further securing payment of the Bond and the interest thereon, but the aforesaid Bank shall not be a trustee as to such funds. The moneys in excess of the sum insured by FDIC in any of such funds shall at all times be secured, to the full extent thereof in excess of such insured sum, in a manner lawful for securing deposits of State and municipal funds under the laws of the State of West Virginia.

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

The Depository Bank, at the direction of the Issuer, shall keep the moneys in the Reserve Fund invested and reinvested to the fullest extent possible in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund or account under this Bond Legislation shall, unless otherwise provided herein or required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia State Board of Investments. Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund.

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

(D) User Contracts. The Issuer shall, prior to delivery of the Bond, provide evidence that there will be 720 bona fide users initially upon the System, and must obtain user agreements and the user contribution, if any, from each new user and deposit in the Water Project Construction Account all such user contributions collected.

(E) Charges and Fees. The Issuer shall remit from the Revenue Fund to the Depository Bank such additional sums as shall

be necessary to pay the charges and fees of the Depository Bank then due.

(F) Investment of Excess Balances. The moneys in excess of the sum insured by the maximum amounts insured by FDIC in any of such funds or accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, in a lawful manner for securing deposits of state and municipal funds under the laws of the State.

(G) Remittances. All remittances made by the Issuer to the Depository Bank shall clearly identify the fund or account into which each amount is to be deposited.

(H) Gross Revenues. The Gross Revenues of the System shall only be used for purposes of the System.

## ARTICLE V

### GENERAL COVENANTS

Section 5.01. General Statement. So long as the Bond shall be outstanding and unpaid, or until there shall have been set apart in the Water Reserve Fund a sum sufficient to prepay the entire principal of the Bond remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Purchaser.

Section 5.02. Rates. The Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide revenues in each fiscal year sufficient to produce net revenues equal to not less than 110% of the annual debt service on the Bond and to make the payments required herein into the Water Reserve Fund and the Water Depreciation Reserve and all the necessary expenses of operating and maintaining the System during such fiscal year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate revenues for such purposes.

Section 5.03. Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as the Bond is outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 5.04. Issuance of Additional Parity Bonds or Obligations. No additional parity bonds or obligations payable out of the revenues of the System or any part thereof shall be issued after the issuance of the Bond pursuant hereto except with the prior written consent of the Purchaser.

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

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Bond.

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

(d) Workmen's Compensation Coverage for all Employees of the District Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds will be filed with the Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39. Workers' compensation insurance will be maintained as required by the laws of the State of West Virginia.

(e) Fidelity Bonds will be provided as to every member of the Governing Body and every officer and employee of the District

having custody of the Revenue Fund or of any revenues or other funds of the System in an amount at least equal to the total annual debt service requirements for all outstanding FmHA loans.

(f) Flood Insurance to be procured, to the extent available at reasonable cost to the Issuer.

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

Section 5.06. Statutory Mortgage. For the further protection of the holders of the Bond, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon delivery of the Bond.

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

(A) Failure to make payment of any monthly amortization installment at the date specified for payment thereof;

(B) Failure duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Bond or herein, or violation of or failure to observe any provision of any pertinent law.

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

Upon application by the Purchaser, such court may, upon proof of such default appoint a receiver for the affairs of the Issuer and the System. The Receiver so appointed shall administer the System on behalf of the Issuer, shall exercise all the rights and powers of the Issuer with respect to the System, shall proceed under the direction of the Court to obtain authorization to increase rates and charges of the System, and shall have the power

to collect and receive all revenues and apply the same in such manner as the court may direct.

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

If for any reason the Issuer shall not have adopted the Annual Budget before the first day of any fiscal year, it shall adopt a Budget of Current Expenses from month to month until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the year next preceding by more than ten per centum; and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

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

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

Section 5.12. Books and Records; Audits. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and the Purchaser shall have

the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

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

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

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

#### ARTICLE VI

#### RATES, ETC.

Section 6.01. Initial Schedule of Rates and Charges.

A. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth on an Order of the Public Service Commission dated June 27, 1988.

#### ARTICLE VII

#### MISCELLANEOUS

Section 7.01. Payment of Bond. If the Issuer shall pay or there shall otherwise be paid, to the Holder of the Bond, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Bond, the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Bond, shall thereupon cease, terminate and become void and be discharged and satisfied.

Section 7.02. Filing Under Uniform Commercial Code. Contemporaneously with the delivery of the Bond, the Issuer shall execute Financing Statements meeting the requirements of the

Uniform Commercial Code of West Virginia and promptly thereafter shall file such a Financing Statement in the offices of the Secretary of State of West Virginia and of the Clerk of the County Commission of said County.

Section 7.03. Delivery of Bond. The Chairman and Secretary-Treasurer of the Governing Body are hereby authorized and directed to cause the Series 1991 Bond, numbered R-1, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

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

Section 7.05. Conflicting Provisions Repealed. All resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed; provided that this Section shall not be applicable to the Loan Resolution (Form FmHA 442-47).

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

Section 7.07. Modification or Amendment. The Bond Legislation may not be modified or amended after final passage without the prior written consent of the Purchaser.

Section 7.08. 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 applicable thereto; and that the Chairman, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 7.09. Supplemental Resolution. The District may pass such supplemental resolution, if necessary, to effectuate the purposes and intent of this resolution.

Section 7.10. Effective Time. This Resolution shall take effect immediately upon its adoption.

Section 7.11. 1977 Resolution. The 1977 resolution and all parts not expressly hereby changed shall continue in full force and effect.

Adopted this 18th day of March, 1991.

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

By James A. Starnes  
Chairman of Public Service Board

By Brooks Wolfe  
Member

By M. L. Green  
Member

Attest:

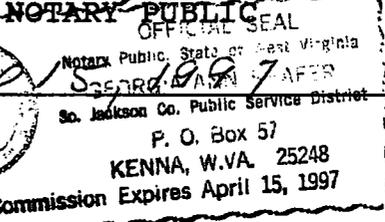
By Natasha Smith  
Secretary



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

The foregoing instrument was acknowledged before me this 18th day of March, 1991, by JAMES STOVER, the Chairman of the Southern Jackson County Public Service District, a Public Corporation, on behalf of the Corporation.

*Georgia Ann Shaper*



My commission expires

*April*

STATE OF WEST VIRGINIA,  
JACKSON COUNTY COMMISSION CLERK'S OFFICE, Mar 19 1991 9:32A.M. FB No. 4105

The foregoing Instrument together with the certificate thereto annexed was this day admitted to record in said office.

Teste: Annabelle Taylor, Clerk

By: *Shirley Hunt* Deputy



**SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT**

**WATER REVENUE BONDS, SERIES 1997**

**BOND AND LINE OF CREDIT RESOLUTION**

**SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BONDS, SERIES 1997**

**BOND RESOLUTION**

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Exhibit A - Project Description

# SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

## BOND RESOLUTION

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATER FACILITY OF THE SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF \$500,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 1997, AND THE SALE THEREOF TO THE UNITED STATES DEPARTMENT OF AGRICULTURE, RURAL UTILITIES SERVICE; AUTHORIZING A LINE OF CREDIT NOT TO EXCEED \$200,000; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT:

### ARTICLE I

#### STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

"Act" means Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended and in effect on the date of adoption of this Resolution.

"Additional Bonds" means additional bonds issued under the provisions and within the limitations prescribed by Section 7.06.

"ARC Grant" means the grant from the Appalachian Regional Commission and any successor to the functions of the Appalachian Regional Commission in the amount of \$523,000.

**"Authorized Officer"** means the Chairman of the Governing Body of the Issuer or any other person duly appointed as such by the Governing Body.

**"Board"** means the public service board of the Issuer and shall include the membership of the Board as may hereafter be duly constituted as the legal successors to the present membership or any other authority vested with and authorized to exercise the powers of the Issuer.

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

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

**"Bonds"** means the \$500,000 in aggregate principal amount of Water Revenue Bonds, Series 1997, and any Additional Bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution.

**"Chairman"** means the Chairman of the Governing Body of the Issuer.

**"Closing Date"** means the date upon which there is an exchange of the Bonds for all or a significant portion of the proceeds representing the purchase of the Bonds by the Government.

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

**"Consulting Engineers"** means Boyles and Hildreth Engineers, Inc., Spencer, West Virginia, or any engineer or firm of engineers of reputation for skill and experience with respect to the design and construction of waterworks systems or facilities that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

**"Construction Trust Fund"** means the Southern Jackson County PSD Goldtown Construction Account established by Section 6.02.

**"Costs" or "Costs of the Project"** means those costs described in Section 1.03F hereof to be a part of the cost of construction and acquisition of the Project.

**"Debt Service"** means the scheduled amount of interest and amortization of principal payable on the Bonds during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

**"Depository Bank"** means a bank or national banking association located in the State, eligible under the laws of the State to receive deposits of state and municipal funds and insured by the FDIC, which Depository Bank shall be named in the Supplemental Resolution.

**"Depreciation Account"** means the Depreciation Account established or continued by Section 5.01(5).

**"Event of Default"** means any event or occurrence specified in Section 8.01.

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

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

**"Governing Body" or "Board"** means the public service board of the Issuer, as is now or may hereafter be constituted.

**"Government"** means the United States Department of Agriculture, Rural Utilities Service, which is expected to be the original purchaser of the Bonds and any successor thereto.

**"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, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

**"Grants"** means collectively the ARC Grant, the RUS Grant and the subsequent RUS Grant.

**"Grant Receipts"** means all moneys received by the Issuer on account of any Grant to pay Costs of the Project; provided that "ARC Grant Receipts" means only the ARC Grant Receipts on account of any or all of the ARC grants and "RUS Grant Receipts" means collectively, only the RUS Grant Receipts on account of any or all of the RUS grants.

**"Gross Revenues"** means the aggregate gross operating and non-operating revenues of the System, as hereafter 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 purchased pursuant to Section 9.01) or any Tap Fees.

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

"Issuer" or "District" means the Southern Jackson County Public Service District, a public corporation and political subdivision of the State.

"Letter of Conditions" means the letter of conditions of the Government dated January 27, 1995, and any supplements or amendments thereto.

"Line of Credit" means the irrevocable line of credit in an amount not to exceed \$200,000 authorized by Section 4.01 hereof, the terms and amount of which may be approved by a resolution supplemental hereto.

"Line of Credit Agreement" means the agreement, if any, establishing the Line of Credit, said agreement to be approved by a resolution supplemental hereto.

"Net Revenues" means Gross Revenues less Operating Expenses.

"Noteholder," "Registered Owner of the Notes" or "Owner of the Notes" or any similar term means the person, whenever used herein with respect to an outstanding Note or Notes, as hereinafter defined, in whose name such Note is registered.

"Notes" or "Credit Line Note" means the not more than \$200,000 in aggregate principal amount of interim construction financing, consisting of grant anticipation notes or a Line of Credit evidenced by notes, or any combination of the foregoing, as authorized by Article IV hereof and, unless the context clearly indicates otherwise, the term "Notes" includes any refunding grant anticipation notes of the Issuer.

"Notes Registrar" means the Registrar for the Notes which shall be designated by a resolution supplemental hereto.

"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, fiscal agents, depository banks, registrars, paying agents and trustees other than those capitalized as part of the Costs, payments to pension or retirement funds, taxes and such other

reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, of any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from and 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 cancelled by the Bond Registrar at or prior to said date; (ii) any Bond for the payment of which moneys, 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 Section 9.06 hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any Bonds registered to the Issuer.

"Paying Agent" means the bank or banks or other entity designated as such for the Bonds in the Supplemental Resolution or such entity or authority as may be designated by the Issuer.

"Prior Bonds" means the Issuer's Water Revenue Bonds, Series 1977, originally issued in the principal amount of \$470,000 and the Issuer's Water System Revenue Bond, Series 1991, originally issued in the principal amount of \$143,500, both purchased by the United States Department of Agriculture - Rural Utilities Service (formerly, United States Department of Agriculture, Farmers Home Administration).

"Prior Resolutions" means the resolutions adopted by the Public Service Board of the Issuer on March 13, 1978, and March 18, 1991, collectively.

"Project" means the acquisition and construction of the water distribution system of the Issuer, substantially as described in Exhibit A attached hereto and incorporated herein by reference.

"PSC" means the Public Service Commission of West Virginia and any successor to the functions thereof.

"PSC Order" means the recommended decision of the PSC in Case No. 95-1221-PWD-CN, which was entered by the Administrative Law Judge of the PSC on September 11, 1996 and became the final order on October 1, 1996, granting the Issuer a Certificate of Convenience and Necessity to construct the Project and approving the financing thereof and the Supplemental Order dated February 25, 1997.

"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 any said time account or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time account;

(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 any said repurchase agreement either must mature as nearly as practicable coincident with the maturity of said repurchase agreement or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreement, 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 State Board of Investments pursuant to Chapter 12, Article 6 of the Code of West Virginia Code, 1931, as amended;

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

(j) Advanced - Refunded Municipal Bonds.

"Reserve Account" means the Reserve Account established by Section 5.01(A)(4).

"Reserve Requirement" means an amount equal to the maximum amount of principal and interest which will mature and become due on the Bonds in any succeeding Fiscal Year (\$29,460).

"Resolution" means this resolution, as from time to time amended or supplemented.

"Revenue Fund" means the Revenue Fund established or continued by Section 5.01(A).

"RUS Grant" means, collectively, the Rural Utilities Service Grant in the amount of \$400,000 and the subsequent RUS Grant in the amount of \$97,000.

"Secretary" means the Secretary of the Governing Body of the Issuer.

"Sinking Fund" means the Sinking Fund established by Section 5.01(A)(2).

"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 authorizing the sale of the Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Bonds and not so included may be included in another Supplemental Resolution.

"System" means the public service properties to be used for or in connection with the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for industrial, public, private or other uses, owned by the Issuer, and

any improvements or extensions thereto hereafter constructed or acquired from any sources whatsoever, and includes the Project.

"Tap Fees" means the fees paid by prospective customers of the System in order to connect thereto.

Additional terms and phrases are defined in this Resolution as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with generally accepted accounting principles.

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.

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Resolution; and the term "hereafter" means after the date of adoption of this Resolution.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Resolution so numbered.

Section 1.02. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of the Act and other applicable provisions of law.

Section 1.03. Findings. It is hereby found, determined and declared as follows:

A. The Issuer now owns and operates a public waterworks system, furnishing water service to residences, premises and businesses residing or located within and without the area of the Issuer. There are, however, residents of the District who are not currently served by the water system.

B. It is deemed necessary and desirable for the health, welfare and safety of the inhabitants of the District that there be acquired and constructed certain extensions, additions and improvements to the existing System, the acquisition and construction to be permanently financed, in part, by the issuance of the Bonds to the Government all in accordance with the plans and specifications prepared by the Consulting Engineers. The District purchases water for distribution from The City of Ripley pursuant to a Water Purchase Agreement dated June 27, 1977. The acquisition and construction of the System was financed in part with the proceeds from the Prior Bonds, authorized pursuant to the Prior Resolutions.

C. The estimated maximum cost of the construction of the Project is \$1,520,000. The Project will be financed with the proceeds of the sale of the Bonds

anticipated to be in the amount of \$500,000, the ARC Grant in the amount of \$523,000 and the RUS Grant in the amount of \$497,000.

D. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of the System, the principal of and interest on the Prior Bonds and the Bonds authorized to be issued pursuant to this Resolution and all sinking funds, reserve and other payments provided for in this Resolution and the Prior Resolutions. Prior to the issuance of the Bonds, the Issuer will obtain the consent of the Government to the issuance of the Bonds on a parity with the lien of the Prior Bonds. Upon the issuance of the Bonds, the Issuer will grant the Government a first parity lien on the Net Revenues of the System.

E. There are outstanding obligations of the Issuer which will rank either on a parity with the Bond as to liens, pledge and source of and security for payment, which obligations are designated and have the lien positions with respect to the Bond as follows:

<u>Designation</u>	<u>Lien Position</u>
Water Revenue Bonds, Series 1977, dated March 13, 1978, issued in the original aggregate principal amount of \$470,000 (the "Series 1977 Bonds");	First Lien
Water System Revenue Bonds, Series 1991, dated March 18, 1991, issued in the original aggregate principal amount of \$143,500 (the "Series 1991 Bonds").	First Lien

The Series 1977 and Series 1991 Bonds are hereinafter collectively called the "Prior Bonds."

The Bonds shall be issued on a parity with the Prior Bonds with respect to the liens, pledge and source of and security for payment and in all other respects the Issuer has complied with the requirements for issuance of parity bonds in the Prior Resolutions. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by the revenues or assets of the System.

F. The Issuer has met the parity tests of the Prior Resolutions.

G. It is deemed necessary for the Issuer to issue its Bonds, in part to permanently finance the costs of acquisition and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements, and franchises deemed necessary therefor; the cost of the construction of said extensions, additions, betterments and

improvements to the System and any other expenses necessary, incidental, desirable or appurtenant to the acquisition and construction of the Project and such replacements as are necessary therefor; the cost of interim financing for such Project; interest on the Bonds, prior to, during and for six months after the estimated date of completion of construction of the Project; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; expenses for the service of registrars, paying agents, depositories or other agents in connection with the issuance of the Bonds, and such other expenses as may be necessary or desirable to said acquisition and construction of the project and placing the same in operation and the financing authorized by this Resolution.

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

I. It is in the best interests of the Issuer that its Bonds be sold to the Government pursuant to the terms and provisions of the Letter of Conditions.

J. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the obtaining of the PSC Order, the time for rehearing and appeal of which have expired.

K. The Issuer has also made arrangements for interim financing as requested by the Government.

Section 1.04. Resolution Constitutes Contract. In consideration of the acceptance of the Bonds by those who shall be the 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 Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

## ARTICLE II

### AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF PROJECT

**Section 2.01. Authorization of Acquisition and Construction of Project.** There is hereby authorized the construction and acquisition of the Project in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Bonds hereby authorized shall be applied as provided in Article VI hereof.

The Issuer has received bids or entered into contracts for the acquisition and construction of the Project.

### ARTICLE III

#### **AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS**

**Section 3.01. Authorization of Bonds.** Subject and pursuant to the provisions hereof, the Bonds of the Issuer, to be known as "Southern Jackson County Public Service District Water Revenue Bonds, Series 1997" (the "Bonds") are hereby authorized to be issued in the aggregate principal amount of \$500,000 for the purpose of permanently financing a portion of the Costs of the Project.

**Section 3.02. Description of Bonds.** The Bond shall be issued in the form of a single bond designated "Water Revenue Bonds, Series 1997", numbered R-1 in the principal amount not to exceed \$500,000, fully registered to the Government. The Bond shall be dated on the date of delivery thereof. The Bond shall bear interest from the date of delivery but only upon the amounts advanced thereunder, payable monthly, commencing on the first day of the month following the month in which the Bond is issued, at a rate not to exceed five percent (5.00%) per annum, and shall be sold for the par value thereof.

Notwithstanding any provision of the Bond to the contrary, the Bond shall evidence only the indebtedness reflected as outstanding on the Record of Advances and Payments attached thereto. Interest shall accrue only on the amount of each advance from its actual date as listed on said Record of Advances, and payments and shall cease to accrue on the amount Outstanding, or portions thereof, as the same are paid, as reflected by said Record of Advances and Payments.

The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only on the amounts advanced thereunder, commencing the first day of the month following the month of delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and thereafter in installments of \$2,455 covering principal and interest on Bond No. R-1, on said corresponding day of each month, except that the final installment on the Bond shall be paid at the end of 40 years from the date of the Bond, in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided therein.

The Bond shall be subject to prepayment of scheduled installments, or any portion thereof, at the option of the Issuer, shall be payable as provided in the bond form hereinafter set forth and shall be subject to the other terms and provisions set forth in the Bond and in the Supplemental Resolution.

**Section 3.03. Execution of Bonds.** The Bond shall be executed in the name of the Issuer by the manual or facsimile signature of the Chairman, and the seal of the Issuer shall be impressed thereon and attested by the manual or facsimile signature of the Secretary.

In case any one or more of the officers who shall have signed or sealed any of the Bond shall cease to be such officer of the Issuer before the Bond so signed and sealed have been actually sold and delivered, such Bond may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bond had not ceased to hold such office. Any Bond may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bond shall hold the proper office in the Issuer, although at the date of such Bond such person may not have held such office or may not have been so authorized.

**Section 3.04. Authentication and Registration.** No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.09, shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Resolution. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

**Section 3.05. Negotiability, Transfer and Registration.** Subject to the provisions for transfer of registration set forth below, the Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Holder, in accepting any of said Bonds, shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, 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 any of the Bonds remain outstanding, the Issuer, through the Bond Registrar, shall keep and maintain books for the registration and transfer of the Bonds.

The 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 thereof 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 or transferring the 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 cancelled by the Bond Registrar. For every such exchange or transfer of Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond

Registrar shall not be obligated to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

**Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost.** In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

**Section 3.07. Bonds not to be Indebtedness of the Issuer.** The Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System, as herein provided, and amounts, if any, in the Reserve Account. No Holder or Holders of any of the Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay the Bonds or the interest thereon.

**Section 3.08. Bonds Secured by Pledge of Net Revenues.** The payment of the debt service of the Bonds and the Prior Bonds shall be secured forthwith equally and ratably and on a parity with each other, by a first lien on the Net Revenues derived from the System. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and the Prior Bonds and to make the payments as hereinafter provided are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due.

**Section 3.09. Form of Bonds.** The text of the 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 Bond]

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BONDS,  
SERIES 1997

No. R-1

\$500,000

\_\_\_\_\_, 1997

Registered Owner: United States of America  
Rural Utilities Service  
75 High Street  
P.O. Box 678  
Morgantown, WV 26505

FOR VALUE RECEIVED, the Southern Jackson County Public Service District, a public corporation organized and existing under the laws of, and a political subdivision of, the State of West Virginia, in Jackson County (herein called the "Borrower"), promises to pay to the order of the United States of America (herein called the "Government"), at its National Finance Office, 1520 Market Street, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, and in the manner provided below, the principal sum of Five Hundred Thousand Dollars (\$500,000) or such lesser amount as shall then be reflected on the Record of Advances and Payments attached hereto and incorporated herein by reference, plus interest on the unpaid principal balance at the rate of five percent (5.00%) per annum. Notwithstanding any provision of this Bond to the contrary, this Bond shall evidence only the indebtedness reflected as outstanding on the Record of Advances and Payments attached hereto. Interest shall accrue only on the amount of each advance from its actual date as listed on said Record of Advances and Payments and shall cease to accrue on the amount outstanding, or portions thereof, as the same are paid, as reflected by said Record of Advances and Payments.

The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only on the amounts advanced hereunder, commencing the first day of the month following the month of delivery of this Bond and on the first day of each month thereafter for the first 24 months after the date hereof, and thereafter on the first day of each month in installments of principal and interest in the aggregate amount of \$2,455 except the final installment shall be paid at the end of forty years from the date of this Bond in the sum of the unpaid principal and interest due on

the date thereof and prepayments may be made as provided below. This consideration shall support any agreement modifying the foregoing schedule of payments.

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

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

Any amount advanced or expended by the Government for the collection hereof, or to preserve or to protect any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government, shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government. Borrower has granted to the Government a lien on the proceeds of this Bond until such proceeds are expended for authorized purposes.

This Bond is issued to permanently finance a portion of the costs of acquisition and construction of certain extensions, additions and improvements to the existing waterworks distribution system (the "Project" and together with any further extensions, additions, betterments and improvements thereto, herein called the "System"); to pay interest on the Bonds during acquisition and construction and for up to six months after completion of the Project; and to pay certain issuance and related costs in connection therewith. This Bond is authorized and issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Article 13A of Chapter 16 of the Code of West Virginia, 1931, as amended (the "Act"), and a resolution duly adopted by the Board of the Borrower on February 27, 1997, and supplemented by a Supplemental Resolution duly adopted by said Board on February 27, 1997 (collectively, the "Resolution"), and is subject to all the terms and conditions of said Resolution. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Resolution.

THIS BOND SHARES A FIRST LIEN PARITY POSITION WITH RESPECT TO SOURCES OF AND SECURITY FOR PAYMENT WITH THE OUTSTANDING SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT WATER REVENUE BOND, SERIES 1977, ISSUED IN THE PRINCIPAL AMOUNT OF \$470,000, AND THE SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT WATER SYSTEM REVENUE BOND, SERIES 1991, ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF \$143,500 (COLLECTIVELY, THE "PRIOR BONDS").

**This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues (as defined in the Resolution) to be derived from the operation of the System, which lien is on a parity as to security and source of payment with the lien of the Prior Bonds, moneys in the Reserve Account created under the Resolution (the "Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on this Bond, the Prior Bonds, and all bonds which may be issued for the construction, acquisition, improvement, extension or betterment of such System as and when the same become due and payable, and which shall be set aside and remitted to the Government for the Bonds as provided herein and in the Resolution and in the Prior Resolutions. This Bond does not constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provisions or limitations, nor shall said Borrower be obligated to pay the same or the interest hereon except from the Net Revenues derived from the operation of said System, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Resolution, the Borrower has covenanted and agreed to establish and maintain just and equitable rates or charges for the use of such System and the services rendered thereby, which shall be sufficient to provide for the proper and reasonable expenses of operation, repair and maintenance of said System, and to leave a balance each year equal to at least 110% of the amount required to pay the maximum amount due in any ensuing year of principal of and interest on the Bonds, the Prior Bonds and on all obligations secured by or payable from such revenues prior to or on a parity with the Bonds. The Borrower has entered into certain further covenants with the owner of this Bond for the terms of which reference is made to said Resolution. Remedies provided the owner of this Bond are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.**

**This Bond is transferable, as provided in the Resolution, only upon the books of the Registrar which shall be kept for that purpose at the office of the Registrar, by the owner or by its attorney or legal representative duly authorized in writing, upon surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar duly executed by the owner or its attorney or legal representative duly authorized in writing.**

**Subject to registration requirements, 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.**

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

**If at any time it so appears to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private creditor at reasonable rates and terms for loans for such purposes and period of time, Borrower will at the Government's request apply for and accept such loan in sufficient amount to repay the Government.**

All money received from the sale of this Bond, after reimbursement and repayment of all amounts connected with the issuance hereof, as provided by law and the Resolution, shall be applied solely to the costs of acquisition and construction of the Project, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of said Borrower, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System of the Borrower has been pledged to and will be set aside into said special fund by the Borrower 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.

The use of any proceeds of these Bonds for a purpose that will contribute to excessive erosion of highly erodible lands or to the conversion of wetlands to produce an agricultural commodity will constitute an Event of Default under the Bond Resolution.

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Rural Development Act of 1972. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Southern Jackson County Public Service District has caused this Bond to be signed by its Chairman and its seal to be hereunto impressed and attested by its Secretary, all as of the date first written above.

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

By: \_\_\_\_\_  
Chairman

[SEAL]

ATTEST:

\_\_\_\_\_  
Secretary

**CERTIFICATE OF AUTHENTICATION AND REGISTRATION**

This Bond is one of the Southern Jackson County Public Service District Water Revenue Bonds, Series 1997, described in the within-mentioned Resolution and has been duly registered in the name of the United States of America as of the date set forth below.

Date: \_\_\_\_\_, 1997

BANK OF RIPLEY, as Registrar

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

RECORD OF ADVANCES AND PAYMENTS

Advances

Date	Amount	Initialed By
(1)	\$	
(2)	\$	
(3)	\$	
(4)	\$	
(5)	\$	
(6)	\$	
(7)	\$	
(8)	\$	
(9)	\$	
(10)	\$	

TOTAL: \$ \_\_\_\_\_  
Pay to the Order of: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

UNITED STATES DEPARTMENT OF  
AGRICULTURE, RURAL UTILITIES  
SERVICE

By: \_\_\_\_\_

\_\_\_\_\_  
(Title)

**Payments**

Date	Amount	Initialed By
(1)	\$	
(2)	\$	
(3)	\$	
(4)	\$	
(5)	\$	
(6)	\$	
(7)	\$	
(8)	\$	
(9)	\$	
(10)	\$	

TOTAL: \$ \_\_\_\_\_  
Pay to the Order of: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

UNITED STATES DEPARTMENT OF  
AGRICULTURE, RURAL UTILITIES  
SERVICE

By: \_\_\_\_\_

\_\_\_\_\_  
(Title)

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

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the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_,  
Attorney to transfer said Bond on the books kept for registration thereof with full power of  
substitution in the premises.

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

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In the presence of:

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**Section 3.10. Sale of Bonds.** The Bonds shall be sold to the Government pursuant to the terms and conditions of the Letter of Conditions. The provisions of the Letter of Conditions are specifically incorporated in this Resolution.

ARTICLE IV  
LINE OF CREDIT

Section 4.01. Authorization of Line of Credit. To provide funds for the acquisition and construction of the Project when other funds are not available therefor, the Issuer is hereby authorized to arrange for a Line of Credit in an amount not to exceed \$200,000. The amount and terms of the Line of Credit may be approved by a resolution supplemental hereto.

Section 4.02. Authorization of Credit Line Note. For the purpose of evidencing any draw upon the Line of Credit and thus, of financing a portion of the cost of acquisition and construction of the Project, there may be issued the Credit Line Note of the Issuer in an amount and upon such terms as set forth in a resolution supplemental hereto. The Credit Line Note may be issued in single, fully registered form and dated as of the date of delivery thereof. There shall be attached to the Credit Line Note a Record of Advances and Payments, upon which the date and principal amount of any draw upon the Line of Credit, the date and amount of any payment of principal of the Credit Line Note and the amount of the Credit Line Note outstanding after either of said transactions shall be recorded. Anything to the contrary herein, in the Line of Credit Agreement or therein notwithstanding, the Credit Line Note shall evidence only the outstanding indebtedness recorded on the Record of Advances and Payments attached thereto, and interest shall accrue only on the amount if each advance from the actual date thereof as listed on said Record of Advances and Payments. Each such advance shall bear interest, payable at such times and at a rate set forth in a supplemental resolution, but not to exceed the then legally permissible limit. Interest shall cease to accrue on the amount of the Credit Line Note outstanding, or portions thereof, as the same are paid, as reflected by said Record of Advances and Payments. The Credit Line Note shall mature not more than thirty (30) months from the date thereof. The Credit Line Note shall be subject to such further terms as shall be provided by the Line of Credit Agreement. Notwithstanding the foregoing, the terms of the Credit Line Note, other than the principal amount thereof, may be modified by resolution supplemental and amendatory hereto, subject to the limits of the Act.

The Credit Line Note shall be payable as to principal upon surrender at the principal office of the Notes Registrar, in any coin or currency which on the date of payment of principal is legal tender for the payment of public and private debts under the laws of the United States of America; provided, that any partial payment or principal prior to the final maturity of the Credit Line Note shall be recorded on the Record of Advances and Payments attached to the Credit Line Note, and the Credit Line Note shall be returned to the Registered Owner. Interest on the Credit Line Note shall be paid by check or draft mailed to the Registered Owner thereof at the address as it appears on the books of said Notes Registrar; provided, that, at the option of the Registered Owner, such payment may be made by wire transfer or such other lawful method as shall be mutually agreeable.

**Section 4.03. Execution of Credit Line Note.** The Credit Line Note shall be executed in the name of the Issuer by the signature of its Chairman, and the seal of the Issuer shall be impressed thereon and attested by the signature of the Secretary. Any Credit Line Note may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Credit Line Note shall hold the proper office of the Issuer, although at the date of such Credit Line Note such person may not have held such office or may not have been so authorized.

**Section 4.04. Negotiability, Transfer and Registration.** Subject to the restrictions on transfer set forth below, the Credit Line Note shall be and have all of the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State, and each successive Registered Owner, in accepting the Credit Line Note, shall be conclusively deemed to have agreed that said Credit Line Note shall be incontestable in the hands of a bona fide holder for value.

So long as the Credit Line Note or any portion thereof remains Outstanding, the Notes Registrar shall keep and maintain books for the registration and transfer of the Credit Line Note. The Credit Line Note shall be transferable only upon the books of the Notes Registrar which shall be kept for that purpose at the office of the Notes Registrar (and in such capacity as paying agent) by the Registered Owner thereof in person or by its attorney duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Notes Registrar duly executed by the Registered Owner or its duly authorized attorney. Upon the transfer of the Credit Line Note, there shall be issued at the option of the Registered Owner or the transferee another Credit Line Note or Notes of the aggregate stated principal amount equal to the stated principal amount of such transferred Credit Line Note not paid as reflected on the Record of Advances and Payments attached thereto and outstanding in the aggregate principal amount equal to the advanced but unpaid amount of the transferred Credit Line Note as reflected on the Record of Advances and Payments attached thereto.

In all cases in which the privilege of transferring the Credit Line Note is exercised, Credit Line Notes shall only be issued in accordance with the provisions of this Resolution and the Supplemental Resolution. All Credit Line Notes surrendered in any such transfers shall forthwith be cancelled by the Notes Registrar. For every such transfer of Credit Line Notes, the Notes Registrar may make a charge sufficient to reimburse its office for any tax, fee or other governmental charge required to be paid with respect to such transfer and the cost of preparing each Credit Line Note upon each transfer, and any other expenses of the Notes Registrar incurred in connection therewith, which sum or sums shall be paid by the person requesting such transfer as a condition precedent to the exercise of the privilege of making such transfer. The Notes Registrar shall not be obligated to make any such transfer of Credit Line Notes during the ten (10) days preceding an interest payment date on the Credit Line Notes or after notice of any prepayment of the Credit Line Notes have been given.

**Section 4.05. Form of Credit Line Note and Line of Credit Agreement. The text of the Credit Line Note and the Line of Credit Agreement shall be in substantially the form set forth in the Supplemental Resolution. The Line of Credit Agreement shall be executed on behalf of the Issuer by the Chairman. The Credit Line Note shall not become valid until manually authenticated and registered by the Notes Registrar.**

## ARTICLE V

### SYSTEM REVENUES AND APPLICATION THEREOF

**Section 5.01. System Revenues and Application Thereof.** So long as the Bonds shall be Outstanding and unpaid, the Issuer covenants with the Bondholders as follows:

(A) The entire Gross Revenues derived from the operation of the System and all parts thereof, and all tap fees received, shall be deposited as collected by the Issuer in the Revenue Fund, originally established by the Prior Resolutions and which is continued hereby. The Revenue Fund shall constitute a trust fund for the purposes provided in this Resolution and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. Funds in the Revenue Fund shall be disposed of only in the following manner and order of priorities.

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

(2) Next from the moneys in the Revenue Fund, the Issuer make the payments required by Sections 3.02(B)(2) and 4.02(B)(2) of the Prior Resolutions. Thereafter, the Issuer shall on the first day of each month, commencing on the first day of each month commencing thirty (30) days following delivery of the Bonds, apportion and set apart out of the Revenue Fund and remit to the office and place designated by the Bonds (herein called the "Sinking Fund") the monthly payment of interest set forth in the Supplemental Resolution or such lesser amount as is required to pay the interest on the Bonds as evidenced by the Record of Advances and Payments attached to the Bonds as set forth in the Bond form in Section 3.09.

(3) Next from the moneys in the Revenue Fund, the Issuer shall on the first day of each month, as provided by the Supplemental Resolution, apportion and set apart from the Revenue Fund and remit to the Sinking Fund the monthly payment of principal set forth in the Supplemental Resolution or such lesser amount as is evidenced by the Record of Advances and Payments attached to the Bond as set forth in the Bond form in Section 3.09, such amount or amounts being the amount required to amortize the principal of the Bonds over the life of the Bonds.

The deposits to the Sinking Fund provided in this paragraph and in (2), above, constitute actual payments of principal and interest on the Bonds issued to the Government. The amounts required for principal and interest payments on the Bonds issued hereunder other than to the Government shall be deposited in a sinking fund created by a Supplemental Resolution. As long as the Government is the owner of the Bonds, the payment of the

principal and interest shall be made to the Government at the place designated in writing by the Government.

(4) The Issuer shall next transfer from the Revenue Fund and make the payment required by Sections 3.02(B)(3) and 4.02(B)(2) and (4) of the Prior Resolutions and simultaneously therewith deposit in a Reserve Account at the Depository Bank (herein the "Reserve Account"), or in the case of Bonds other than the Bonds originally authorized hereby in a reserve account in a sinking fund created by Supplemental Resolution or otherwise as designated by a Supplemental Resolution, on the first day of each month of each year beginning with and including the month in which payments from the Revenue Fund for interest on the Bonds are commenced, the sum of \$245 until the Reserve Requirement is met.

No further payments shall be made into the Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Reserve Requirement. Moneys in the Reserve Account shall be used only for the purpose of payment of maturing principal of or interest on the Bonds when moneys in the Revenue Fund or, in the case of bonds other than the Bonds originally authorized hereby, the funds in a sinking fund created by Supplemental Resolution are insufficient therefor and for no other purposes.

Any withdrawals from the Reserve Account which result in a reduction in the balance of the Reserve Account to below the Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payment to the Sinking Fund and Reserve Account, including any deficiencies for prior payments, have been made in full.

As and when Additional Bonds ranking on a parity with the Bonds are issued, provision shall be made by Supplemental Resolution for additional payments sufficient to pay the interest on such Additional Bonds and to accomplish retirement thereof at or before maturity and to accumulate a balance in the Reserve Account in an amount equal to the maximum provided and required to be paid in principal and interest in any succeeding year for account of all the Bonds.

(5) Thereafter, from the moneys remaining in said Revenue Fund, the Issuer shall make the payments required by Sections 3.02(B)(4) and 4.02(B)(5) of the Prior Resolutions and shall next, on the first day of each month, commencing with the month succeeding the first full calendar month after commencement of operation of the Project, remit to the Depository Bank for deposit in a special account to be designated the "Depreciation Account," which account is continued hereby, until there has been accumulated in the Depreciation Account the aggregate sum required by the Prior Resolutions. No further payments shall be required to be made into said Depreciation Account when there shall have been deposited therein, and so long as there shall remain on deposit therein, an amount equal to the aggregate sum required by the Prior Resolutions. All funds in said Depreciation Account shall be kept apart from all other funds. Moneys in the Depreciation Account shall be used first to make up any deficiencies for monthly payments of principal of and interest on the Bond as the same become due, and next to restore to the

Reserve Fund any sum or sums transferred therefrom. Thereafter, and provided that payments into the Reserve Fund are current and in accordance with the foregoing provisions, moneys in the Depreciation Account may be withdrawn by the Issuer and used for capital improvements, extraordinary repairs and replacements of equipment and improvements for the System, or any part thereof.

(6) After all the foregoing provisions for use of moneys in the Revenue Fund have been fully complied with, moneys remaining therein and not permitted to be retained therein, if any ("Surplus Revenues"), may be used to prepay installments of the Bonds, pro rata, or for any lawful purpose.

Any withdrawals from the Reserve Fund or the Depreciation Reserve which result in a reduction in the balances of the Reserve Fund or the Depreciation Reserve to below the Reserve Requirements shall be subsequently restored from the first Net Revenues available after all required payments have been made in full for payment of debt service on the Bonds.

After all the foregoing provisions for use of moneys in the Revenue Fund have been fully complied with, any moneys remaining therein and not required to be retained therein may be used to prepay installments of the Bonds or for any lawful purpose.

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

The Depository Bank shall keep the moneys in the Reserve Fund and the Depreciation Reserve invested and reinvested to the fullest extent possible in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund or account under this Resolution shall, unless otherwise provided herein or required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia State Board of Investments. Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account.

(B) All of the funds and accounts provided for above shall constitute trust funds and shall be used only for the purposes provided herein.

(C) The moneys in excess of the sum insured by the maximum amounts insured by the FDIC in the Revenue Fund, in the Reserve Account and in the Depreciation Account shall at all times be secured, to the full extent thereof in excess of such insured sum,

by Government Obligations or such other obligations as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

(D) If on any monthly payment date the Net Revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payments dates; provided, that all deposits, including on account of deficiencies, shall be made in the order of priority set forth in Paragraph (A), above, and no payment of lower priority shall be made if there exists a deficiency in a fund or account of higher priority. No such deficiency shall exist solely because the required payments into the Reserve Account have not, as of such date, funded such account to the requirement therefor.

(E) All remittances made by the Issuer to the Government or to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

(F) The Gross Revenues of the System shall only be used for purposes of the System.

## ARTICLE VI

### APPLICATION OF BOND PROCEEDS

**Section 6.01. Application of Bond Proceeds.** All the moneys received from time to time from the sale of Bonds shall be deposited in the Construction Trust Fund, hereinafter created.

**Section 6.02. Construction Trust Fund.** There is hereby created with the Depository Bank a special fund to be known as the "Construction Trust Fund," which fund shall be kept separate and apart from all other funds of the Issuer, and shall be drawn out, used and applied by the Issuer solely for the payment of the Costs of the Project and purposes incidental thereto, including payment of any borrowings by the Issuer made for the purpose of temporarily financing a portion of the Costs of Project, for the payment of interest on the Bonds during construction and for a period up to six months thereafter and for no other purposes whatsoever. The moneys in said fund shall be secured at all times by the Depository Bank, by Government Obligations having a fair market value at least equal to the balance in said fund in excess of the amount insured by the FDIC. If for any reason the amounts on deposit in the Construction Trust Fund are not necessary for, or are not applied to, such purposes, then such unapplied amounts shall be deposited by the Issuer as determined by the rules and regulations of the Government. All such proceeds shall constitute a trust fund for such purposes, and there is hereby created a lien upon such moneys, until so applied, in favor of the Holders of the Bonds hereby authorized.

Expenditures or disbursements by the Depository Bank from said Construction Trust Fund shall be made only after such expenditures or disbursements shall have been approved in writing by the Governing Body, the Consulting Engineers and the Government.

## 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 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Bonds or the interest thereon is Outstanding and unpaid.

**Section 7.02. Bonds not to be Indebtedness of the Issuer.** The Bonds shall not be or constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Resolution. No Holder or Holders of any Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay said Bonds or the interest thereon.

**Section 7.03. Bonds Secured by Pledge of Net Revenues.** The payment of the debt service of the Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System which lien is on a parity as to such security and source of payment with the lien of the Prior Bonds. The Net Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Prior Bonds and the Bonds herein authorized and to make the payments into the Sinking Fund and the Reserve Account and all other payments provided for in this Resolution and the Prior Resolutions are hereby irrevocably pledged, in the manner provided herein and therein, to the payment of the principal of and interest on the Prior Bonds and the Bonds as the same become due, and for the other purposes provided in this Resolution and the Prior Resolutions.

**Section 7.04. Rates.** Prior to the issuance of the Bonds, equitable rates or charges for the use of and service rendered by the System will 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 in the office of the Governing Body, copies of which will be open to inspection by all interested parties. The schedule of rates and charges shall be sufficient to pay the Operating Expenses of the System, to pay the principal of and interest on all Bonds issued hereunder, and to provide an adequate Reserve Account and an adequate Depreciation Fund. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect

shall be sufficient (i) to provide for all reasonable Operating Expenses of the System, and to fund any reserves required by the PSC Order or any supplement or amendment thereto, and (ii) to leave a balance each year equal to the maximum amount required in any succeeding fiscal year to pay the principal of and interest on the Prior Bonds and the Bonds and to leave a balance each fiscal year equal to at least 110% of the average annual debt service on the Bonds Outstanding and all other obligations of the Issuer, secured by or payable from such revenues prior to or on a parity with the Prior Bonds and the Bonds.

**Section 7.05. Sale of the System.** So long as the Bonds are Outstanding, the System may be sold, transferred, mortgaged, leased or otherwise disposed of or encumbered (other than any statutory mortgage lien created under the Act on account of obligations issued within the restrictions hereof) only with the written consent of the Government, and such consent will specify the disposition of any such sale or transfer. So long as the Prior Bonds are outstanding, the System may be sold, transferred, mortgaged, leased or otherwise disposed of only in accordance with the terms of the Prior Resolutions and with the written consent of the Government.

**Section 7.06. Issuance of Additional Bonds.** No additional Bonds shall be issued without the written consent in advance of the Government.

**Section 7.07. Books and Records.** The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds 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 PSC. 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 Government. The Government 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 Government shall be reported to such agent of the Issuer as the Government shall direct.

The Issuer shall, at least once a year, cause the books, records and accounts of the System to be audited by an Independent Certified Public Accountant and shall mail the report of said Independent Public Accountant to the Government and, upon request, to any other Holder or Holders of the Bonds. The Government, so long as it holds all the Bonds, may permit substitution of a copy of the annual audit report by the office of the State Tax Commissioner for the copy of an annual audit report by an Independent Certified Public Accountant.

The Issuer shall retain all records, books and supporting material for a period of three years after the issuance of such audit reports and financial statements, and such material, upon request, will be made available to the Government, the Controller General of the United States of America or their representatives.

**Section 7.08. Fiscal Year; Budget.** While the Bonds are Outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a fiscal year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than 30 days prior to the beginning of each Fiscal Year, the Issuer agrees to adopt the annual budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of such annual budget shall be made during such Fiscal Year unless unanimously authorized and directed by the Board. Copies of each annual budget shall be delivered to the Government by the beginning of each Fiscal Year.

If for any reason the Issuer shall not have adopted the annual budget before the first day of any Fiscal Year, it shall adopt a budget of current expenses from month to month until the adoption of the annual budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the year next preceding by more than ten percent (10%); and provided further, that adoption of a budget of current expenses shall not constitute compliance with the covenant to adopt an annual budget unless the Issuer's failure to submit an annual budget shall be for a reason beyond the control of the Issuer. Each such budget of current expenses shall be delivered and mailed immediately as in the case of the annual budget.

**Section 7.09. Services Rendered by the System.** The Issuer will not render or cause to be rendered any free services of any nature by its System; and, in the event the Issuer or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the Issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. 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 7.10. Enforcement of Collections.** The Issuer will diligently enforce and collect all fees, rentals, or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent, to the full extent permitted or authorized by the laws of the State and the rules and regulations of the Public Service Commission. All such rates and charges, if not paid when due, shall become a lien on the premises served by the System.

To the extent allowed by law and the PSC, whenever any rates, rentals or charges for the services and facilities of the System, shall remain unpaid for a period of thirty (30) days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent and the owner, user and property shall be held liable at law until such time as all such rates and charges are fully paid.

The Issuer further covenants and agrees that it will, to the full extent permitted by law and the rules and regulations promulgated by the PSC, for any account not paid within sixty (60) days, discontinue and shut off the services and facilities of the System and, in the event the Issuer owns a sewer facility (the "Sewerage System"), the Sewerage System to all users of the System delinquent in payment of charges for the services of the System and will not restore such services of either system until all delinquent charges for the services of the System have been paid in full and all accrued penalties plus a reconnection charge have been paid and shall take all further actions to enforce collections to the maximum extent permitted by law. The Issuer further covenants to use its best efforts to enter into agreements with any other entities providing sewerage service to its users, providing for discontinuing and shutting off the services and facilities of the sewerage system to users of the System delinquent in payment.

**Section 7.11. Insurance and Bonds.** The Issuer hereby covenants and agrees that, so long as the Bonds remain Outstanding, it will, as an expense of operation and maintenance of the System, procure, carry and maintain insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(A) **Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance,** to be procured prior to acceptance of any part of the Project from the contractor, on all above-ground insurable portions of the System, including machinery and equipment housed therein, in an amount equal to the insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(B) **Public Liability Insurance,** with limits of not less than \$500,000 for personal liability to protect the Issuer from claims for bodily injury and/or death and not less than \$200,000 from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured at the commencement of construction of the Project.

(C) **Vehicular Public Liability Insurance,** in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated for the benefit of the Issuer, with limits of not less than \$500,000 for personal liability to protect the Issuer from claims for bodily injury and/or

death and not less than \$200,000 from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle.

(D) Workers' Compensation Coverage for All Employees of the System Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each contractor dealing directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of Jackson County prior to commencement of construction of the Project in compliance with Chapter 38, Article 2, Section 39 of the Code of West Virginia, 1931, as amended.

(E) Fidelity Bonds will be provided as to every officer and employee of the Issuer having custody of the Revenue Fund or of any other funds or valuable property of the System in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount required by the Government and to be increased thereafter as necessary to cover the maximum amount of funds under control of that position at any one time.

(F) Flood Insurance will be obtained by the Issuer if available.

(G) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this section, during construction of the Project and so long as the Government holds any of the Bonds, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each prime contractor to carry insurance, of such types and in such amounts as the Government may specify, and with insurance carriers or bonding companies acceptable to the Government.

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

Section 7.13. Consulting Engineer. The Issuer will retain recognized, qualified independent Consulting Engineers on an annual basis to supervise generally the operation, maintenance and renewal of the System and report annually to the Issuer in writing their recommendations and comments as to the System. Such annual report of the Consulting Engineers or a summary thereof shall be made available at reasonable times to the Government and to any Bondholder requesting the same.

Section 7.14. Contracts. Not later than simultaneously with the delivery of the Bonds, the Issuer shall have entered into written contracts for the immediate acquisition or construction of the project.

**Section 7.15. Statutory Mortgage Lien.** For the further protection of the Holders of Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, and shall take effect immediately upon delivery of the Bonds and shall be for the equal benefit of all Holders of the Bonds; provided however, that a statutory mortgage lien in favor of the Holders of the Bonds issued hereunder shall be on a parity with the statutory mortgage lien in favor of the owners of the Prior Bonds.

**Section 7.16. PSC Order.** The Issuer shall comply with the conditions of the PSC Order and any supplement or amendment thereto.

**Section 7.17. Covenant to Amend Resolution.** The Issuer retains the right to make any amendments, insertions or deletions by Supplemental Resolution of this Resolution as the Issuer deems necessary prior to the issuance of the Bonds to meet the requirements of the Government.

**Section 7.18. Compensation of the Issuer.** The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Public Service Board of the Issuer in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Net Revenues to fall below the amount required to meet all payments provided for herein and in the Prior Resolutions, nor when there is a default in the performance of or compliance with any covenants or provision hereof or of the Prior Resolutions.

**Section 7.19. Funds and Accounts Under Prior Resolutions.** The Issuer hereby covenants that all payments into the respective funds and accounts created under the Prior Resolutions will have been made in full as required by the Prior Resolutions prior to the date of delivery of the Bonds.

## ARTICLE VIII

### DEFAULTS AND REMEDIES

Section 8.01. Events of Default. Each of the following events is hereby declared an "Event of Default":

A. Failure to make payment of the principal of any of the Bonds either at the date therein specified for its payment or on the date fixed for redemption by proceedings for redemption, or otherwise;

B. Failure to make payment of any installment of interest due on any of the Bonds on the date specified for the payment of such interest;

C. Failure duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Bonds, or in this Resolution, or violation of or failure to observe any provision of any pertinent law, provided, that a default under any other agreement the Issuer has with the Government constitutes a default hereunder, and provided that any such failure or violation, excluding those covered in A and B above in this section, must continue for a period of thirty (30) days after written notice shall have been given to the Issuer by any Bondholder specifying such failure or violation and requiring the same to be remedied.

D. If the Issuer files a petition seeking organization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

Section 8.02. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, if the Government is the Holder or any of the Bonds outstanding, the Government, at its option, may:

A. Declare the entire principal amount of the Bonds held by it then outstanding, and any interest accrued thereon, immediately due and payable;

B. For the account of the Issuer, incur and pay reasonable expenses for repair, maintenance and operation of the System and such other reasonable expenses as may be necessary to cure the cause of default; or

C. Take possession of the System and repair, maintain and operate such facilities.

Section 8.03. Remedies and Appointment of Receiver. Any Bondholder may, by proper legal action, compel the performance of the duties of the Issuer under this Resolution and the Act, including 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. Upon the happening of an Event of Default, any Bondholder shall, in

addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the Issuer, with power to change rates, rentals, fees and other charges sufficient to provide for the payment of the Bonds and the interest thereon, the deposits into the funds and accounts hereby established as herein provided, and the payment of Operating Expenses of the System, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of the Prior Resolution, this Resolution and the Act. The rights of the Bondholders shall be on a parity with the rights of the holders of the Prior Bonds.

The receiver so appointed shall forthwith, directly or by his 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.

Whenever all that is due upon the Bonds issued pursuant to this Resolution, and interest thereon, and under any covenants of this Resolution for reserve, sinking or other funds, and upon any other obligations having a charge, lien or encumbrance upon the revenues of the System, and interest thereon, 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 to the court to that effect. Upon any subsequent Event of Default, any Holder of Bonds issued pursuant to this Resolution shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby and a successor receiver appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Holders of the Bonds issued pursuant to this Resolution. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System, for the sole purpose of the protection of both the Issuer and Bondholders, and the curing and making good of any default under the provisions of this Resolution, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage or otherwise dispose of any assets of the System.

## ARTICLE IX

### INVESTMENTS; NON-ARBITRAGE

Section 9.01. Investments. Any moneys 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 or the Depository Bank, as the case may be, at the direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Resolution, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this section.

Except as provided below, any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount and investments in the "consolidated fund" of the West Virginia State Board of Investments shall be valued at par. The Issuer shall direct the Depository Bank to 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 bond department and shall not be responsible for any losses from such investments, other than for its own negligence or wilful misconduct.

The following specific provisions shall apply with respect to any investments made under this section:

A. Qualified Investments acquired from the Debt Service Reserve Account shall have maturities or be subject to redemption at the option of the holder within five (5) years from the date of acquisition provided that all investment earnings on moneys in the Debt Service Reserve Account shall be transferred, not less than once a year, to the Revenue Fund and applied in full to the next ensuing principal payment due on the Bonds.

B. Qualified Investments acquired for the Depreciation Fund shall have maturities or be subject to redemption at the option of the holder within ten (10) years from the date of acquisition.

C. Qualified Investments may be purchased for the Debt Service Reserve Account or the Depreciation Fund either in the open market or from the Construction Trust Fund. If so purchased from the Construction Trust Fund, such Qualified Investments shall be purchased at a price equal to their original purchase price plus accrued interest.

**Section 9.02 Wetlands Covenant.** The Issuer shall not use any Bond proceeds for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity. Failure to comply with this covenant shall constitute an Event of Default under Section 8.01(C) of this Resolution.

## ARTICLE X

### MISCELLANEOUS

**Section 10.01. Modification or Amendment.** No material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto that would materially and adversely affect the respective rights of Owners of the Bonds shall be made without the consent in writing of the Owners of 66-2/3 percent or more in principal amount of the 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 thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the Net Revenues of the System without the consent of the respective Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent of 75% of the Holders of the Bonds outstanding to waiver or modification of the limitation upon issuance of Additional Bonds contained in Section 7.06.

**Section 10.02. Severability of Invalid Provisions.** If any section, paragraph, clause or provision of this Resolution shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Resolution, any Supplemental Resolution or the Bonds.

**Section 10.03. Table of Contents and Headings.** The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

**Section 10.04. Repeal of Conflicting Resolutions.** All resolutions and orders, or parts thereof, in conflict with this Resolution are, to the extent of such conflict, repealed; provided, that no provision of the Government's Form 1942-47 or the Prior Resolutions shall be repealed hereby.

**Section 10.05. Covenant of Due Procedure.** The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairman, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred, and are, duly in office and duly qualified for such office.

**Section 10.06. Satisfaction and Discharge.** If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of all Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and

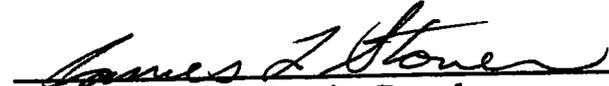
in this Resolution, then the respective pledges of Net Revenues, and other moneys and securities pledged under this Resolution, and all covenants, agreements and other obligations of the Issuer to the Bondholders shall thereupon cease, terminate and become void and be discharged and satisfied. Any payment must comply with the terms of the Letter of Conditions and any Government regulations.

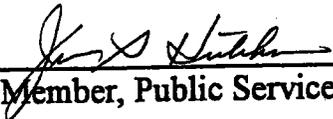
Section 10.07. Effective Date. This Resolution shall take effect immediately upon its adoption.

Adopted this 27th day of February, 1997.

SOUTHERN JACKSON COUNTY PUBLIC  
SERVICE DISTRICT

[SEAL]

  
\_\_\_\_\_  
Chairman, Public Service Board

  
\_\_\_\_\_  
Member, Public Service Board

  
\_\_\_\_\_  
Member, Public Service Board

## **EXHIBIT A**

### **Project Description**

**The Project consists of the acquisition and construction of approximately 64,500 feet of 6-inch water line and 2,000 feet of 2-inch water line, two pressure reducing stations, and all necessary appurtenances to extend water service to approximately 178 new customers in the Grasslick and Goldtown areas of the Issuer.**

51128

**CERTIFICATION**

**Certified as a true copy of a Resolution adopted by the Public Service Board  
of Southern Jackson County Public Service District.**

**[SEAL]**

  
\_\_\_\_\_  
**Secretary, Public Service Board**



**\$380,000**  
**SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT**  
**WATER REVENUE BONDS**  
**(WEST VIRGINIA INFRASTRUCTURE FUND),**  
**SERIES 1998 A**

**BOND RESOLUTION**

**\$380,000**  
**SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT**  
**WATER REVENUE BONDS**  
**(WEST VIRGINIA INFRASTRUCTURE FUND),**  
**SERIES 1998 A**

**BOND RESOLUTION**

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## BOND RESOLUTION

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC WATER FACILITIES OF SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$380,000 IN AGGREGATE PRINCIPAL AMOUNT OF SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT WATER REVENUE BONDS (WEST VIRGINIA INFRASTRUCTURE FUND), SERIES 1998 A; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SAID BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY RELATING TO SAID BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SAID BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT:

### ARTICLE I

#### STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

"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 Council Act and upon authorization from the Council.

"Authorized Officer" means the Chairperson of the Governing Body of the Issuer or any other person duly appointed as such by the Governing Body.

"Board" or "Governing Body" means the public service board of the Issuer and shall include the membership of the Board as may hereafter be duly constituted as the legal

successors to the present membership or any other authority vested with and authorized to exercise the powers of the Issuer.

"Bond Act" means Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended and in effect on the date of adoption of this Resolution.

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

"Bond Register" means the books of the Issuer as hereinafter defined, maintained by the Bond Registrar as hereinafter defined for the registration and transfer of the Bonds.

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

"Bonds" means the Series 1998 A Bonds originally authorized hereby, the Prior Bonds and any pari passu additional bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution or another resolution.

"Certificate of Authentication and Registration" means the certificate of authentication and registration on the Bonds in substantially the form set forth in the Bond Forms contained herein.

"Chairperson" means the Chairperson of the Governing Body of the Issuer.

"Closing Date" means the date upon which there is an exchange of the Bonds for the proceeds representing more than a de minimus amount of the purchase price of the Bonds.

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

"Construction Trust Fund" means the Series 1998 A Bonds Construction Trust Fund established by Section 5.01.

"Consulting Engineer" or "Consulting Engineers" means Boyles and Hildreth, Consulting Engineers, Spencer, West Virginia.

"Costs" or "Costs of the Project" or any similar phrase means those costs described in Section 1.03G hereof to be a part of the cost of construction and acquisition of the Project.

"Council" means the West Virginia Infrastructure and Jobs Development Council or any successor thereto.

"Council Act" means Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended and in effect on the date of the adoption of this Resolution.

"Depository Bank" means a bank or national banking association located in the State, eligible under the laws of the State of West Virginia to receive deposits of state and municipal funds and insured by the FDIC, which Depository Bank shall be named in the Supplemental Resolution.

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

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

"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, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

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

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

**"Issuer" means the Southern Jackson County Public Service District, a public corporation and political subdivision of the State.**

**"Loan Agreement" means the Loan Agreement or Loan Agreements to be entered into between the Authority and the Issuer, pursuant to which the Authority shall agree, subject to the Issuer's satisfying certain engineering, legal and other requirements, to purchase the Series 1998 A Bonds.**

**"Net Proceeds" means the face amount of the Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the respective Reserve Accounts. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Bonds, without regard to whether or not such investment is made in tax-exempt obligations.**

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

**"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System, as hereinafter defined 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 of Project, fees and expenses of the Authority, fiscal agents, the Depository Bank, Registrar and Paying Agent, other than those capitalized as part of the Costs of Project, 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 moneys, 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, notices or other action by a specified percentage of Bondholders, any Bonds registered to the Issuer.**

**"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 7.08 hereof.**

**"Paying Agent" means the Commission.**

"Prior Bonds" means the Water Revenue Bonds, Series 1977, dated March 13, 1978, issued in the original aggregate principal amount of \$470,000 and the Water System Revenue Bonds, Series 1991, dated March 18, 1991, issued in the original aggregate principal amount of \$143,500 and the Water Revenue Bonds, Series 1997, dated March 21, 1997, issued in the aggregate principal amount of \$500,000.

"Prior Resolutions" means resolutions of the Issuer authorizing the Prior Bonds adopted on: March 13, 1978, March 18, 1991, and February 27, 1997, collectively.

"Project" means the acquisition and construction of the water distribution system by the Issuer substantially as described in Exhibit A attached hereto and incorporated herein by reference.

"PSC" means the Public Service Commission of West Virginia and any successors to the functions thereof.

"PSC Order" means the Recommended Decision of the PSC in Case No.97-0444-PWD-CN which was entered and became the Final Order on February 11, 1998, and the PSC Supplemental Orders dated April 28 and May 19, 1998, approving the additional funding.

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

(a) Government Obligations;

(b) 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; the Governmental National Mortgage Association; the Tennessee Valley Authority or the Washington Metropolitan Area Transit Authority;

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

(d) 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 such Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time account or must

be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time account;

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

(f) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (d) 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 paid repurchase agreements, and provided further that the owner of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(g) The "consolidated fund" (or any distinct portion thereof) managed by the West Virginia State Board of Investments pursuant to Article 6, Chapter 12 of the Code of West Virginia, 1931, as amended; and

(h) Advance-Refunded Municipal Bonds.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by the Prior Resolutions and referenced in Section 5.01.

"Resolution" means this resolution, as from time to time amended or supplemented.

"Revenue Fund" means the Revenue Fund established by the Prior Resolutions and referenced in Section 5.01.

"Secretary" means the Secretary of the Governing Body of the Issuer.

"Series 1998 A Bonds" means the not more than \$380,000 in aggregate principal amount of Southern Jackson County Public Service District Water Revenue Bonds (West Virginia Infrastructure Fund), Series 1998 A, of the Issuer originally authorized hereby.

"Series 1998 A Bonds Reserve Account" means the Series 1998 A Bonds Reserve Account established in the Series 1998 A Bonds Sinking Fund pursuant to Section 5.02(1)(a).

"Series 1998 A Bonds Reserve Requirement" means as of any date of calculation the maximum amount of principal and interest which will become due on the Series 1998 A Bonds in the then current or any succeeding year.

"Series 1998 A Bonds Sinking Fund" means Series 1998 A Bonds Sinking Fund established by Section 5.02(1).

"State" means the State of West Virginia.

"Surplus Revenues" means the Net Revenues not required by this Resolution to be set aside and held for the payment of or security for the Bonds, the Prior Bonds or any other obligations of the Issuer, including but not limited to the Renewal and Replacement Fund, the Reserve Accounts and Sinking Funds, the proceeds of which Bonds or other obligations are to be used to pay Costs of the Project.

"System" means the complete waterworks system of the Issuer, and any further improvements or extensions thereto hereafter constructed or acquired from any sources whatsoever, and includes the Project.

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

Additional terms and phrases are defined in this Resolution as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with generally accepted accounting principles.

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.

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Resolution; and the term "hereafter" means after the date of adoption of this Resolution.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Resolution so numbered.

Section 1.02. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of the Act and other applicable provisions of law.

Section 1.03. Findings. It is hereby found, determined and declared as follows:

A. The Issuer is a public corporation and political subdivision of the State located in Jackson County, West Virginia and presently owns and operates a public water

distribution system. It is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be constructed certain extensions and improvements to the System of the Issuer, consisting of the Project, as described in Exhibit A, under the plans and specifications prepared by the Consulting Engineer, which plans and specifications have heretofore been filed with the Issuer.

B. The Council has approved the Project and has authorized the Authority to make a loan to the Issuer in an amount not to exceed \$380,000.

C. 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 the costs of the operation and maintenance of the System, the principal of and interest on the Prior Bonds, the Series 1998 A Bonds and all sinking funds, reserve accounts and other payments provided for herein, in the Prior Resolutions and in the PSC Order.

D. The estimated maximum cost of the construction and acquisition of the Project is \$380,000, of which approximately \$380,000 will be permanently obtained from the Bonds herein authorized. The Issuer may obtain grants and contributions as may be necessary to pay Costs of Project.

E. There are currently outstanding obligations of the Issuer which will rank on a parity with the Series 1998 A Bonds as to lien, pledge, source and security for payment, being the Prior Bonds. The Issuer has received the written consent of the holder of the Prior Bonds to the issuance of the Series 1998 A Bonds on a first lien basis.

F. It is deemed necessary for the Issuer to issue its revenue bonds, being the Southern Jackson County Public Service District Water Revenue Bonds (West Virginia Infrastructure Fund), Series 1998 A in the aggregate principal amount of not more than \$380,000 to permanently finance the cost of acquisition and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; amounts which may be deposited in the Reserve Account; engineering and legal expenses; expenses for estimates of costs and revenues and for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense, commitment fees, fees 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 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bonds or the repayment of indebtedness, incurred by the Issuer for such purposes shall be deemed Costs of the Project.

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

H. It is in the best interests of the Issuer that the Series 1998 A Bonds be sold to the Authority pursuant to the terms and provisions of the Loan Agreement.

I. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Series 1998 A Bonds, or will have so complied prior to issuance of any Series 1998 A Bonds, including, among other things, the obtaining of the PSC Order, the time for rehearing and appeal of which expired or the rights of all parties to appeal have been waived.

Section 1.04. Resolution Constitutes Contract. In consideration of the acceptance of the Bonds by those who shall be the 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 Bondholders and the covenants and agreements herein set forth to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owners of any and all of such Bonds of like series.

## ARTICLE II

### AUTHORIZATION OF CONSTRUCTION AND ACQUISITION OF THE PROJECT

#### Section 2.01. Authorization of Construction and Acquisition of the Project.

There is hereby authorized the construction and acquisition of the Project in accordance with the plans and specifications which have been prepared at the direction of the Consulting Engineers and heretofore filed in the office of the Governing Body. The proceeds of the Series 1998 A Bonds hereby authorized and shall be applied as provided in Article VI hereof.

The Issuer has or will enter into contracts for the acquisition and construction of the Project compatible with the financing plan in the Application.

## ARTICLE III

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

**Section 3.01. Authorization of Bonds.** For the purposes of paying the costs of the Project, and paying certain costs of issuance and related costs, or any of such purposes as shall be specified in the Supplemental Resolution, there shall be issued negotiable bonds of the Issuer. Said Bonds shall be issued in one series, to be designated respectively "Southern Jackson County Public Service District Water Revenue Bonds (West Virginia Infrastructure Fund), Series 1998 A," in the aggregate principal amount of not more than \$380,000, and shall have such terms as are set forth hereinafter or in the Supplemental Resolution. The proceeds of the Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in the Construction Trust Fund established by Section 5.01 hereof.

**Section 3.02. Terms of Bonds.** The Bonds shall bear interest at such rate or rates, not exceeding the then legal maximum, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in the Supplemental Resolution. The 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 Bonds shall be paid by check or draft of the Paying Agent mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by this Resolution or the Supplemental Resolution, the Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of each series, and shall mature in principal installments, all as provided in this Resolution. The Bonds shall be exchangeable at the option and expense of the Holder for other fully registered Bonds 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. The Bonds shall be dated as of the date specified in the Supplemental Resolution and shall bear interest from the date of first payment.

**Section 3.03. Additional Terms of Series 1998 A Bonds.** In addition to the terms set forth in Sections 3.01 and 3.02 hereof and in anticipation of the sale of the Series

1998 A Bonds to the Authority, the Issuer covenants that the Series 1998 A Bonds shall comply in all respects with the provisions of the Loan Agreement and of any resolution of the Authority authorizing the issuance of Series 1998 A Bonds.

**Section 3.04. Execution of Bonds.** The Bonds shall be executed in the name of the Issuer by the Chairperson, 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 any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

**Section 3.05. Authentication and Registration.** No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication and Registration on such Bond, substantially in the forms set forth in Section 3.09, shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Resolution. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

**Section 3.06. Negotiability, Transfer and Registration.** Subject to the provisions for transfer of registration set forth below, the Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Registered Owner in accepting any of said Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Registered Owner 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 any of the Bonds remain Outstanding, the Issuer, through the Bond Registrar, shall keep and maintain books for the registration and transfer of the Bonds.

The 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 the Bonds or transferring the Bonds is 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 obligated to make any such exchange or transfer of Bonds during the period commencing on the fifteenth day of the month preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.07. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing proof of its ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer 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 3.08. Bonds not to be Indebtedness of the Issuer. The Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided and amounts, if any, in the Reserve Account. No Holder or Holders of any of the Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay the Bonds or the interest thereon.

Section 3.09. Bonds Secured by Pledge of Net Revenues. The payment of the debt service on all the Series 1998 A Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System, on parity with the lien on the Net Revenues in favor of the holders of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 1998 A Bonds and the Prior Bonds and to make the payments into the Sinking Funds, the Reserve Accounts therein and the Renewal and Replacement Fund hereinafter established and established in the Prior Resolutions, are hereby irrevocably pledged to the payment of the principal of and interest on the Prior Bonds and the Series 1998 A Bonds as the same become due.

**Section 3.10. Form of Bonds.** The text of the Series 1998 A Bonds shall be in substantially the following forms, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

[Form of Bonds]

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND (WEST VIRGINIA INFRASTRUCTURE FUND),  
SERIES 1998 A

No. A-1

\$380,000

KNOW ALL MEN BY THESE PRESENTS: That SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, a public corporation and political subdivision of the State of West Virginia in Jackson County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of Three Hundred Eighty Thousand Dollars (\$380,000) or such lesser amount as is set forth on the Record of Advances, attached hereto as Exhibit A and incorporated herein by reference, in installments on the 1st day of September, the 1st day of December, the 1st day of March and the 1st day of June in each year beginning March 1, 1999, as set forth on the "Schedule of Annual Debt Service" attached as Exhibit B hereto and incorporated herein by reference, bearing 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 between the Issuer and the Authority dated May 22, 1998.

This Bond is issued in the original principal amount of \$380,000 (i) to pay a portion of the costs of acquisition and construction of certain improvements and extensions to the existing water distribution system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"), and a Resolution duly adopted by the Issuer on May 21, 1998, 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 RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 1977, DATED MARCH 13, 1978, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$470,000 AND THE WATER SYSTEM REVENUE BONDS, SERIES 1991, DATED MARCH 18, 1991, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$143,500 AND THE WATER REVENUE BONDS, SERIES 1997, DATED MARCH 21, 1997, ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF \$500,000 (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Resolution) to be derived from the operation of the System on a parity with the lien of the Prior Bonds, moneys in the Reserve Account created under the Resolution for the Bonds (the "Series 1998 A Bonds Reserve Account") and unexpended proceeds of the Bonds (the "Bond Proceeds"). Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside in a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1998 A Bonds Reserve Account and unexpended Bond Proceeds. 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 required in any year for debt service on the Series 1998 A Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with any of the Series 1998 A Bonds, including the Prior Bonds, provided however, that so long as the Series 1998 A Bonds Reserve Account is funded at an amount at least equal to the maximum amount of principal and interest which will come due on said Bonds in the then current or any succeeding year, and the reserve account for any other obligations outstanding prior to or on a parity with the Series 1998 A Bonds, including the Prior Bonds, is funded at 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 Bank of Ripley, Ripley, West Virginia (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, shall be applied solely to the costs of the Project described in the Resolution, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

On December 1, 1998, if the amount set forth on the Record of Advances is less than \$380,000, the Authority shall upon written instruction of the Council revise Exhibit B to reflect the lesser amount but amortized at the same interest rate and quarterly payment amount.

The loan will be in default should any proceeds of the loan funds obtained as a result of this parity be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

All provisions of the 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, SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated \_\_\_\_\_, 1998.

[SEAL]

\_\_\_\_\_  
Chairperson

ATTEST:

\_\_\_\_\_  
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1998 A Bonds 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: \_\_\_\_\_, 1998

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

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

EXHIBIT A

RECORD OF ADVANCES

---

Amount	Date	Amount	Date
(1) \$		(7) \$	
(2) \$		(8) \$	
(3) \$		(9) \$	
(4) \$		(10) \$	
(5) \$		(11) \$	
(6) \$		(12) \$	

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Total \$ \_\_\_\_\_

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_  
\_\_\_\_\_, Attorney to transfer said Bond on the books kept for registration thereof with full  
power of substitution in the premises.

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

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

**Section 3.11. Sale of Bonds; Ratification and Execution of Loan Agreement with Authority.** The Series 1998 A Bonds shall be sold to the Authority pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Chairperson is specifically authorized and directed to execute the Loan Agreement and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, ratified and approved.

**Section 3.12. "Amended Schedule B".** Upon completion of acquisition and construction of the Project, the Issuer will file with the Authority a schedule in substantially the form of the "Amended Schedule B" to the Loan Agreement, setting forth the actual Costs of the Project and sources of funds therefor.

ARTICLE IV

(Reserved)

## ARTICLE V

### SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created with (or continued if previously established by the Prior Resolutions) and shall be held by the Depository Bank separate and apart from all other funds or accounts of each Depository Bank and from each other:

- (1) Revenue Fund (established by Prior Resolutions);
- (2) Renewal and Replacement Fund (established by Prior Resolutions);  
and
- (3) Series 1998 A Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby established with the Commission:

- (1) Series 1998 A Bonds Sinking Fund;
  - (a) Within the Series 1998 A Bonds Sinking Fund, the Series 1998 A Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund created pursuant to Section 4.01(A)(i) of the Prior Bonds Resolution. The Revenue Fund shall constitute a trust fund for the purposes provided in this Resolution and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided.

- (1) The Issuer shall first, each month, pay from the Revenue Fund the current Operating Expenses of the System.
- (2) Thereafter, from the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month make the interest payment transfers required by the Prior Resolutions.
- (3) The Issuer shall next, on the first day of each month and without distinction or priority between the payments and simultaneously with the principal transfers required by the Prior Resolutions, commencing 3 months prior to the first date of payment of principal on the Series 1998 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1998 A Bonds Sinking Fund, a sum equal to 1/3rd of

the amount of principal which will mature and become due on said Series 1998 A Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1998 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(4) The Issuer shall next and simultaneously with the transfers required by the Prior Resolutions, on the first day of each month and without distinction of priority between the two payments, commencing 3 months prior to the first date of payment of principal of the Series 1998 A Bonds, if not fully funded upon issuance of the Series 1998 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1998 A Bonds Reserve Account, an amount equal to 1/120 of the Series 1998 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1998 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1998 A Bonds Reserve Requirement.

(5) From the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing with the month succeeding the first full calendar month after commencement of operation of the Project, transfer to the Renewal and Replacement Fund a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of the Series 1998 A Bonds Reserve Account but inclusive of the transfers required by the Prior Resolutions. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the Series 1998 A Bonds Reserve Account, except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required by Subsection 5.03(A)(4), shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 1998 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the respective series of Bonds as the same shall become due. Moneys in the Series 1998 A Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the respective series of Bonds, as the same shall come due, when other moneys in the attendant Sinking Funds are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 1998 A Bonds Sinking Fund and Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall be deposited for use in the Earnings Fund as required by Section 8.03.

Any withdrawals from the Series 1998 A Bonds Reserve Account which result in a reduction in the balance of the Series 1998 A Bonds Reserve Account to below the Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments for the Prior Bonds and to the Series 1998 A Bonds Sinking Fund and the Series 1998 A Bonds Reserve Account, including deficiencies for prior payments, have been made in full.

As and when additional Bonds ranking on a parity with the Series 1998 A Bonds are issued, provision shall be made for additional payments into the respective Sinking Fund sufficient to pay any interest on such Parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the appropriate Reserve Account in an amount equal to the maximum provided and required to be paid into the concomitant Sinking Fund in any year for account of the Series 1998 A Bonds of such series, including such additional Bonds which by their terms are payable from such Sinking Fund.

The Commission is hereby designated as the fiscal agent for the administration of the Sinking Funds created hereunder, and all amounts required for said Sinking Funds shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

The payments into the Sinking Funds shall be made on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Resolution. If required by the Authority at any time, the Issuer shall make the necessary arrangements whereby required payments into said account shall be automatically deducted from the Revenue Fund and transferred to the Commission on the date required hereunder.

Moneys in the Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Sinking Funds, including the Reserve Accounts therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the respective Bonds and any Parity Bonds that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

B. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Sinking Funds, including the Reserve Accounts therein, and the Renewal and Replacement Fund during the following month or such other period as required by law, such excess shall be considered Excess Revenues. Excess Revenues may be used for any lawful purpose of the System.

C. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent, or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent, or the Depository Bank as the case may be, shall require, such additional sums as shall be necessary to pay the charges and the fees then due. If required by the Authority at any time, the Issuer shall make the necessary arrangements whereby required payments into said account shall be automatically deducted from the Revenue Fund and transferred to the Commission on the date required hereunder.

D. The moneys in excess of the maximum amounts insured by FDIC in the Revenue Fund and the Renewal and Replacement Fund shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

E. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, that all deposits, including on account of deficiencies, shall be made in the order of priority set forth in Paragraph (A), above, and no payment of lower priority shall be made if there exists a deficiency in a fund or account of higher priority. No such deficiency shall exist solely because the required payments into the Reserve Accounts have not, as of such date, funded such account to the requirement therefor.

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

G. The Gross Revenues of the System shall only be used for purposes of the System.

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

## ARTICLE VI

### APPLICATION OF BONDS PROCEEDS

**Section 6.01. Application of Bonds Proceeds; Pledge of Unexpended Bonds Proceeds.** From the moneys received from time to time from the sale of the Series 1998 A Bonds, the following amounts shall be deposited with the Depository Bank in the Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02.

The Depository Bank shall act as a trustee and fiduciary for the Bondholders with respect to the Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Construction Trust Fund set forth in this Resolution. Moneys in the Construction Trust Fund shall be used solely to pay Costs of the Project and, until so expended, are hereby pledged as additional security for the respective series of Bonds.

**Section 6.02. Disbursements to and from the Construction Trust Fund.** Monthly the Issuer shall provide the Council with a requisition for Costs incurred for the Project with such documentation as the Council shall from time to time require. Upon receipt of proceeds from the Authority, the Issuer shall deposit the proceeds in the Construction Trust Fund. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Construction Trust Fund (except for the costs of issuance of the Bonds originally authorized hereby, which shall be made upon request of the Issuer), shall be made only after submission to the Council of a certificate, signed by an Authorized Officer and the Consulting Engineer, stating:

(A) That none of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

(B) That each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;

(C) That each of such costs has been otherwise properly incurred;  
and

(D) That payment for each of the items proposed is then due and owing.

The Depository Bank shall not be required to monitor the application of disbursements from the Construction Trust Fund.

Pending such application, moneys in the Construction Trust Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

Section 6.03. Excess Bond Proceeds. Upon completion of the Project, any Series 1998 A Bonds proceeds not required for the Project Costs shall be applied as directed by the Council.

## 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 Bonds, as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Bonds, or the interest thereon is Outstanding and unpaid.

**Section 7.02. Bonds, not to be Indebtedness of the Issuer.** The Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Resolution. No Holder or Holders of any Bonds, shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay said Bonds or the interest thereon.

**Section 7.03. Bonds Secured by Pledge of Net Revenues: Lien Position.** The payment of the debt service of the Series 1998 A Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System on parity with the lien on said Net Revenues in favor of the holders of the Prior Bonds. The revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Prior Bonds and the Bonds herein authorized and to make the payments into the Sinking Funds, including the Reserve Accounts therein, and all other payments provided for in this Resolution and the Prior Resolutions are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds as the same become due, and for the other purposes provided in this Resolution.

**Section 7.04. Initial Schedule of Rates and Charges.** The schedule of rates and charges for the services and facilities of the System shall be as set forth, described in and ordered by the PSC Order, which schedule of rates is attached as Exhibit B hereto.

The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay the Operating Expenses of the System and to make the prescribed payments into the funds and accounts 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.

**Section 7.05. Real Estate and Real Estate Interests.** 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, 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.

Section 7.06. Sale of the System. Except as otherwise required by law and as long as the Prior Bonds are outstanding, 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 or redeem at or prior to maturity all the Bonds Outstanding, or to effectively defease this Resolution in accordance with Sections 10.01 hereof and to pay the Series 1998 A Bonds and the Prior Bonds in full. The proceeds from any such sale, mortgage, lease or other disposition of the System shall be immediately remitted to the Commission for deposit in the Sinking Funds, and the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Series 1998 A Bonds about to mature and to the redemption prior to maturity at the earliest date permitted hereby and at the redemption price, of all other Outstanding Bonds. Any balance remaining after the redemption or payment of all the Series 1998 A Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, in writing, determine upon consultation with the Managing Engineer that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$10,000 and not in excess of \$50,000, shall, upon receipt of approval of the Registered Owners, if needed, be remitted by the Issuer to the Commission for deposit in the appropriate Sinking Fund and shall be applied only to the purchase or redemption of Bonds of the last maturities then Outstanding at prices not greater than the applicable redemption price, or, if not redeemable, par, or otherwise in the Renewal and Replacement Fund. The payment of such proceeds into the Sinking Funds or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Resolution. No sale, lease or other disposition of the properties of the

System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay or redeem prior to maturity all Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of sixty-six and two-thirds (66 2/3%) in amount of the Bonds then Outstanding and the Managing Engineer. 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 7.07. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. So long as any of the Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that Parity Bonds may be issued as provided for in Section 7.08 hereof and in the Prior Resolutions (so long as the Prior Bonds are Outstanding). All obligations hereafter issued by the Issuer payable from the revenues of the System, except such Parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Bonds; provided, that no such subordinate obligations shall be issued unless all payments required by the Prior Resolutions and to be made into the Reserve Accounts and the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current.

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

Section 7.08. Parity Bonds. A. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Resolution, except under the conditions and in the manner herein provided and in the Prior Resolutions so long as the Prior Bonds are outstanding.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 1998 A Bonds, upon the prior written consent of the Authority and Council.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the construction or acquisition of extensions or improvements to the System or refunding one or more series of Bonds issued pursuant hereto or the Prior Resolutions, or both such purposes.

As long as the Prior Bonds are Outstanding, the Issuer must comply with the terms of the Prior Resolutions when issuing bonds on a parity with the Series 1998 A Bonds

and the Prior Bonds and must deliver a copy of the certificate required by Sections 6.12(B) of the Prior Resolutions before issuing such parity bonds.

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, based upon the necessary investigation and certification by the Consulting Engineer, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the three succeeding years after the completion of the improvements to be financed by such Parity Bonds, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

- (1) The Bonds then Outstanding, including, without limitation, the Prior Bonds;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then Outstanding; and
- (3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the three 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 any increase in rates adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineer, 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 hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Consulting Engineer and the said Independent Certified Public Accountants, as stated in a certificate jointly made and signed by the Consulting Engineer and said Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to issuance of such Parity Bonds.

Not later than simultaneously with the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate construction or acquisition of such extensions or improvements, if any, to the System that are to be financed by such Parity Bonds.

All covenants and other provisions of this Resolution (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Series 1998 A Bonds and the Holders of any Parity Bonds issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their respective liens on the revenues of the System and their respective source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of another series on a parity therewith. 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 Outstanding Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 1998 A Bonds.

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

Section 7.09. Books; Records and Facilities. 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, acting by and through its Director, or his 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 Issuer shall submit to the Authority such documents and information as it may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the Loan or any State and federal grants or other sources of financing for the Project.

The Issuer shall permit the Authority and its agents and representatives to have access to the records 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.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds 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 by the Uniform System of accounts promulgated by the PSC. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body shall prescribe and institute the manner by which subsidiary records of the accounting system, which may be installed remote from the direct supervision of the Governing Body, shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Council, and the Authority, or any other original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues, Excess 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 with respect to said Bonds and the status of all said funds and accounts.

(C) The amount of any Bonds, Notes or other obligations outstanding and secured by a lien on the Net Revenues of the System.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds and shall submit said report to the Authority, or any other original purchaser of the Bonds. Such audit report submitted to the Authority shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the Loan Agreement and this Resolution and that the Issuer's revenues are adequate to meet its operation and maintenance expenses and debt service requirements.

The Issuer shall permit the Authority, or its agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction of the Project, the Issuer shall also provide the Authority,

or its agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority with respect to the System pursuant to the Act.

**Section 7.10. Rates.** Approvals of equitable rates or charges for the use of and service rendered by the System have been obtained all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all reasonable expenses of operation, repair and maintenance of the System, including any reserves required by the PSC Order or any supplement or amendment thereto 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 Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the Reserve Requirement are on deposit respectively in the Reserve Account and reserve accounts for obligations prior to or on a parity with the Bonds, including the Prior 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 Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds.

**Section 7.11. Operating Budget and Audit.** The Issuer shall annually, at least 30 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 within thirty days of the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting 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 the Consulting Engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and to any Holder of any Bonds who shall file his address with the Issuer

and request in writing that copies of all such budgets and resolutions be furnished him and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

In addition, the Issuer shall annually cause the records of the System to be audited by an Independent Certified Public Accountant, the report of which audit shall be submitted to the Authority and which audit report shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, this Bond Resolution and the Loan Agreement and that the revenues of the System are adequate to meet the Issuer's operation and maintenance expenses and debt service requirements.

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 as Exhibit C, and forward a copy of such report to the Authority and Council by the 15th day of each month.

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 or authorized by the Act, the rules and regulations of the PSC and other laws of the State.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the PSC, 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 PSC, 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 the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue and the issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. 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. The Issuer will carry such insurance and in such amounts as is customarily carried with respect to works and properties similar to the System, with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The Issuer will require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority. Until the Project facilities are completed and accepted by Issuer, the Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) 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 prime contractor and all subcontractors, as their interests may appear, in accordance with the Loan Agreement. The Issuer shall require that each contractor 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. In time of war, the Issuer shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be disposed of as provided in this Resolution and otherwise shall be placed in the Renewal and Replacement Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer will also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the System. The Issuer shall carry such other insurance as is required by the Authority, including but not limited to flood insurance in accordance with the Loan Agreement, to the extent available at reasonable cost to the Issuer. Prior to commencing operation of the Project, the Issuer must also obtain, and maintain so long as any of the Local Bonds is outstanding, business interruption insurance if available at a reasonable cost.

Section 7.16. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineer in the form attached to the Loan Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs, 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 resident 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 on behalf of the Consulting Engineers, which have been approved by all necessary governmental bodies. The Consulting Engineer shall certify to the Authority 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 agrees that qualified operating personnel properly certified by the State will be retained to operate the System during the entire term of the Loan Agreement.

Section 7.17. Completion of Project; Permits and Orders. The Issuer hereby covenants and agrees to 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 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.

The Issuer will obtain all permits and approvals required by State and federal laws for the acquisition and construction of the Project and all orders and approvals from the Public Service Commission of West Virginia necessary for the acquisition and construction of the Project and the operation of the System with the appeal periods having expired without successful appeal.

Section 7.18. Reserved.

Section 7.19. Statutory Mortgage Lien. For the further protection of the Holders of the Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, and shall take effect immediately upon delivery of the Bonds and shall be for the benefit of all Registered Owners of Bonds which lien is on a parity with the lien of the Prior Bonds.

Section 7.20. Compliance with Loan Agreement and Law. The Issuer agrees to comply with all terms and conditions of the Loan Agreement. The Issuer also agrees to comply with all applicable laws, rules and regulations issued by the Authority or other state, federal or local bodies in regard to the purchase and acquisition of the Project and the operation, maintenance and use of the System.

Section 7.21. PSC Order. The Issuer shall comply with the conditions of the PSC Order and any supplement or amendment thereto.

## ARTICLE VIII

### INVESTMENT OF FUNDS

**Section 8.01. Investments.** Any moneys 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 direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Resolution, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

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

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once a year, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records relating thereto so long as any of the Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of intent on the Bonds from gross income for Federal income tax purposes.

## 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 Bonds:

- (1) If default occurs in the due and punctual payment of the principal of or interest on any 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 Bonds set forth in this Resolution, any Supplemental Resolution or in the 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 Bond Registrar, any Paying Agent or a Holder of a Bond; or
- (3) If a default occurs under the Prior Resolutions; or
- (4) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

**Section 9.02. Remedies.** Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his 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, the Loan Agreement and this 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 Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action at law or bill in equity enjoin any acts in violation of the Resolution with respect to the Bonds, or the rights of such Registered Owners, provided however, that all rights and remedies of the Registered Owners shall be subject to those of the Registered Owners 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 this Resolution and the Act, including, 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 the 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, or both, 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 and the Act.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of all facilities of 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 hereinabove conferred upon him, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

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

### DEFEASANCE

Section 10.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of the Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, then the pledge of Net Revenues and other moneys and securities pledged under this Resolution and all covenants, agreements and other obligations of the Issuer to the Registered Owners of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. Amendment or Modification of Resolution. No material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the respective rights of Registered Owners of the Bonds shall be made without the consent in writing of the Registered Owners of sixty-six and two-thirds (66-2/3%) percent or more in principal amount of the 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 thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein respectively pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Resolution may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the excludability of interest on the Bonds from the gross income of the Holders thereof.

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 and the 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 Resolutions. All orders or resolutions and 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 the Resolution and the Prior Resolutions, the Prior Resolutions 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

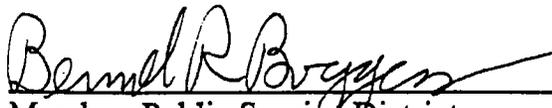
performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairperson, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 11.07. Effective Date. This Resolution shall take effect immediately upon adoption.

Adopted this 21st day of May, 1998.

SOUTHERN JACKSON COUNTY  
PUBLIC SERVICE DISTRICT

  
\_\_\_\_\_  
Chairperson, Public Service District

  
\_\_\_\_\_  
Member, Public Service District

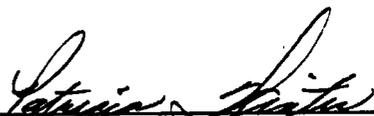
\_\_\_\_\_  
Member, Public Service District

CERTIFICATION

Certified as a true copy of a Resolution adopted by the Public Service Board of Southern Jackson County Public Service District on the 21st day of May, 1998.

Dated: May 22, 1998.

[SEAL]

  
Secretary-Treasurer, Public Service District

CHASFS3:112583

## EXHIBIT A

The District proposes to construct 229 LF of 12" PVC pipe; 5,735 LF of 8" PVC pipe; 350 LF of 8" ductile iron pipe; a 400 gpm booster station; a master meter and vault; 4 fire hydrants; and valves and appurtenances.

EXHIBIT B

SCHEDULE OF RATES

CHASFS3:112583

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

(Name of Utility)

OF

KENNA, WEST VIRGINIA

(Location of Office)

# Rates, Rules and Regulations for Furnishing WATER

AT

IN THE SOUTHERN PORTION OF JACKSON COUNTY, WEST VIRGINIA

Filed with THE PUBLIC SERVICE COMMISSION  
OF  
WEST VIRGINIA

Issued AUGUST 16 19 94

Effective OCTOBER 9 19 94

ISSUED PURSUANT TO ORDER  
ENTERED AUGUST 16, 1994, IN  
P.S.C. CASE NO. 94-0392-PWD-42T

SOUTHERN JACKSON COUNTY  
PUBLIC SERVICE DISTRICT

Issued by \_\_\_\_\_  
(Name of Utility)

By *Robert R. Rodica*

ATTORNEY AT LAW  
ATTORNEY

Applicable in entire territory served.

RATES

(A)	<u>Monthly Customer Charge</u>	
	5/8 inch meter	\$ 6.18 per month
	3/4 inch meter	9.27 per month
	1 inch meter	15.45 per month
	1-1/2 inch meter	30.90 per month
	2 inch meter	49.43 per month
	3 inch meter	92.69 per month
	4 inch meter	154.48 per month
	6 inch meter	308.96 per month
	<u>Commodity Charge</u>	
	\$5.64 per 1,000 gallons	
(A)		

MINIMUM BILL

The minimum bill shall be the monthly customer charge.

(D)  
(D)

(C) DELAYED PAYMENT PENALTY

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

(C) CONNECTION CHARGE  
\$200.00

(A) RECONNECTION CHARGE  
\$20.00

(A) Indicates Advance  
(D) Indicates Deletion  
(C) Indicates Change In Text

ISSUED: August 16, 1994

EFFECTIVE: October 9, 1994

Issued By: Stephen Farley, Manager, Southern Jackson County Public Service District, Post Office Box 57, Kenna, West Virginia, pursuant to Order entered August 16, 1994 in Case No. 94-039.  
PWD-42T.

Applicable in entire territory served by the District.

AVAILABILITY OF SERVICE

Available for private fire protection service.

RATE

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

2 inch Service Line with hydrants, sprinklers and/or hose connections	\$ 5.02 per mo
3 inch Service Line with hydrants, sprinklers and/or hose connections	\$ 6.08 per mo
4 inch Service Line with hydrants, sprinklers and/or hose connections	\$ 8.11 per mo
6 inch Service Line with hydrants, sprinklers and/or hose connections	\$ 18.14 per mo
8 inch Service Line with hydrants, sprinklers and/or hose connections	\$ 32.21 per mo
10 inch Service Line with hydrants, sprinklers and/or hose connections	\$ 50.39 per mo
12 inch Service Line with hydrants, sprinklers and/or hose connections	\$ 72.56 per mo

Where connections and hydrants on private property are maintained by the District:

Each Fire Hydrant \$100.00 per mo

These terms are payable monthly in advance

ISSUED: August 16, 1994

EFFECTIVE: October 9, 1994

Issued By: Stephen Farley, Manager, Southern Jackson County Public Service District, Post Office Box 57, Kenna, West Virginia, pursuant to Order entered August 16, 1994 in Case No. 94-0392-PWD 42T.

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO DATES, MATURITIES, INTEREST RATES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES, AND OTHER TERMS OF THE SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT WATER REVENUE BONDS (WEST VIRGINIA INFRASTRUCTURE FUND), SERIES 1998 A, DESIGNATING A REGISTRAR, PAYING AGENT, AND DEPOSITORY BANK; APPROVING THE LOAN AGREEMENT WITH RESPECT TO THE BONDS; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board of the Southern Jackson County Public Service District (the "District") has duly and officially adopted a Bond Resolution on May 21, 1998 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC WATER FACILITIES OF SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$380,000 IN AGGREGATE PRINCIPAL AMOUNT OF SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT WATER REVENUE BONDS (WEST VIRGINIA INFRASTRUCTURE FUND), SERIES 1998 A; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SAID BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY RELATING TO SAID BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SAID BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, capitalized terms not otherwise defined shall have the meanings given such terms in the Resolution.

WHEREAS, the Resolution provides for the issuance of the Southern Jackson County Public Service District Water Revenue Bonds (West Virginia Infrastructure Fund), Series 1998 A (herein the "Bonds") in aggregate principal amount not to exceed \$380,000, all in accordance with Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"), and the terms of the Loan Agreement (the "Loan Agreement") entered into between the District and the West Virginia Water Development Authority (the "Authority"), but requires that the dates, maturities, sale prices and other terms of the Bonds should be established by a supplemental resolution;

WHEREAS, the Bonds are proposed to be purchased by the Authority pursuant to the Loan Agreement;

WHEREAS, the Public Service Board (the "Board") of the District deems it essential and desirable that this resolution (the "Supplemental Resolution"), be adopted and that the prices, the maturity dates, the redemption provisions, and the interest and principal dates of the Bonds be fixed hereby in the manner stated herein; that the Loan Agreement be approved; and that other matters relating to the Bonds be herein provided for; and

NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT:

Section 1. Pursuant to the Resolution, the Act, and this Supplemental Resolution, the Bonds shall be in the aggregate principal amount of \$380,000, with the following provisions:

The Series 1998 A Bonds shall be originally issued in the form of a single bond, numbered AR-1, in the principal amount of \$380,000. The Series 1998 A Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2038, and bears no interest, shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, as long as the Authority shall be the registered owner of the Series 1998 A Bonds, and shall be payable quarterly in installments of principal and interest on September 1, December 1, March 1 and June 1 in each year, beginning March 1, 1999, and in the amounts as set forth in the Loan Agreement and incorporated therein by reference. The Series 1998 A Bonds shall be sold to the Authority in accordance with the terms of the Loan Agreement at a price equal to 100% of the principal amount thereof.

Section 2. All other provisions relating to the Bonds shall be as provided in the Resolution, and the Bonds shall be in substantially the form provided in the Resolution with such changes, insertions and omissions as may be approved by the Chairperson of the District. The execution of the Bonds by the Chairperson shall be conclusive evidence of such approval.

Section 3. The District does hereby ratify, approve and accept the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery by the Chairperson of the Loan Agreement and the performance of the obligations contained therein, on behalf of the District have been and are hereby authorized, approved and directed.

Section 4. The District hereby reaffirms and appoints the Bank of Ripley, Ripley, West Virginia, as the Depository Bank, as provided in the Resolution.

Section 5. The District hereby appoints and designates the Bank of Ripley, Ripley, West Virginia, as Registrar for the Bonds.

Section 6. The District hereby appoints and designates the West Virginia Municipal Bond Commission (the "Commission"), Charleston, West Virginia as Paying Agent for the Bonds.

Section 7. The Chairperson and Secretary or Acting Secretary are hereby authorized and directed to execute and deliver such other documents and certificates, including the Registrar's Agreement, required or desirable in connection with the Bonds hereby and by the Resolution approved and provided for, to the end that the Bonds may be delivered to the Authority pursuant to the Loan Agreement on or about May 22, 1998.

Section 8. The financing of the Project in part with proceeds of the Bonds is in the public interest, serves a public purpose of the District and will promote the health, welfare and safety of the residents of the District.

Section 9. The District hereby directs the Depository Bank to initially invest all monies in the funds and accounts established under the Bond Resolution in Qualified Investments until further directed by the District.

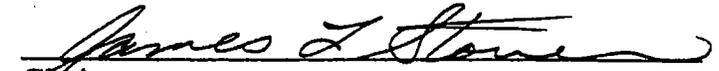
Section 10. The Chairperson, Secretary, and General Manager are hereby authorized and directed to requisition the Council for costs incurred for the Project and upon receipt of proceeds from the Council, shall deposit the proceeds in the Bond Construction Fund.

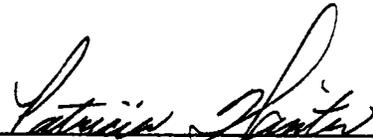
Section 11. This Supplemental Resolution shall be effective immediately upon adoption.

Dated: May 22, 1998.

SOUTHERN JACKSON COUNTY  
PUBLIC SERVICE DISTRICT

[SEAL]

  
Chairperson

  
Secretary-Treasurer

CHASFS3:112538



\$1,310,000  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND  
SERIES 2001A  
and  
\$60,000  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND  
SERIES 2001B

BOND RESOLUTION

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SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF PUBLIC SERVICE PROPERTIES AND ISSUANCE OF PARITY WATER REVENUE BOND, SERIES 2001A AND WATER REVENUE BOND, SERIES 2001B, OF THE SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, IN THE AMOUNTS OF NOT MORE THAN \$1,310,000 AND \$60,000, TO FINANCE THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO A PUBLIC WATER SYSTEM; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PLACING LIMIT ON SALE OF SYSTEM; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITY OF THE HOLDER OF THE BONDS; PROVIDING STATUTORY LIEN ON REVENUES AND SYSTEM; PROVIDING FOR THE ADOPTION, RATIFICATION, APPROVAL AND COLLECTION OF RATES AND CHARGES FOR THE PUBLIC WATER SYSTEM; AND PROVIDING GENERAL TERMS AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT.

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, JACKSON COUNTY, WEST VIRGINIA:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS  
AND DEFINITIONS

Section 1.01. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of Article 13A, Chapter 16 of the West Virginia Code, as amended (the "Act") and other applicable provisions of law.

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

A. Southern Jackson County Public Service District (the "PSD" or "Issuer") is a public service district created, expanded and contracted pursuant to the Act by orders issued by The County Commission of Jackson County, located in Jackson County, West Virginia.

B. The Issuer now has a public water system and desires to improve and expand that system and it is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer and, accordingly, it is hereby ordered, that there be acquired and constructed certain additions, betterments and improvements to the existing public water system of the Issuer known as the "System" (sometimes referred to herein as the "System") so as to improve the public health, comfort and convenience of residents of the Public Service District, including the construction and installation of all necessary appurtenant

facilities (the "Project"), and generally described as water line extensions, pumps, pumping stations, water plant improvements and necessary appurtenances particularly described in and according to the plans and specifications prepared by the Consulting Engineer for the Project and heretofore filed in the office of the Secretary of the Public Service Board (the "Governing Body") of the Issuer. The construction and acquisition of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

C. It is necessary for the Issuer to issue its revenue bonds in the aggregate principal amounts of not more than \$1,310,000 and \$60,000 to finance a portion of the cost of such construction in the manner hereinafter provided.

D. The estimated maximum cost of the construction of the Project is \$2,395,000, which will be obtained from the proceeds of sale of the Series 2001 Bond herein authorized and from a grant or grant to be made by RUS, as hereinafter defined, in a total amount of \$1,025,000. The cost of such construction shall be deemed to include, without being limited to, the construction or acquisition of the Project, the acquisition of any necessary property, real or personal, or any interest therein; interest on the Bond prior to, during and for six (6) months after completion of such construction to the extent that revenues of the System are not sufficient therefor; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and such other expenses as may be necessary or incidental to the construction of the Project and the financing authorized hereby.

E. The period of usefulness of the System after completion of the Project is not less than forty (40) years.

F. There are currently outstanding the obligations of the Issuer with which the Bond, as hereinafter defined, will rank on a parity as to lien and source of and security for payment as follows:

(i) Water Revenue Bonds, Series 1977, of the Issuer, dated March 13, 1978 (the "1977 Bond") issued in the original principal amount of \$470,000 secured under the terms of the 1977 Resolution (hereinafter defined);

(ii) Water System Revenue Bonds, Series 1991, of the Issuer, dated March 18, 1991 (the "1991 Bond") issued in the original principal amount of \$143,500 secured under the terms of the 1991 Resolution (hereinafter defined);

(iii) Water Revenue Bonds, Series 1997 of the Issuer, dated March 21, 1997 (the "1997 Bond") issued in the original principal amount of \$500,000 secured under the terms of the 1997 Resolution (hereinafter defined); and

(iv) Water Revenue Bonds (West Virginia Infrastructure Fund), Series 1998 A of the Issuer, dated May 22, 1998 (the "1998 Bond") issued in the original principal amount of \$380,000 secured under the terms of the 1998 Resolution (hereinafter defined).

With the exception of the bonds described above, there are no other outstanding bonds or obligations of the Issuer, which will rank prior to or on parity with the Bond as to lien, pledge and/or source of and security for payment.

G. The Issuer is not in default under the terms of the 1977 Resolution, the 1991 Resolution, the 1997 Resolution and the 1998 Resolution or any document in connection therewith, and has complied with all requirements of all the foregoing with respect to the issuance of parity bonds or has obtained a sufficient and valid waiver thereof.

H. The estimated revenues to be derived in each year from the operation of the System after completion of the Project will be sufficient to pay all the costs of the operation and maintenance of the System, the principal of and interest on the Bond (as hereinafter defined) and all debt service, reserve fund and other payments provided for herein.

I. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Bond, or will have so complied prior to issuance of the Bond including, among other things, the imposition of rates and charges, the consent and approval, pursuant to the Act, of the issuance of the Bond by the Public Service Commission of West Virginia by final order.

J. It is in the best interests of the Issuer that the Bond be sold to the United States Department of Agriculture, Rural Development, acting on behalf of the Rural Utilities Service (the "Purchaser" or "RUS"), pursuant to the terms and provisions of a letter of conditions dated April 14, 2000, as amended by a letter of conditions dated November 27, 2001, and all amendments thereto (collectively, the "Letter of Conditions").

K. The Issuer has been notified by RUS that interim construction financing for the Project is not required.

Section 1.03. Resolution to Constitute Contract. In consideration of the acceptance of the Bond by the Purchaser, this Resolution (the "Resolution") shall be deemed to be and shall constitute a contract between the Issuer and the Purchaser, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owner of the Bond.

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

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

"2001 Bond", "2001 Series Bond" or "Bond" means the \$1,310,000 Southern Jackson County Public Service District, Water Revenue Bond, Series 2001A and \$60,000 Southern Jackson County Public Service District, Water Revenue Bond, Series 2001B, authorized by this resolution.

"Bonds" means the 1977 Bond, the 1991 Bond, the 1997 Bond, the 1998 Bond and the Bond.

"1977 Bond" means the outstanding Bond of the Issuer dated March 13, 1978, described in Section 1.02 F. (i) herein.

"1991 Bond" means the outstanding Bond of the Issuer dated March 18, 1991, described in Section 1.02 F. (ii) herein.

"1997 Bond" means the outstanding Bond of the Issuer dated March 21, 1997, described in Section 1.02 F. (iii) herein.

"1998 Bond" means the outstanding Bond of the Issuer dated May 22, 1998, described in Section 1.02 F. (iv) herein.

"Chairman" means the Chairman of the Governing Body.

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

"Consulting Engineer" means Boyles & Hildreth, Spencer, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

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

"Depository Bank" means initially The City National Bank, Ripley, West Virginia, a bank or trust company, which is a member of FDIC and its successors and assigns or such other qualified bank or trust company designated now or hereafter by Issuer.

"Facilities" or "water facilities" means all the land and tangible properties of the System and also any tangible properties which may hereafter be added to the water system by addition, betterments, extensions and improvements thereto and properties, furniture, fixtures or equipment therefor, hereafter at any time constructed or acquired.

"FDIC" means the Federal Deposit Insurance Corporation.

"Fiscal Year" means each year beginning on July 1 and ending on the succeeding June 30.

"Governing Body" means the Public Service Board of the Issuer.

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

"Herein" means in this Resolution.

"Holder of the Bond" or any similar term means any person who shall be the registered owner of the Bond.

"Issuer" or "PSD" means Southern Jackson County Public Service District, Jackson County, West Virginia, and, where appropriate, also means the Governing Body.

"Letter of Conditions" means the Letter of Conditions of the United States Department of Agriculture, dated April 14, 2000, as amended by a Letter of Conditions dated November 27, 2001, and any other amendments thereto.

"Net Revenues" means the balance of the gross revenues, as defined below, remaining after deduction only of Operating Expenses, as defined below.

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting practices, and retention of a sum not to exceed one-sixth of the budgeted operating expenses stated above for the current year as working capital, and language herein requiring payment of operating expenses means also retention of not to exceed such sum as working capital, provided that all monthly amortization payments upon the Bonds and into the Reserve Fund and Depreciation Reserve have been made to the last monthly payment date prior to the date of such retention.

"Prior Bonds" means, collectively, the 1977 Bond, 1991 Bond, 1997 Bond and 1998 Bond.

"Prior Resolutions" means, collectively, the 1977 Resolution, 1991 Resolution, 1997 Resolution and 1998 Resolution.

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

"Purchaser", "RUS", or "Government" means United States of America, United States Department of Agriculture, Rural Utilities Service, and any successor thereof.

"Qualified Investments" means and include 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 evidence 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 State Board of Investments 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.

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

"Resolution" means this Resolution and all resolutions supplemental hereto.

"1977 Resolution" means the resolution providing for the 1977 Bond, adopted March 13, 1978.

"1991 Resolution" means the resolution providing for the 1991 Bond, adopted March 18, 1991.

"1997 Resolution" means the resolution providing for the 1997 Bond, adopted February 27, 1997.

"1998 Resolution" means the resolution providing for the 1998 Bond, adopted May 21, 1998.

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

"Secretary" means the Secretary of the Governing Body.

"System" means the Project initially, and all existing water facilities owned by the Issuer and all Facilities and other property of every nature, real or personal, now or hereafter acquired and/or owned, held or used in connection with the System, including mains, hydrants, meters, valves, standpipes, storage tanks, pump tanks, pumping stations, intakes, wells, impounding reservoirs, pumps, machinery, purification plants, softening apparatus and all other facilities necessary, appropriate, useful, convenient or incidental in connection with or to a public water system; and shall also include any and all additions, extensions, improvements, replacements, properties or other facilities at any time acquired or constructed for said water system after completion of the Project.

"Tap Fees" means the fees, if any, paid by prospective customers of the system in order to connect thereto.

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations; words importing the masculine, feminine or neuter genders shall include any other gender; and any requirement for execution, sealing and/or attestation of the Bond or any certificate or other document by the Secretary shall mean that such Bond certificate or other document may be executed, sealed and/or attested by an Acting Secretary.

## ARTICLE II

### AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized the acquisition and construction of the Project, at an estimated cost of \$2,395,000 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 Bond hereby authorized shall be applied as provided in Article V hereof.

## ARTICLE III

### AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUANCE OF BOND

Section 3.01. Authorization of Bond. Subject and pursuant to the provisions hereof, the Bond of the Issuer to be known as "Southern Jackson County Public Service District, Water Revenue Bond, Series 2001A" in the principal amount of \$1,310,000, and "Southern Jackson County Public Service District, Water Revenue Bond, Series 2001B" in the principal amount of \$60,000, is hereby authorized to be issued for the purpose of financing a portion of the cost of the construction and acquisition of the Project.

Section 3.02. Description of Bond. The Bond shall be issued as two, separate registered bonds, No. R-1 and R-2, and shall be dated on the date of delivery. The Bond shall bear interest from date, payable monthly at a maximum rate of four and 75/100 percent (4.75%) per annum or such lower rate that RUS will make available at closing, and shall be sold for the par value thereof but in no event greater than four and 75/100 percent (4.75%) per annum.

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

Section 3.03. Execution of Bond. The Bond shall be executed in the name of the Issuer by its Chairman, and its corporate seal shall be affixed thereto and attested by its Secretary, and the Chairman and the Secretary are hereby authorized to execute the Bond and such other documents as are necessary to finalize this transaction. In case any one or more of the officers who shall have signed or sealed the Bond shall cease to be such officer of the Issuer before the Bond so signed and sealed have been actually sold and delivered, such Bond may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bond had not ceased to hold such office. Any Bond may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bond shall hold the proper office of the Issuer, although at the date of such Bond such person may not have held such office or may not have been so authorized.

Section 3.04. Negotiability, Registration, Transfer and Exchange of Bond. The Bond shall be and have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, but the Bond may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.05 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Bond for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Registrar. No interest in the Bond shall be transferable except by means of transfer of registration of a Bond representing such interest and delivery of a new Bond or Bonds in exchange therefor in accordance with this Bond Resolution.

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

No registration of transfer of the Bond shall be permitted to be made after the 15th day next preceding any installment payment date on that Bond.

Section 3.05. Registrar. The Issuer shall be the Bond Registrar and will keep or cause to be kept by its agent at its office, sufficient books for the registration and transfer of the Bond, and upon presentation for such purpose, the Registrar shall, under such reasonable regulations as it may prescribe, register the Bond initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Bond as hereinbefore provided.

The Registrar shall accept the Bond for registration or transfer only if ownership thereof is to be registered in the name of an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or social security numbers of the settlor and beneficiaries of each trust and the name of the trustee of each trust and/or such other identifying number and information as may be required by law.

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

Section 3.07. Bond Secured by Pledge of Revenues. The payment of the debt service of the Bond shall be secured forthwith by a parity lien with the 1977 Bond, the 1991 Bond, the 1997 Bond and the 1998 Bond on the net revenues derived from the System in addition to the statutory

mortgage lien on the System hereinafter provided for. The net revenues derived from the System in an amount sufficient to pay the principal of and interest on the Bond, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Bond as the same become due.

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

(FORMS OF BONDS)

\$1,310,000  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND,  
SERIES 2001A

No. R-1

Date: December 14, 2001

FOR VALUE RECEIVED, the SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, a public service district created, expanded and contracted pursuant to the Act by orders issued by The County Commission of Jackson County, in Jackson County, West Virginia (herein called "Issuer"), hereby promises to pay to the order of the United States of America (the "Government"), or its registered assigns at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of One Million Three Hundred Ten Thousand and 00/100 Dollars (\$1,310,000), plus interest on the unpaid principal balance at the rate of four and 75/100 percent (4.75%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing on the 30th day following delivery of the Bond and continuing on the corresponding day of each month for the first twenty-four (24) months after the date hereof, and \$6,223.00 covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of forty (40) years from the date of this Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

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

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

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

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

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

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

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

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

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

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

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

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Article 13A of Chapter 16 of the West Virginia Code (herein called the "Act").

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

This Bond is given as evidence of a loan to Issuer made or insured by the Government pursuant to the Consolidated Farmers Home Rural Development Act, as amended. This Bond shall be subject to the present regulations of the Rural Development Authority, acting on behalf of the Rural Utilities Service, and to its future regulations not inconsistent with the express provisions hereof.

THIS BOND IS ON A PARITY AS TO LIEN AND SOURCE OF PAYMENT WITH THE WATER REVENUE BONDS, SERIES 1977, WATER SYSTEM REVENUE BONDS, SERIES 1991, WATER REVENUE BONDS, SERIES 1997, WATER REVENUE BONDS (WEST VIRGINIA INFRASTRUCTURE FUND), SERIES 1998 AND WATER REVENUE BOND, SERIES 2001B OF THE ISSUER DESCRIBED IN THE RESOLUTIONS ISSUED WITH RESPECT TO EACH SERIES.

The initial address of Government for purposes of bond registration is P.O. Box 678, Morgantown, WV 26505.

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

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

(SEAL)

By: \_\_\_\_\_  
Chairman  
P.O. Box 57  
Kenna, WV 25248-0057

ATTEST:

By: \_\_\_\_\_  
Secretary

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$	12/14/01	(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	
		TOTAL \$	_____

(Form of Assignment)

ASSIGNMENT

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

DATED: \_\_\_\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

\$60,000  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND,  
SERIES 2001B

No. R-2

Date: December 14, 2001

FOR VALUE RECEIVED, the SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, a public service district created, expanded and contracted pursuant to the Act by orders issued by The County Commission of Jackson County, in Jackson County, West Virginia (herein called "Issuer"), hereby promises to pay to the order of the United States of America (the "Government"), or its registered assigns at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of Sixty Thousand and 00/100 Dollars (\$60,000), plus interest on the unpaid principal balance at the rate of four and 75/100 percent (4.75%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing on the 30th day following delivery of the Bond and continuing on the corresponding day of each month for the first twenty-four (24) months after the date hereof, and \$285.00 covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of forty (40) years from the date of this Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

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

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

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

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

While this Bond is held by an insured lender, prepayments as above authorized made by Issuer may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every

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

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

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

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

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

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

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Article 13A of Chapter 16 of the West Virginia Code (herein called the "Act").

If at any time it shall appear to the Government that Issuer may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for

similar purposes and periods of time, Issuer will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Issuer made or insured by the Government pursuant to the Consolidated Farmers Home Rural Development Act, as amended. This Bond shall be subject to the present regulations of the Rural Development Authority, acting on behalf of the Rural Utilities Service, and to its future regulations not inconsistent with the express provisions hereof.

THIS BOND IS ON A PARITY AS TO LIEN AND SOURCE OF PAYMENT WITH THE WATER REVENUE BONDS, SERIES 1977, WATER SYSTEM REVENUE BONDS, SERIES 1991, WATER REVENUE BONDS, SERIES 1997, WATER REVENUE BONDS (WEST VIRGINIA INFRASTRUCTURE FUND), SERIES 1998 AND WATER REVENUE BOND, SERIES 2001A OF THE ISSUER DESCRIBED IN THE RESOLUTIONS ISSUED WITH RESPECT TO EACH SERIES.

The initial address of Government for purposes of bond registration is P.O. Box 678, Morgantown, WV 26505.

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

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

(SEAL)

By: \_\_\_\_\_  
Chairman  
P.O. Box 57  
Kenna, WV 25248-0057

ATTEST:

By: \_\_\_\_\_  
Secretary

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$	12/14/01	(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	

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

(Form of Assignment)

ASSIGNMENT

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

DATED: \_\_\_\_\_

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

## ARTICLE IV

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

Section 4.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created or continued and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and from each other:

- (1) Revenue Fund or System Revenue Fund;
- (2) Operation and Maintenance Fund;
- (3) Renewal and Replacement Fund; and
- (4) Construction Fund.

Section 4.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created or continued with the Commission:

- (1) Series 2001 Bond Sinking Fund;
  - (a) Within the Series 2001 Bond Sinking Fund, the Series 2001 Bond Reserve Account.

### Section 4.03. System Revenues; Flow of Funds.

A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the System Revenue Fund established herein. The Revenue Fund shall constitute a trust fund for the purposes provided in this Resolution and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided.

(1) The Issuer shall first each month transfer from the Revenue Fund to the Operation and Maintenance Fund the amount necessary and sufficient to pay current Operating Expenses.

(2) The Issuer shall next, each month, on or before the due date of payment of each installment on the Bonds, transfer from the Revenue Fund and remit to the National Finance Office designated in the Bond (or such other place as may be provided pursuant to the Bond), the amount required to pay the interest on the Bond, and to amortize the principal of the Bond and the Prior Bonds over the respective lives of each Bond issue. All payments with respect to principal of and interest on the Bond and the Prior Bonds shall be made on an equal pro rata basis in accordance with the respective aggregate principal amount thereof outstanding and on parity with each other. There is hereby created a sinking fund at the Depository Bank into which the Issuer shall deposit sufficient amounts from the Revenue Fund

to pay the interest on the Bond and to amortize the principal of the Bond and the Prior Bonds over the remaining respective lives of each Bond issue. As long as the Government owns the Bonds, such deposits can be replaced by the remittances described above.

(3) The Issuer shall next, on the first day of each month, commencing one (1) month prior to the first date of payment of principal and interest of the Bond, if not fully funded upon issuance of the Bond, apportion and set apart out of the Revenue Fund and remit to the Commission, on a pro rata basis with the Prior Bonds, for deposit into the Series 2001 Bond Reserve Account, an amount equal to .4167% of the Series 2001 Bond Reserve Requirement on a parity with the Prior Bonds; provided, that no further payments shall be made into the Series 2001 Bond Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2001 Bond Reserve Requirement.

(4) From the moneys remaining in the Revenue Fund, the Issuer shall next, transfer to the Renewal and Replacement Fund .4167% of the amount of the Series 2001 Bond Reserve Requirement, exclusive of any payments into the Series 2001 Bond Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in Qualified Investments, as defined herein. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the Series 2001 Bond Reserve Accounts [except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof,] shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 2001 Bond Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, as the same shall become due. Moneys in the Series 2001 Bond Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the Bond, as the same shall come due, when other moneys in the attendant Series 2001 Bond Sinking Fund are insufficient therefor, and for no other purpose.

Except to the extent transferred to the Rebate Fund at the request of the Issuer, all investment earnings on moneys in the Series 2001 Bond Sinking Fund and Series 2001 Bond Reserve Account 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 Construction 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 payments, if any, due on the respective series of bonds, and then to the next ensuing principal payments due thereon.

Except with respect to transfers to the Rebate Fund permitted hereunder, any withdrawals from the Series 2001 Bond Reserve Account which result in a reduction in the balance of the Series

2001 Bond Reserve Accounts to below the Series 2001 Bond Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full, to the Series 2001 Bond Sinking Fund for payment of debt service on the Bond.

B. As and when additional bonds ranking on a parity with the Bond and the Prior Bonds are issued, provision shall be made for additional payments into the 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 appropriate reserve account in an amount equal to the maximum provided and required to be paid into the Sinking Fund in any year for account of the bonds of such series, including such additional bonds which by their terms are payable from such Sinking Fund.

The Issuer shall not be required to make any further payments into the Series 2001 Bond Sinking Fund or into the Series 2001 Bond Reserve Account therein when the aggregate amount of funds in said Series 2001 Bond Sinking Fund and Series 2001 Bond Reserve Account are at least equal to the aggregate principal amount of the Bond issued pursuant to this Resolution then Outstanding and all interest to accrue until the maturity thereof.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2001 Bond Sinking Fund created hereunder, and all amounts required for said Series 2001 Bond Sinking Fund shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

The payments into the Series 2001 Bond Sinking Fund shall be made on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Ordinance.

Moneys in the Series 2001 Bond Reserve Account shall be invested and reinvested by the Commission in Qualified Investments, as defined herein.

The Series 2001 Bond Sinking Fund, including the Series 2001 Bond Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Bond and any additional bonds ranking on a parity therewith that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

C. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Series 2001 Bond Sinking Fund, including the Series 2001 Bond Reserve Account therein and the Renewal and Replacement Fund during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Such Surplus Revenues shall be used to redeem the Bonds or for any lawful purposes of the System.

D. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying

Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay the Commission's fees, the Registrar's fees, the Paying Agent's fees and the Depository Bank's charges then due.

E. The City National Bank is hereby designated the Depository Bank. The Commission is hereby designated as Paying Agent for the Bond.

F. The moneys in excess of the sum insured by the maximum amounts insured by FDIC in the Revenue Fund and the Renewal and Replacement Fund shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

G. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 4.03, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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 Construction 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.

Section 4.04. Excess Bond Proceeds. The Issuer shall place any excess proceeds from the Bond not required by the Project in the Series 2001 Bond Reserve Account or as otherwise directed by RUS.

## ARTICLE V

### BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 5.01. Application of Bond Proceeds. From the moneys received from time to time from the sale of any or all of the Bond, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Bond, there shall be deposited with the Commission in the Series 2001 Bond Reserve Account the sum, if any, required hereunder for funding the Series 2001 Bond Reserve Account.

B. The remaining moneys derived from the sale of the Bond shall be deposited by the Issuer as received from time to time in the Construction Fund established hereunder.

C. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Construction Fund and shall comply with all requirements with respect to the disposition of the Construction Fund set forth in this Resolution. Except with respect to any transfers to the Rebate Fund, moneys in the Construction Fund shall be used solely to pay Costs of the Project and, until so transferred or expended, are hereby pledged as additional security for the Bond.

Section 5.02. Disbursements From the Construction Fund. Payments for Costs of the Project shall be made monthly.

On or before the Closing Date, the Issuer shall have delivered to RUS a report listing the specific purposes for which the proceeds of the Bond will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 5.01 hereof, disbursements from the Construction Fund shall be made only after submission to, and approval from, RUS of the following:

- (1) a completed and signed "Payment Requisition Form," and
- (2) a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:
  - (A) That none of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;
  - (B) That each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;
  - (C) That each of such costs has been otherwise properly incurred; and
  - (D) That payment for each of the items proposed is then due and owing.

In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Construction Fund only the net amount remaining after deduction of any such portion. All payments made from the Construction Fund shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and the Depository Bank shall not be required to monitor the application of disbursements from the Construction Fund. The Consulting Engineers shall from time to time file with the Depository Bank written statements advising the Depository Bank of its then authorized representative.

Pending such application, moneys in the Construction Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

Until disbursed by the Issuer, moneys in the Construction Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

## ARTICLE VI

### GENERAL COVENANTS

Section 6.01. General Statement. So long as the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Reserve Fund a sum sufficient to prepay the entire principal of the Bonds remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Purchaser.

Section 6.02. Rates. The Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide revenues in each fiscal year sufficient to produce net revenues equal to not less than one hundred ten percent (110%) percent of the annual debt service on the Bonds and to make the payments required herein into the Reserve Fund and all the necessary expenses of operating and maintaining the System during such fiscal year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate revenues for such purposes.

Section 6.03. Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as the Bond is outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 6.04. Issuance of Additional Parity Bonds or Obligations. No additional parity bonds or obligations payable out of the revenues of the System or any part thereof shall be issued after the issuance of the Bond pursuant hereto except with the prior written consent of the Purchaser or the then holder of or Trustee or agent for the holder of the Bond.

Section 6.05. Insurance and Bond. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Bond remains outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Real Property Insurance, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than \$1,000,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Bonds.

(c) Vehicular Public Liability Insurance, in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated at any time or times for the benefit of the Issuer, with limits of not less than \$1,000,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle for the Issuer.

(d) Workers' Compensation Coverage for all Employees of the District Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of one hundred percent (100%) of the construction contract, will be required of each prime contractor, and such payment bonds will be filed with the Clerk of the County Commission of Jackson County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39. Workers' compensation insurance will be maintained as required by the laws of the State of West Virginia.

(e) Fidelity Bonds will be provided as to every member of the Governing Body and every officer and employee of the PSD having custody of the Revenue Fund or of any revenues or other funds of the System in an amount at least equal to the total annual debt service requirements for all outstanding RUS loans.

(f) Flood Insurance to be procured, to the extent available at reasonable cost to the Issuer.

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

Section 6.06. Statutory Mortgage. For the further protection of the holder of the Bond, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon delivery of the Bond.

Section 6.07. Events of Default. Each of the following events is hereby declared an "Event of Default":

(A) Failure to make payment of any monthly amortization installment at the date specified for payment thereof; and/or

(B) Failure duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Bond or herein, or violation of or failure to observe any provision of any pertinent law or of this or the other Bond Resolutions.

Section 6.08. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, the Purchaser may proceed to protect and enforce its rights by an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement, or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights and shall have all rights prescribed by the Act, W.Va. Code and other applicable law.

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

Section 6.09. Fiscal Year; Budget. While the Bond is outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a fiscal year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than thirty (30) days prior to the beginning of each fiscal year, the Issuer agrees to adopt an Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such fiscal year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each fiscal year.

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

Section 6.10. Compensation of Members of Governing Body. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Governing Body in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Net Revenues to fall below the amount required to meet all payments provided for herein, nor when there is default in the performance of or compliance with any covenant or provision hereof.

Section 6.11. Covenant to Proceed and Complete. The Issuer hereby covenants to proceed as promptly as possible with the construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer and on file with the Secretary on the date of adoption hereof, subject to permitted changes.

Section 6.12. Books and Records; Audits. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and the Purchaser shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

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

Section 6.13. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Bond is outstanding.

Section 6.14. No Competition. To the extent legally allowable, the Issuer will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

## ARTICLE VII

### RATES, RULES, COVENANTS, ETC.

#### Section 7.01. Initial Schedule of Rates and Charges.

A. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in an Order of the Public Service Commission dated August 16, 1994, which order became effective on October 9, 1994, in Case Number 94-0392-PWD-42T, which order is incorporated herein by reference and is made a part hereof.

B. The Issuer hereby confirms the rates and charges as set out in the above-referenced order and included on a tariff sheet filed with the Public Service Commission, which rates and conditions are as follows:

RATES

Monthly Customer Charge

5/8 inch meter	\$ 6.18 per month
3/4 inch meter	\$ 9.27 per month
1 inch meter	\$ 15.45 per month
1 1/2 inch meter	\$ 30.90 per month
2 inch meter	\$ 49.43 per month
3 inch meter	\$ 92.69 per month
4 inch meter	\$154.48 per month
6 inch meter	\$308.96 per month

Commodity Charge

\$5.64 per 1,000 gallons

MINIMUM BILL

The minimum bill shall be the monthly customer charge.

DELAYED PAYMENT PENALTY

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

CONNECTION CHARGE

\$200.00

RECONNECTION CHARGE

\$20.00

Applicable in entire area served by the District.

AVAILABILITY OF SERVICE

Available for private fire protection service.

RATE

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

2 inch Service Line with hydrants, sprinklers and/or hose connections	\$5.02 per month
3 inch Service Line with hydrants, sprinklers and/or hose connections	\$6.08 per month
4 inch Service Line with hydrants, sprinklers and/or hose connections	\$8.11 per month

6 inch service Line with hydrants, sprinklers and/or hose connections	\$18.14 per month
8 inch Service Line with hydrants, sprinklers and/or hose connections	\$32.21 per month
10 inch Service Line with hydrants, sprinklers and/or hose connections	\$50.39 per month
12 inch Service Line with hydrants, sprinklers and/or hose connections	\$72.56 per month

Where connections and hydrants on private property are maintained by the District:

Each Fire Hydrant	\$100.00 per month
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These terms are payable monthly in advance.

Section 7.02. Further Covenants

The Issuer hereby further covenants and agrees as follows:

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

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

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

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

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

revenues so received shall be deposited and accounted for in the same manner as other Revenues of the System.

## ARTICLE VIII

### MISCELLANEOUS

Section 8.01. Defeasance of Bond. If the Issuer shall pay or there shall otherwise be paid, to the Holder of the Bond, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Resolution, then with respect to the Bond, the pledge of Net Revenues and other moneys and securities pledged under this Bond Resolution and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Bond, shall thereupon cease, terminate and become void and be discharged and satisfied.

Section 8.02. Filing Under Uniform Commercial Code. Contemporaneously with the delivery of the Bond, the Issuer shall execute Financing Statements meeting the requirements of the Uniform Commercial Code of West Virginia and promptly thereafter shall file such Financing Statements in the office of the Secretary of State of West Virginia.

Section 8.03. Delivery of Bond. The Chairman and Secretary of the Governing Body are hereby authorized and directed to cause the Series 2001 Bond, numbered R-1, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 8.04. Severability of Invalid Provision. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Bonds.

Section 8.05. Conflicting Provisions Repealed. All resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed; provided that this Section shall not be applicable to the Loan Resolution (Form FmHA 442-47).

Section 8.06. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 8.07. Modification or Amendment. The Bond Resolution may not be modified or amended in any material manner after final passage without the prior written consent of the Purchaser and/or holder of the Bond.

Section 8.08. 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 applicable thereto; and that the Chairman, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

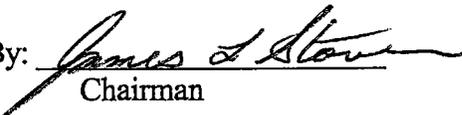
Section 8.09. Supplemental Resolutions. The Issuer may pass such supplemental resolutions, if necessary, to effectuate the purposes and intent of this Resolution.

Section 8.10. Effective Time. This Resolution shall take effect immediately upon its adoption.

Section 8.11 Statutory Notice of Meeting and Bond Issue. An abstract of this Bond Resolution, determined by the Governing Body to contain sufficient information as to give notice of the contents hereof, has been published once in a qualified newspaper published and of general circulation in the Southern Jackson County Public Service District, together with a notice stating that this Bond Resolution will be considered, that the Issuer contemplates the issuance of the Bond, that any person interested may appear before the Public Service Board upon a date certain, not less than ten (10) days subsequent to the date of publication of such abstract of this Bond Resolution and notice, and present protests, and that a certified copy of the Resolution is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such meeting, all objections and suggestions were heard, and the Governing Body took such action, as it shall deem proper in the premises.

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

[SEAL]

By:   
Chairman

Attest:

By:   
Secretary

CERTIFICATION

I, Brenda Hurt-Winter, Secretary of the Southern Jackson County Public Service District, hereby certify that the foregoing is a true and correct copy of a Resolution approved at a meeting of the Public Service Board of the Southern Jackson County Public Service District held on December 5, 2001. I further hereby certify that the action of said Public Service Board set forth therein remains in full force and effect and has not been amended or repealed.

WITNESS my signature on this 19<sup>th</sup> day of December, 2001.

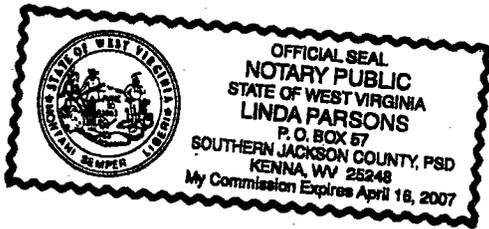
Brenda Hurt-Winter  
Secretary

STATE OF WEST VIRGINIA,

COUNTY OF JACKSON, to-wit:

The foregoing instrument was acknowledged before me this 19 day of December, 2001, by James L. Stover, the Chairman of the Southern Jackson County Public Service District, a public service district created and expanded pursuant to the Act by orders issued by The County Commission of Jackson County, on behalf of said public service district.

My commission expires April 16 2007.



*Linda Parsons*  
NOTARY PUBLIC



\$1,137,000  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND  
SERIES 2005

BOND RESOLUTION

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SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF PUBLIC SERVICE PROPERTIES AND ISSUANCE OF PARITY WATER REVENUE BOND, SERIES 2005, OF THE SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, IN THE AMOUNT OF NOT MORE THAN \$1,137,000, TO FINANCE THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO A PUBLIC WATER SYSTEM; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND; PLACING LIMIT ON SALE OF SYSTEM; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITY OF THE HOLDER OF THE BOND; PROVIDING STATUTORY LIEN ON REVENUES AND SYSTEM; PROVIDING FOR THE ADOPTION, RATIFICATION, APPROVAL AND COLLECTION OF RATES AND CHARGES FOR THE PUBLIC WATER SYSTEM; AND PROVIDING GENERAL TERMS AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT.

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, JACKSON COUNTY, WEST VIRGINIA:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS  
AND DEFINITIONS

Section 1.01. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of Article 13A, Chapter 16 of the West Virginia Code, as amended (the "Act") and other applicable provisions of law.

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

A. Southern Jackson County Public Service District (the "PSD" or "Issuer") is a public service district created, expanded and contracted pursuant to the Act by orders issued by The County Commission of Jackson County, located in Jackson County, West Virginia.

B. The Issuer now has a public water system and desires to improve and expand that system and it is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer and, accordingly, it is hereby ordered, that there be acquired and constructed certain additions, betterments and improvements to the existing public water system of the Issuer known as the "System" (sometimes referred to herein as the "System") so as to improve the public health, comfort and convenience of residents of the Public Service District, including the construction and installation of all necessary appurtenant facilities (the "Project"), and generally described as water line extensions, pumps, pumping

stations, water plant improvements and necessary appurtenances particularly described in and according to the plans and specifications prepared by the Consulting Engineer for the Project and heretofore filed in the office of the Secretary of the Public Service Board (the "Governing Body") of the Issuer. The construction and acquisition of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

C. It is necessary for the Issuer to issue its revenue bond in the aggregate principal amount of not more than \$1,137,000 to finance a portion of the cost of such construction in the manner hereinafter provided.

D. The estimated maximum cost of the construction of the Project is \$4,200,200, which will be obtained from the proceeds of sale of the Series 2005 Bond herein authorized and from an initial grant to be made by RUS, as hereinafter defined, in a total amount of \$1,000,000, a subsequent grant to be made by RUS in a total amount of \$663,200, and a grant to be made by ARC, as hereinafter defined, in a total amount of \$1,400,000. The cost of such construction shall be deemed to include, without being limited to, the construction or acquisition of the Project, the acquisition of any necessary property, real or personal, or any interest therein; interest on the Bond prior to, during and for six (6) months after completion of such construction to the extent that revenues of the System are not sufficient therefor; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and such other expenses as may be necessary or incidental to the construction of the Project and the financing authorized hereby.

E. The period of usefulness of the System after completion of the Project is not less than forty (40) years.

F. There are currently outstanding the obligations of the Issuer with which the Bond, as hereinafter defined, will rank on parity as to lien and source of and security for payment as follows:

(i) Water Revenue Bonds, Series 1977, of the Issuer, dated March 13, 1978 (the "1977 Bond") issued in the original principal amount of \$470,000 secured under the terms of the 1977 Resolution (hereinafter defined);

(ii) Water System Revenue Bonds, Series 1991, of the Issuer, dated March 18, 1991 (the "1991 Bond") issued in the original principal amount of \$143,500 secured under the terms of the 1991 Resolution (hereinafter defined);

(iii) Water Revenue Bonds, Series 1997 of the Issuer, dated March 21, 1997 (the "1997 Bond") issued in the original principal amount of \$500,000 secured under the terms of the 1997 Resolution (hereinafter defined);

(iv) Water Revenue Bonds (West Virginia Infrastructure Fund), Series 1998 A of the Issuer, dated May 22, 1998 (the "1998 Bond") issued in the original principal amount of \$380,000 secured under the terms of the 1998 Resolution (hereinafter defined);

(v) Water Revenue Bond, Series 2001A of the Issuer, dated December 21, 2001 (the "2001A Bond") issued in the original principal amount of \$1,310,000 secured under the terms of the 2001 Resolution (hereinafter defined); and

(vi) Water Revenue Bond, Series 2001B of the Issuer, dated December 21, 2001 (the "2001B Bond") issued in the original principal amount of \$60,000 secured under the terms of the 2001 Resolution.

With the exception of the bonds described above, there are no other outstanding bonds or obligations of the Issuer, which will rank prior to or on parity with the Bond as to lien, pledge and/or source of and security for payment.

G. The Issuer is not in default under the terms of the 1977 Resolution, the 1991 Resolution, the 1997 Resolution, the 1998 Resolution and the 2001 Resolution or any document in connection therewith, and has complied with all requirements of all the foregoing with respect to the issuance of parity bonds or has obtained a sufficient and valid waiver thereof.

H. The estimated revenues to be derived in each year from the operation of the System after completion of the Project will be sufficient to pay all the costs of the operation and maintenance of the System, the principal of and interest on the Bond (as hereinafter defined) and all debt service, reserve fund and other payments provided for herein.

I. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Bond, or will have so complied prior to issuance of the Bond including, among other things, the imposition of rates and charges, the consent and approval, pursuant to the Act, of the issuance of the Bond by the Public Service Commission of West Virginia by final order.

J. It is in the best interests of the Issuer that the Bond be sold to the United States Department of Agriculture, Rural Development, acting on behalf of the Rural Utilities Service (the "Purchaser" or "RUS"), pursuant to the terms and provisions of a letter of conditions dated August 2, 2002, as amended by Amendment No. 1 to Letter of Conditions dated March 7, 2003, Amendment No. 2 to Letter of Conditions dated April 8, 2003, Amendment No. 3 to Letter of Conditions dated August 18, 2004, Amendment No. 4 to Letter of Conditions dated July 29, 2005, and all amendments thereto (collectively, the "Letter of Conditions").

K. The Issuer has been notified by RUS that interim construction financing for the Project is not required.

Section 1.03. Resolution to Constitute Contract. In consideration of the acceptance of the Bond by the Purchaser, this Resolution (the "Resolution") shall be deemed to be and shall constitute a contract between the Issuer and the Purchaser, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owner of the Bond.

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

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

“ARC” means the Appalachian Regional Commission and any successor thereof.

“2005 Bond”, “2005 Series Bond” or “Bond” means the \$1,137,000 Southern Jackson County Public Service District, Water Revenue Bond, Series 2005, authorized by this resolution.

“Bonds” means the 1977 Bond, the 1991 Bond, the 1997 Bond, the 1998 Bond, the 2001A Bond, the 2001B Bond and the Bond.

“1977 Bond” means the outstanding Bond of the Issuer dated March 13, 1978, described in Section 1.02 F. (i) herein.

“1991 Bond” means the outstanding Bond of the Issuer dated March 18, 1991, described in Section 1.02 F. (ii) herein.

“1997 Bond” means the outstanding Bond of the Issuer dated March 21, 1997, described in Section 1.02 F. (iii) herein.

“1998 Bond” means the outstanding Bond of the Issuer dated May 22, 1998, described in Section 1.02 F. (iv) herein.

“2001A Bond” means the outstanding Bond of the Issuer dated December 21, 2001, described in Section 1.02 F. (v) herein.

“2001B Bond” means the outstanding Bond of the Issuer dated December 21, 2001, described in Section 1.02 F. (vi) herein.

“Chairman” means the Chairman of the Governing Body.

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

“Consulting Engineer” means Boyles & Hildreth, Spencer, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

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

“Depository Bank” means initially The City National Bank, Ripley, West Virginia, a bank or trust company, which is a member of FDIC and its successors and assigns or such other qualified bank or trust company designated now or hereafter by Issuer.

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

“FDIC” means the Federal Deposit Insurance Corporation.

“Fiscal Year” means each year beginning on July 1 and ending on the succeeding June 30.

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

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

“Herein” means in this Resolution.

“Holder of the Bond” or any similar term means any person who shall be the registered owner of the Bond.

“Issuer” or “PSD” means Southern Jackson County Public Service District, Jackson County, West Virginia, and, where appropriate, also means the Governing Body.

“Letter of Conditions” means the Letter of Conditions of the United States Department of Agriculture, dated August 2, 2002, as amended by Amendment No. 1 to Letter of Conditions dated March 7, 2003, Amendment No. 2 to Letter of Conditions dated April 8, 2003, Amendment No. 3 to Letter of Conditions dated August 18, 2004, Amendment No. 4 to Letter of Conditions dated July 29, 2005, and any other amendments thereto.

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

“Operating Expenses” means the current expenses, paid or accrued, of operation and maintenance of the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting practices, and retention of a sum not to exceed one-sixth of the budgeted operating expenses stated above for the current year as working capital, and language herein requiring payment of operating expenses means also retention of not to exceed such sum as working capital, provided that all monthly amortization payments upon the Bonds and into the Reserve Fund have been made to the last monthly payment date prior to the date of such retention.

“Prior Bonds” means, collectively, the 1977 Bond, 1991 Bond, 1997 Bond, 1998 Bond, 2001A Bond and 2001B Bond.

“Prior Resolutions” means, collectively, the 1977 Resolution, 1991 Resolution, 1997 Resolution, 1998 Resolution and 2001 Resolution.

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

“Purchaser”, “RUS”, or “Government” means United States of America, United States Department of Agriculture, Rural Utilities Service, and any successor thereof.

“Qualified Investments” means and include 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 evidence 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 State Board of Investments 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.

“Registrar” or “Bond Registrar” means the Issuer, which usually shall act by its Secretary.

“Resolution” means this Resolution and all resolutions supplemental hereto.

“1977 Resolution” means the resolution providing for the 1977 Bond, adopted March 13, 1978.

“1991 Resolution” means the resolution providing for the 1991 Bond, adopted March 18, 1991.

“1997 Resolution” means the resolution providing for the 1997 Bond, adopted February 27, 1997.

“1998 Resolution” means the resolution providing for the 1998 Bond, adopted May 21, 1998.

“2001 Resolution” means the resolution providing for the 2001A Bond and the 2001B Bond, adopted December 5, 2001.

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

“Secretary” means the Secretary of the Governing Body.

“System” means the Project initially, and all existing water facilities owned by the Issuer and all Facilities and other property of every nature, real or personal, now or hereafter acquired and/or owned, held or used in connection with the System, including mains, hydrants, meters, valves, standpipes, storage tanks, pump tanks, pumping stations, intakes, wells, impounding reservoirs, pumps, machinery, purification plants, softening apparatus and all other facilities

necessary, appropriate, useful, convenient or incidental in connection with or to a public water system; and shall also include any and all additions, extensions, improvements, replacements, properties or other facilities at any time acquired or constructed for said water system after completion of the Project.

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

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations; words importing the masculine, feminine or neuter genders shall include any other gender; and any requirement for execution, sealing and/or attestation of the Bond or any certificate or other document by the Chairman or Secretary shall mean that such Bond certificate or other document may be executed, sealed and/or attested by an Acting Chairman or Acting Secretary.

## ARTICLE II

### AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized the acquisition and construction of the Project, at an estimated cost of \$4,200,200 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 Bond hereby authorized shall be applied as provided in Article V hereof.

## ARTICLE III

### AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUANCE OF BOND

Section 3.01. Authorization of Bond. Subject and pursuant to the provisions hereof, the Bond of the Issuer to be known as “Southern Jackson County Public Service District, Water Revenue Bond, Series 2005” in the principal amount of \$1,137,000, is hereby authorized to be issued for the purpose of financing a portion of the cost of the construction and acquisition of the Project.

Section 3.02. Description of Bond. The Bond shall be issued as a single registered bond, No. R-1, and shall be dated on the date of delivery. The Bond shall bear interest from date, payable monthly at a maximum rate of four and 125/1000 percent (4.125%) per annum or such lower rate that RUS will make available at closing, and shall be sold for the par value thereof but in no event greater than four and 125/1000 percent (4.125%) per annum.

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

Section 3.03. Execution of Bond. The Bond shall be executed in the name of the Issuer by its Chairman, and its corporate seal shall be affixed thereto and attested by its Secretary, and the Chairman and the Secretary are hereby authorized to execute the Bond and such other documents as are necessary to finalize this transaction. In case any one or more of the officers who shall have signed or sealed the Bond shall cease to be such officer of the Issuer before the Bond so signed and sealed have been actually sold and delivered, such Bond may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bond had not ceased to hold such office. Any Bond may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bond shall hold the proper office of the Issuer, although at the date of such Bond such person may not have held such office or may not have been so authorized.

Section 3.04. Negotiability, Registration, Transfer and Exchange of Bond. The Bond shall be and have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, but the Bond may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.05 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Bond for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Registrar. No interest in the Bond shall be transferable except by means of transfer of registration of a Bond representing such interest and delivery of a new Bond or Bonds in exchange therefor in accordance with this Bond Resolution.

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

No registration of transfer of the Bond shall be permitted to be made after the 15th day next preceding any installment payment date on that Bond.

Section 3.05. Registrar. The Issuer shall be the Bond Registrar and will keep or cause to be kept by its agent at its office, sufficient books for the registration and transfer of the Bond, and upon presentation for such purpose, the Registrar shall, under such reasonable regulations as it may prescribe, register the Bond initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Bond as hereinbefore provided.

The Registrar shall accept the Bond for registration or transfer only if ownership thereof is to be registered in the name of an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or social security numbers of the settlor and beneficiaries of each trust and the name of the trustee of each trust and/or such other identifying number and information as may be required by law.

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

Section 3.07. Bond Secured by Pledge of Revenues. The payment of the debt service of the Bond shall be secured forthwith by a parity lien with the 1977 Bond, the 1991 Bond, the 1997 Bond, the 1998 Bond and the 2001 Bonds on the net revenues derived from the System in addition to the statutory mortgage lien on the System hereinafter provided for. The net revenues derived from the System in an amount sufficient to pay the principal of and interest on the Bond, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Bond as the same become due.

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

(FORM OF BOND)

\$1,137,000  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND,  
SERIES 2005

No. R-1

Date: September 23, 2005

FOR VALUE RECEIVED, the SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, a public service district created, expanded and contracted pursuant to the Act by orders issued by The County Commission of Jackson County, in Jackson County, West Virginia (herein called "Issuer"), hereby promises to pay to the order of the United States of America (the "Government"), or its registered assigns at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of One Million One Hundred Thirty-seven Thousand and 00/100 Dollars (\$1,137,000), plus interest on the unpaid principal balance at the rate of four and 125/1000 percent (4.125%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing on the 30th day following delivery of the Bond and continuing on the corresponding day of each month for the first twenty-four (24) months after the date hereof, and \$4,946.00 covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of forty (40) years from the date of this Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

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

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

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

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

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

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

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

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

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

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

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

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Article 13A of Chapter 16 of the West Virginia Code (herein called the "Act").

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

This Bond is given as evidence of a loan to Issuer made or insured by the Government pursuant to the Consolidated Farmers Home Rural Development Act, as amended. This Bond shall be subject to the present regulations of the Rural Development, acting on behalf of the Rural Utilities Service, and to its future regulations not inconsistent with the express provisions hereof.

THIS BOND IS ON PARITY AS TO LIEN AND SOURCE OF PAYMENT WITH THE WATER REVENUE BONDS, SERIES 1977, WATER SYSTEM REVENUE BONDS, SERIES 1991, WATER REVENUE BONDS, SERIES 1997, WATER REVENUE BONDS (WEST VIRGINIA INFRASTRUCTURE FUND), SERIES 1998, WATER REVENUE BOND, SERIES 2001A AND WATER REVENUE BOND, SERIES 2001B OF THE ISSUER DESCRIBED IN THE RESOLUTIONS ISSUED WITH RESPECT TO EACH SERIES.

The initial address of Government for purposes of bond registration is 75 High Street, Room 320, Morgantown, WV 26505.

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

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

(SEAL)

By: \_\_\_\_\_  
Chairman  
P.O. Box 57  
Kenna, WV 25248-0057

ATTEST:

By: \_\_\_\_\_  
Secretary

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$	9/23/05	(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	
		TOTAL \$	_____

(Form of Assignment)

ASSIGNMENT

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

DATED: \_\_\_\_\_

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

## ARTICLE IV

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

Section 4.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created or continued and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and from each other:

- (1) Revenue Fund or System Revenue Fund;
- (2) Operation and Maintenance Fund;
- (3) Renewal and Replacement Fund; and
- (4) Construction Fund.

Section 4.02. Establishment of Funds and Accounts with Commission. The following special account is hereby created or continued with the Commission:

- (1) Series 2005 Bond Reserve Account.

### Section 4.03. System Revenues; Flow of Funds.

A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the System Revenue Fund established herein. The Revenue Fund shall constitute a trust fund for the purposes provided in this Resolution and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided.

(1) The Issuer shall first each month transfer from the Revenue Fund to the Operation and Maintenance Fund the amount necessary and sufficient to pay current Operating Expenses.

(2) The Issuer shall next, each month, from the moneys in the Revenue Fund, (i) make the interest and principal payments on the Prior Bonds in the amounts and on the dates required by the Prior Resolutions; and (ii) on or before the due date of payment of each installment on the Bond remit to the National Finance Office designated in the Bond (or such other place as may be provided pursuant to the Bond), the amount required to pay the interest on the Bond, and to amortize the principal of the Bond over the life of the Bond. All payments with respect to principal of and interest on the Bond and the Prior Bonds shall be made on an equal pro rata basis in accordance with the respective aggregate principal amount thereof outstanding and on parity with each other.

(3) The Issuer shall next, on the first day of each month, from the moneys in the Revenue Fund, (1) make the reserve account payments into the Reserve

Accounts of the Prior Bonds in the amounts required by the Prior Resolutions; and (ii) commencing one (1) month prior to the first date of payment of principal of the Bond, if not fully funded upon issuance of the Bond, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit into the Series 2005 Bond Reserve Account, an amount equal to 1/120<sup>th</sup> of the Series 2005 Bond Reserve Requirement, on a parity with the Prior Bonds; provided, that no further payments shall be made into the Series 2005 Bond 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 2005 Bond Reserve Requirement.

(4) From the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, transfer to the Renewal and Replacement Fund a sum equal to 2.5% of the Gross Revenues each month, exclusive of any payments for account of the Reserve Accounts, but inclusive of the transfers required by the Prior Resolutions. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in Qualified Investments, as defined herein. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the Reserve Accounts, except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof, shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 2005 Bond Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, as the same shall become due. Moneys in the Series 2005 Bond Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the Bond, as the same shall come due, when other moneys in the attendant Series 2005 Bond Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2005 Bond Reserve Account 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 Construction 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 payments, if any, due on the respective series of bonds, and then to the next ensuing principal payments due thereon.

Any withdrawals from the Series 2005 Bond Reserve Account which result in a reduction in the balance of the Series 2005 Bond Reserve Account to below the Series 2005 Bond Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the order set forth above.

B. As and when additional bonds ranking on a parity with the Bond and the Prior Bonds are issued, provision shall be made for additional payments into the 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 appropriate reserve account in an amount equal to the maximum provided and required to be paid into the Sinking Fund in any year for account of the bonds of such series, including such additional bonds which by their terms are payable from such Sinking Fund.

The Issuer shall not be required to make any further payments into the Series 2005 Bond Reserve Account when the aggregate amount of funds in the Series 2005 Bond Reserve Account are at least equal to the aggregate principal amount of the Bond issued pursuant to this Resolution then Outstanding and all interest to accrue until the maturity thereof.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2005 Bond Reserve Account created hereunder, and all amounts required for said Series 2005 Bond Reserve Account shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

The payments into the Series 2005 Bond Reserve Account shall be made on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Resolution.

Moneys in the Series 2005 Bond Reserve Account shall be invested and reinvested by the Commission in Qualified Investments, as defined herein.

The Series 2005 Bond Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Bond and any additional bonds ranking on a parity therewith that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

C. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Such Surplus Revenues shall be used to redeem the Bonds or for any lawful purposes of the System.

D. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay the Commission's fees, the Registrar's fees, the Paying Agent's fees and the Depository Bank's charges then due.

E. The City National Bank is hereby designated the Depository Bank. The Commission is hereby designated as Paying Agent for the Bond.

F. The moneys in excess of the sum insured by the maximum amounts insured by FDIC in the Revenue Fund shall at all times be secured, to the full extent thereof in excess of such insured

sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

G. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 4.03, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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 Tap Fee Account, and following completion of the Project, shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System.

Section 4.04. Excess Bond Proceeds. The Issuer shall place any excess proceeds from the Bond not required by the Project in the Series 2005 Bond Reserve Account or as otherwise directed by RUS.

## ARTICLE V

### BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 5.01. Application of Bond Proceeds. From the moneys received from time to time from the sale of any or all of the Bond, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Bond, there shall be deposited with the Commission in the Series 2005 Bond Reserve Account the sum, if any, required hereunder for funding the Series 2005 Bond Reserve Account.

B. The remaining moneys derived from the sale of the Bond shall be deposited by the Issuer as received from time to time in the Construction Fund established hereunder.

C. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Construction Fund and shall comply with all requirements with respect to the disposition of the Construction Fund set forth in this Resolution. Except with respect to any transfers to the Rebate Fund, moneys in the Construction Fund shall be used solely to pay Costs of the Project and, until so transferred or expended, are hereby pledged as additional security for the Bond.

Section 5.02. Disbursements From the Construction Fund. Payments for Costs of the Project shall be made monthly.

On or before the Closing Date, the Issuer shall have delivered to RUS a report listing the specific purposes for which the proceeds of the Bond will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 5.01 hereof, disbursements from the Construction Fund shall be made only after submission to, and approval from, RUS of the following:

- (1) a completed and signed "Payment Requisition Form," and
- (2) a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:
  - (A) That none of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;
  - (B) That each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;
  - (C) That each of such costs has been otherwise properly incurred; and
  - (D) That payment for each of the items proposed is then due and owing.

In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Construction Fund only the net amount remaining after deduction of any such portion. All payments made from the Construction Fund shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and the Depository Bank shall not be required to monitor the application of disbursements from the Construction Fund. The Consulting Engineers shall from time to time file with the Depository Bank written statements advising the Depository Bank of its then authorized representative.

Pending such application, moneys in the Construction Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

Until disbursed by the Issuer, moneys in the Construction Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

## ARTICLE VI

### GENERAL COVENANTS

Section 6.01. General Statement. So long as the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2005 Bond Reserve Account a sum sufficient to prepay the entire principal of the Bonds remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Purchaser.

Section 6.02. Rates. The Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide revenues in each fiscal year sufficient (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Bond and the Prior Bonds; provided that, in the event that an amount equal to or in excess of the Series 2005 Bond Reserve Requirement is on deposit in the Series 2005 Bond Reserve Account, and the Reserve Accounts of the Prior Bonds are funded at least at the requirements therefor, such balance each year need only equal at least 110% of the Series 2005 Bond Reserve Requirement and the Reserve Accounts of the Prior Bonds. In any event, the Issuer shall not reduce the rates or charges for services of the System.

Section 6.03. Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as the Bond is outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 6.04. Issuance of Additional Parity Bonds or Obligations. So long as the Prior Bonds are Outstanding, the limitations on the issuance of parity obligations set forth in the Prior Resolutions shall be applicable. In addition, no additional parity bonds or obligations payable out of the revenues of the System or any part thereof shall be issued after the issuance of the Bond pursuant hereto except with the prior written consent of the Purchaser or the then holder of or Trustee or agent for the holder of the Bond.

Section 6.05. Insurance and Bond. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Bond remains outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Real Property Insurance, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than \$1,000,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Bonds.

(c) Vehicular Public Liability Insurance, in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated at any time or times for the benefit of the Issuer, with limits of not less than \$1,000,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle for the Issuer.

(d) Workers' Compensation Coverage for all Employees of the District Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of one hundred percent (100%) of the construction contract, will be required of each prime contractor, and such payment bonds will be filed with the Clerk of the County Commission of Jackson County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39. Workers' compensation insurance will be maintained as required by the laws of the State of West Virginia.

(e) Fidelity Bonds will be provided as to every member of the Governing Body and every officer and employee of the PSD having custody of the Revenue Fund or of any revenues or other funds of the System in an amount at least equal to the total annual debt service requirements for all outstanding RUS loans.

(f) Flood Insurance to be procured, to the extent available at reasonable cost to the Issuer.

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

Section 6.06. Statutory Mortgage. For the further protection of the holder of the Bond, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon delivery of the Bond; provided that, the statutory mortgage lien of the Bond shall be on a parity with the statutory mortgage lien of the Prior Bonds.

Section 6.07. Events of Default. Each of the following events is hereby declared an "Event of Default":

(A) Failure to make payment of any monthly amortization installment at the date specified for payment thereof; and/or

(B) Failure duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Bond or herein, or violation of or failure to observe any provision of any pertinent law or of this or the other Bond Resolutions.

Section 6.08. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, the Purchaser may proceed to protect and enforce its rights by an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement, or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights and shall have all rights prescribed by the Act, W.Va. Code and other applicable law.

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

Section 6.09. Fiscal Year; Budget. While the Bond is outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a fiscal year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than thirty (30) days prior to the beginning of each fiscal year, the Issuer agrees to adopt an Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such fiscal year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each fiscal year.

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

Section 6.10. Compensation of Members of Governing Body. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Governing Body in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Net

Revenues to fall below the amount required to meet all payments provided for herein, nor when there is default in the performance of or compliance with any covenant or provision hereof.

Section 6.11. Covenant to Proceed and Complete. The Issuer hereby covenants to proceed as promptly as possible with the construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer and on file with the Secretary on the date of adoption hereof, subject to permitted changes.

Section 6.12. Books and Records; Audits. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and the Purchaser shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

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

Section 6.13. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Bond is outstanding.

Section 6.14. No Competition. To the extent legally allowable, the Issuer will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

## ARTICLE VII

### RATES, RULES, COVENANTS, ETC.

#### Section 7.01. Initial Schedule of Rates and Charges.

A. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in an Order of the Public Service Commission dated May 26, 2005, in Case Number 05-0082-PWD-CN, which order is incorporated herein by reference and is made a part hereof.

B. The Issuer hereby confirms the rates and charges as set out in the above-referenced order and included on a tariff sheet filed with the Public Service Commission, which rates and conditions are as follows:

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY OF SERVICE

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

RATES

Service Charge (based on meter size):

5/8 inch meter	\$ 6.75 per month
3/4 inch meter	\$ 10.13 per month
1 inch meter	\$ 16.89 per month
1 1/2 inch meter	\$ 33.77 per month
2 inch meter	\$ 54.04 per month
3 inch meter	\$101.32 per month
4 inch meter	\$168.87 per month
6 inch meter	\$337.74 per month

Usage Charge:

\$7.17 per 1,000 gallons of water use per month

MINIMUM BILL

No minimum bill will be rendered for less than the appropriate service charge.

DELAYED PAYMENT PENALTY

The above tariff 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.

RECONNECTION CHARGE OF \$20.00

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

LEAK ADJUSTMENT

\$3.65 per 1,000 is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

RETURNED CHECK CHARGE

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

WATER SCHEDULE NO. 2

APPLICABILITY

Applicable within entire territory served.

AVAILABILITY OF SERVICE

Available for private fire protection service.

RATE

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

2 inch	Service Line with hydrants, sprinklers and/or hose connections	\$5.02 per month
3 inch	Service Line with hydrants, sprinklers and/or hose connections	\$6.08 per month
4 inch	Service Line with hydrants, sprinklers and/or hose connections	\$8.11 per month
6 inch	Service Line with hydrants, sprinklers and/or hose connections	\$18.14 per month
8 inch	Service Line with hydrants, sprinklers and/or hose connections	\$32.21 per month
10 inch	Service Line with hydrants, sprinklers and/or hose connections	\$50.39 per month
12 inch	Service Line with hydrants, sprinklers and/or hose connections	\$72.56 per month

Where connections and hydrants on private property are maintained by the District:

Each Fire Hydrant	\$100.00 per month
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These terms are payable monthly in advance.

Section 7.02. Further Covenants

The Issuer hereby further covenants and agrees as follows:

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

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

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

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

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

## ARTICLE VIII

### MISCELLANEOUS

Section 8.01. Payment of Bond; Bond Not Subject to Defeasance. If the Issuer shall pay or there shall otherwise be paid, to the Holder of the Bond, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Resolution, then with respect to the Bond, the pledge of Net Revenues and other moneys and securities pledged under this Bond Resolution and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Bond, shall thereupon cease, terminate and become void and be discharged and satisfied.

Except through direct payment to the Holder of the Bond of the outstanding principal of and accrued interest on the Bond, the Issuer may not defease the Bond or otherwise provide for payment thereof by escrow or like manner.

Section 8.02. Filing Under Uniform Commercial Code. Contemporaneously with the delivery of the Bond, the Issuer shall execute Financing Statements meeting the requirements of the Uniform Commercial Code of West Virginia and promptly thereafter shall file such Financing Statements in the office of the Secretary of State of West Virginia.

Section 8.03. Delivery of Bond. The Chairman and Secretary of the Governing Body are hereby authorized and directed to cause the Series 2005 Bond, numbered R-1, hereby awarded to

the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 8.04. Severability of Invalid Provision. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Bonds.

Section 8.05. Conflicting Provisions Repealed. The Prior Resolutions and all parts thereof not expressly hereby changed shall continue in full force and effect, and this Bond Resolution shall be supplemental to the Prior Resolutions.

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

Section 8.06. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 8.07. Modification or Amendment. The Bond Resolution may not be modified or amended in any material manner after final passage without the prior written consent of the Purchaser and/or holder of the Bond.

Section 8.08. 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 applicable thereto; and that the Chairman, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 8.09. Supplemental Resolutions. The Issuer may pass such supplemental resolutions, if necessary, to effectuate the purposes and intent of this Resolution.

Section 8.10. Effective Time. This Resolution shall take effect immediately upon its adoption.

Section 8.11 Statutory Notice of Meeting and Bond Issue. An abstract of this Bond Resolution, determined by the Governing Body to contain sufficient information as to give notice of the contents hereof, has been published once in a qualified newspaper published and of general circulation in the Southern Jackson County Public Service District, together with a notice stating that this Bond Resolution will be considered, that the Issuer contemplates the issuance of the Bond,

that any person interested may appear before the Public Service Board upon a date certain, not less than ten (10) days subsequent to the date of publication of such abstract of this Bond Resolution and notice, and present protests, and that a certified copy of the Resolution is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such meeting, all objections and suggestions were heard, and the Governing Body took such action, as it shall deem proper in the premises.

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

[SEAL]

By: James F. Stover  
Chairman

Attest:

By: Brenda Hunt-Mentura  
Secretary

CERTIFICATION

I, Brenda Hurt-Winter, Secretary of the Southern Jackson County Public Service District, hereby certify that the foregoing is a true and correct copy of a Resolution approved at a meeting of the Public Service Board of the Southern Jackson County Public Service District held on September 14, 2005. I further hereby certify that the action of said Public Service Board set forth therein remains in full force and effect and has not been amended or repealed.

WITNESS my signature on this 24 day of September, 2005.

  
Secretary

STATE OF WEST VIRGINIA,

COUNTY OF JACKSON, to-wit:

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of September, 2005, by James L. Stover, the Chairman of the Southern Jackson County Public Service District, a public service district created and expanded pursuant to the Act by orders issued by The County Commission of Jackson County, on behalf of said public service district.

My commission expires September 30, 2008.

*Brenda Hurt Winters*

NOTARY PUBLIC





\$3,140,000  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM)  
SERIES 2013

REGISTRY

<u>BOND NO.</u>	<u>AMOUNT</u>	<u>HOLDER</u>	<u>DATE ACQUIRED</u>
R-1	\$3,140,000	West Virginia Water Development Authority	February 14, 2013



\$3,140,000  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM)  
SERIES 2013

RECEIPT FOR BONDS AND TRANSCRIPT

The undersigned, for the West Virginia Water Development Authority, for the benefit of the West Virginia Bureau for Public Health (the "Purchaser"), hereby certifies as follows:

1. On the 14<sup>th</sup> day of February, 2013, at Charleston, West Virginia, the undersigned received from the Southern Jackson County Public Service District (the "District"), the District's Water Revenue Bond (West Virginia DWTRF Program), Series 2013 (the "Bond"), dated as of the date hereof, bearing interest at the rate of 0% per annum, plus an administration fee of 1% per annum, payable in monthly installments as stated in the Bond. The Bond represents the entire above-captioned Bond issue.

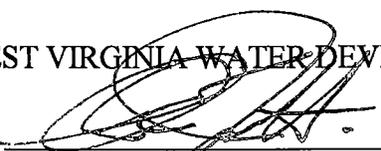
2. At the time of such receipt, the Bond had been executed and sealed by the designated officials of the District.

3. At the time of such receipt, there was paid to the District a payment representing a portion of the principal amounts of the Bond.

4. There will be provided to the undersigned a set of Bond Transcript documents.

WITNESS my signature as of the 14<sup>th</sup> day of February, 2013.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By:   
\_\_\_\_\_  
Authorized Representative



\$3,140,000  
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
WATER REVENUE BOND (WEST VIRGINIA DWTRF PROGRAM)  
SERIES 2013

ACCEPTANCE OF DUTIES AS DEPOSITORY BANK

United Bank, Inc., at its office located in Ripley, Jackson County, West Virginia, hereby accepts appointment as Depository Bank in connection with a Resolution of the Southern Jackson County Public Service District (the "District") duly adopted by the Public Service Board of the District and effective on August 9, 2012 (the "Resolution"), authorizing issuance by the District of its Water Revenue Bond (West Virginia DWTRF Program), Series 2013, dated February 14, 2013, in the aggregate principal amounts of \$3,140,000, and agrees to perform all duties of Depository Bank in connection with the Construction Fund, all as set forth in the Resolution.

Witness my signature as of the 14<sup>th</sup> day of February, 2013.

UNITED BANK, INC.

By: Becky Muller

Its: Ben Mann



DWTRF  
(09/12)

LOAN AGREEMENT

THIS DRINKING WATER TREATMENT REVOLVING FUND LOAN AGREEMENT (the "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 under the direction of the WEST VIRGINIA BUREAU FOR PUBLIC HEALTH, a division of the West Virginia Department of Health and Human Resources (the "BPH"), and the local entity designated below (the "Local Entity").

SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT  
(2010W-1219/ 11DWTRFB008)  
(Local Entity)

W I T N E S S E T H:

WHEREAS, the United States Congress under Section 1452 of the Safe Drinking Water Act, as amended (the "Safe Drinking Water Act"), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining drinking water treatment revolving funds for the construction, acquisition and improvement of drinking water systems;

WHEREAS, pursuant to the provisions of Chapter 16, Article 13C of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a drinking water treatment revolving fund program (the "Program") to direct the distribution of loans to eligible Local Entities pursuant to the Safe Drinking Water Act;

WHEREAS, under the Act the BPH is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency ("EPA") to accept capitalization grant awards (U.S. General Services Administration; Catalog of Federal Domestic Assistance, 32nd Edition §66.468 (1998)) and BPH has been awarded capitalization grants to partially fund the Program;

**WHEREAS, the Act establishes a permanent perpetual fund known as the “West Virginia Drinking Water Treatment Revolving Fund” (hereinafter the “Fund”), which fund is to be administered and managed by the Authority under the direction of the BPH;**

**WHEREAS, pursuant to the Act, the Authority and BPH are empowered to make loans from the Fund to Local Entities for the design, acquisition or construction of drinking water projects by such Local Entities, all subject to such provisions and limitations as are contained in the Safe Drinking Water Act and the Act;**

**WHEREAS, the Local Entity constitutes a local entity as defined by the Act;**

**WHEREAS, the Local Entity is included on the BPH State Project Priority List and the Intended Use Plan and has met BPH’s pre-application requirements for the Program;**

**WHEREAS, the Local Entity is authorized and empowered by the statutes of the State to acquire, construct, improve, operate and maintain a drinking water project and to finance the cost of acquisition and construction of the same by borrowing money to be evidenced by revenue bonds issued by the Local Entity;**

**WHEREAS, the Local Entity intends to construct, is constructing or has constructed such a drinking water project at the location and as more particularly described and set forth in the Application, as hereinafter defined (the “Project”);**

**WHEREAS, the Local Entity has completed and filed with the Authority and BPH 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 the Fund having available sufficient funds therefor, the Authority and BPH are willing to lend the Local Entity the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Local Entity with moneys held in the Fund, subject to the Local Entity’s satisfaction of certain legal and other requirements of the Program.**

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Local Entity, BPH and the Authority hereby agree as follows:

## ARTICLE I

### Definitions

1.1 Except where the context clearly indicates otherwise, the terms “Authority,” “cost,” “fund,” “local entity,” and “project” have the definitions and meanings ascribed to them in the Act or in the DWTRF Regulations.

1.2 “Consulting Engineers” means the professional engineer, licensed by the State, designated in the Application and any successor thereto.

1.3 “Cross Cutter Authorities” means federal laws and authorities that apply by their terms to projects or activities receiving federal assistance.

1.4 “Loan” means the loan to be made by the Authority and BPH to the Local Entity through the purchase of Local Bonds, as hereinafter defined, pursuant to this Loan Agreement.

1.5 “Local Act” means the official action of the Local Entity required by Section 4.1 hereof, authorizing the Local Bonds.

1.6 “Local Bonds” means the revenue bonds to be issued by the Local Entity pursuant to the provisions of the Local Statute, as hereinafter defined, to evidence the Loan and to be purchased by the Authority with money held in the Fund, all in accordance with the provisions of this Loan Agreement.

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

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

1.9 “Program” means the drinking water facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Safe Drinking Water Act and administered by BPH.

1.10 “Project” means the drinking water project hereinabove referred to, to be constructed or being constructed by the Local Entity in whole or in part with the net proceeds of the Local Bonds or being or having been constructed by the Local Entity in whole or in part with the proceeds of bond anticipation notes or other interim financing, which is to be paid in whole or in part with the net proceeds of the Local Bonds.

1.11 “DWTRF Regulations” means the regulations set forth in the West Virginia Code of State Regulations.

1.12 “System” means the drinking water system owned by the Local Entity, 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.

1.13 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 design, 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 Local Entity by the Consulting Engineers, the BPH and Authority having found, to the extent applicable, that the Project is consistent with the applicable provisions of the Program.

2.2 Subject to the terms, conditions and provisions of this Loan Agreement and the Local Act, the Local Entity 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 Local Entity 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 Local Entity, subject to any mortgage lien or

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

2.4 The Local Entity agrees that the Authority and BPH and their respective 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 Local Entity further agrees that the Authority and BPH and their respective duly authorized agents 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 BPH with respect to the System pursuant to the pertinent provisions of the Act.

2.5 The Local Entity 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 Local Entity shall permit the Authority and BPH, acting by and through their directors or 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 Local Entity shall submit to the Authority and BPH such documents and information as it 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 Local Entity agrees that it will permit the Authority and BPH and their respective agents to have access to the records of the Local Entity 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 Local Entity 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 Local Entity shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and BPH

and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Local Entity, the Local Entity or (at the option of the Local Entity) 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 Local Entity, 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 Local Entity on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding. Prior to commencing operation of the Project, the Local Entity 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 Local Entity shall provide and maintain competent and adequate engineering services satisfactory to the Authority and BPH 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, BPH and the Local Entity 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. The Local Entity shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the DWTRF Regulations, to it within 60 days of the completion of the Project. The Local Entity shall notify BPH in writing of such receipt.

2.10 The Local Entity shall at all times provide operation and maintenance of the System in compliance with any and all State and federal standards. The Local Entity shall employ qualified operating personnel properly certified by the State. If the Local Entity is a newly established water system, the Local Entity must employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The newly established Local Entity shall notify BPH in writing of the certified operator employed at the 50% completion stage.

2.11 The Local Entity hereby covenants and agrees to comply with all applicable federal and state statutes, rules and regulations, the applicable requirements of all Cross Cutter Authorities and all applicable local ordinances issued by the Authority,

BPH 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 Local Entity, 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 A and incorporated herein by reference, and forward a copy by the 10th of each month the Authority.]

2.13 The Local Entity, during construction of the Project, shall complete Payment Requisition Forms, the form of which is attached hereto as Exhibit B and incorporated herein by reference, and forward such forms to BPH in compliance with the Local Entity's construction schedule.

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

2.15 The Local Entity shall perform an annual maintenance audit which maintenance audit shall be submitted to the Authority and the Public Service Commission of West Virginia in the manner prescribed by and the guidelines established by the Authority and the PSC.

### ARTICLE III

#### Conditions to Loan; Issuance of Local Bonds

3.1 The agreement of the Authority and BPH to make the Loan is subject to the Local Entity's fulfillment, to the satisfaction of the Authority and BPH, 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 Local Entity shall have delivered to BPH and the Authority a report listing the specific purposes for which the proceeds of the Loan will be expended;

**(b) The Local Entity shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this Loan Agreement;**

**(c) The Local Entity 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;**

**(d) The Local Entity 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 Local Entity 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 BPH shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit C;**

**(e) The Local Entity 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 BPH shall have received a certificate of the Consulting Engineers to such effect;**

**(f) The Local Entity shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") and the West Virginia Infrastructure and Jobs Development 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 BPH shall have received an opinion of counsel to the Local Entity, which may be local counsel to the Local Entity, bond counsel or special PSC counsel but must be satisfactory to the Authority and BPH, to such effect;**

**(g) The Local Entity shall have obtained any and all approvals for the issuance of the Local Bonds required by State law, and the Authority and BPH shall have received an opinion of counsel to the Local Entity, which may be local counsel to the Local Entity, bond counsel or special PSC counsel but must be satisfactory to the Authority and BPH, to such effect;**

**(h) The Local Entity 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**

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BPH shall have received an opinion of counsel to the Local Entity, which may be local counsel to the Local Entity, bond counsel or special PSC counsel but must be satisfactory to the Authority and BPH, to such effect;

(i) 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 BPH shall have received a certificate of the accountant for the Local Entity, or such other person or firm experienced in the finances of local entities and satisfactory to the Authority and BPH, to such effect;

(j) 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 and BPH shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of drinking water projects and satisfactory to the Authority and BPH, to such effect, such certificate to be in form and substance satisfactory to the Authority and BPH, and evidence satisfactory to the Authority and BPH of such irrevocably committed grants; and

(k) The Local Entity shall have obtained 100% of the titles, easements and rights-of-way, or shall have received rights-of-entry for the same and the Authority and BPH shall receive an opinion of counsel to the Local Entity, satisfactory to the Authority and BPH, to such effect.

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the BPH, including the DWTRF Regulations, 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 Local Entity and the Local Entity shall accept the Loan from the Authority, and in furtherance thereof it is agreed that the Local Entity 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 Local Entity 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, BPH and the Local Entity. The date of delivery so designated or agreed upon is hereinafter referred to as the "Date of Loan Closing." Notwithstanding the foregoing, the Date of Loan Closing shall in no event occur more than ninety (90) days after the date of execution of this Loan Agreement by the Authority.

3.5 The Local Entity understands and acknowledges that it is one of several local entities which have applied to the Authority and BPH for loans from the Fund to finance drinking water projects and that the obligation of the Authority to make any such loan is subject to the Local Entity's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing and to the requirements of the Program. The Local Entity specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Fund to purchase all the Local Bonds and that, prior to execution of this Loan Agreement, the Authority may purchase the bonds of other local entities set out in the State Project Priority List, as defined in the DWTRF Regulations. The Local Entity further specifically recognizes that all loans will be originated in conjunction with the DWTRF Regulations and with the prior approval of BPH or such later date as is agreed to in writing by the BPH.

3.6 The Local Entity shall provide BPH with the appropriate documentation to comply with the special conditions regarding the special requirements established by federal and State regulations as set forth in Exhibit D attached hereto at such times as are set forth therein.

3.7 The Local Entity shall comply with the following conditions:

(a) The Local Entity shall develop and implement an asset management plan in accordance with BPH guidelines and approved by BPH.

(b) The Local Entity shall comply with Title 40 CFR Part 34, New Restrictions on Lobbying.

(c) The Local Entity shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price

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exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

(d) The Local Entity shall comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons). To the extent required by BPH, the Local Entity shall provide certifications as to compliance.

(e) The Local Entity shall comply with all requests for data related to the use of the funds provided under this agreement.

(f) The Local Entity shall allow any appropriate representative of the Office of US Inspector General to (1) examine its records relating to the Project and this Agreement and (2) interview any officer or employee of the Local Entity.

(g) The Local Entity must promptly refer to EPA's Inspector General any credible evidence that a principal, employee, agent, sub-grantee contractor, subcontractor, loan recipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this Agreement.

(h) The Local Entity shall not use funds for particular activities for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

(i) The Local Entity shall require that all laborers and mechanics employed by its contractors and subcontractors be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 31 of title 40, United States Code. The Local Entity must require that contractors and subcontractors obtain wage determinations from DOL and comply with DOL guidance and regulations implementing wage rate requirements.

(j) Pursuant to 40 CFR, Section 33.301, the Local Entity agrees to make Disadvantage Business Enterprise (DBE) good faith efforts whenever procuring construction, equipment, services and supplies, and to require that prime contractors also comply. The Local Entity shall provide BPH with DBE participation reports semi-

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annually.

(k) The Local Entity shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific statutes with nondiscrimination requirements. The Local Entity shall also comply with Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and Local Entities, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

#### ARTICLE IV

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

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

(a) That the gross revenues of the System shall always be used for purposes of the System. Such gross revenues will 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 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"),

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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 Local Entity 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, as applicable, of the System as provided 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 Local Entity will complete the Project and operate and maintain the System in good condition;

(iv) That, except as otherwise required by State law or the DWTRF Regulations, 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 from such sale, mortgage, lease or other disposition shall be sufficient to fully pay all of the Local Bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of the System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

(v) That the Local Entity 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;

(vi) That the Local Entity 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 Local Entity 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 Local Entity 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 and all rights as set forth in Section 5 of the Act;

(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 Local Entity will not grant any franchise to provide any services which would compete with the System;

(xi) That the Local Entity shall annually, within six months of the end of the fiscal year, 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. If the Local Entity receives \$500,000 or more (in any combination of federal funds) in a fiscal year, the audit shall be obtained in accordance with the Single Audit Act (as amended from time to time) and the applicable OMB Circular (or any successor thereto). Financial statement audits are required once all funds have been received by the Local Entity. The audit 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 Local Entity's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

(xii) That the Local Entity 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 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, except for accrued interest and capitalized interest, if any, 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 Local Entity 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 funding of such Local Entity, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the BPH, 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 Local Entity may authorize redemption of the Local Bonds with 30 days written notice to BPH and the Authority;

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

(xvii) That the Local Entity 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 Local Entity shall complete the Monthly Payment Form, attached hereto as Exhibit E 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. The Local Entity shall make monthly payments to the Commission by electronic transfer;

(xviii) That, if required by the Authority and BPH and, 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 Local Entity 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 Local Entity shall have obtained the certificate of the Consulting Engineers 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 BPH, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and BPH 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;

(xx) That the Local Entity shall, to the full extent permitted by applicable law and the rules and regulations of the PSC, terminate its services to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore such services until all delinquent charges for the services of the System have been fully paid; and

(xxi) That the Local Entity shall submit all proposed change orders to the BPH for written approval. The Local Entity shall obtain the written approval of the BPH before expending any proceeds of the Local Bonds held in

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“contingency” as set forth in the final Schedule A attached to the certificate of the Consulting Engineer. The Local Entity shall obtain the written approval of the BPH before expending any proceeds of the Local Bonds available due to bid/construction/project underruns.

The Local Entity hereby represents and warrants that the Local Act has been or shall be duly adopted or enacted 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 nationally recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit F.

4.2 The Loan shall be secured by the pledge and assignment by the Local Entity, as effected by the Local Act, of the fees, charges and other revenues of the Local Entity from the System.

4.3 At least two and one-half percent (2½%) of the proceeds of the Local Bonds will be advanced on the Date of Loan Closing. The remaining proceeds of the Local Bonds shall be advanced by the Authority monthly as required by the Local Entity to pay Costs of the Project, provided, however, if the proceeds of the Local Bonds will be used to repay an interim financing, the proceeds will be advanced on a schedule mutually agreeable to the Local Entity, the BPH and the Authority. The Local Bonds shall not bear interest during the construction period but interest shall commence accruing on the completion date as defined in the DWTRF Regulations, provided that the annual repayment of principal and payment of interest shall begin not later than one (1) year after the completion date. The repayment of principal and interest on the Local Bonds shall be as set forth on Schedule Y 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.

4.4 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 Local Entity. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series.

4.5 As provided by the DWTRF Regulations, the Local Entity agrees to pay from time to time, if required by the Authority and BPH, the Local Entity’s allocable share of the reasonable administrative expenses of the BPH and the Authority relating to the Program. Such administrative expenses shall be determined by the BPH and the Authority and shall include, without limitation, Program expenses, legal fees paid by the

BPH and the Authority and fees paid for any bonds or notes to be issued by the Authority for contribution to the Fund.

4.6 The obligation of the Authority to make any loans shall be conditioned upon the availability of moneys in the Fund in such amount and on such terms and conditions as, in the sole judgment of the Authority, will enable it to make the Loan.

## ARTICLE V

### Certain Covenants of the Local Entity; Imposition and Collection of User Charges; Payments To Be Made by Local Entity to the Authority

5.1 The Local Entity hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Local Entity 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 Local Entity 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 Local Entity defaults in any 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 Local Entity hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Local Entity, the Authority

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may exercise any or all of the rights and powers granted under Section 5 of the Act, including, without limitation, the right to impose, enforce and collect charges of the System.

## ARTICLE VI

### Other Agreements of the Local Entity

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

6.2 The Local Entity hereby warrants and represents that all information provided to the Authority and BPH 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 BPH 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 BPH by the Local Entity in connection with the Loan shall be incorrect or incomplete in any material respect or (b) the Local Entity 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, the DWTRF Regulations or this Loan Agreement.

6.3 The Local Entity hereby agrees to repay on or prior to the Date of Loan Closing any moneys due and owing by it to the Authority or any other lender for the planning or design of the Project, provided that such repayment shall not be made from the proceeds of the Loan.

6.4 The Local Entity hereby covenants that, if required by the Authority, 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 Local Entity fails to make any such rebates as required, then the Local Entity shall pay

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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.

6.5 Notwithstanding Section 6.4, the Authority may at any time, in their sole discretion, cause the rebate calculations prepared by or on behalf of the Local Entity to be monitored or cause the rebate calculations for the Local Entity to be prepared, in either case at the expense of the Local Entity.

6.6 The Local Entity hereby agrees to give the Authority 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.

6.7 The Local Entity hereby agrees to file with the Authority upon completion of acquisition and construction of the Project a schedule setting forth the actual costs of the Project and sources of funds.

## ARTICLE VII

### Miscellaneous

7.1 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 Local Entity supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority.

7.2 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.

7.3 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.

7.4 No waiver by any 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.

7.5 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.

7.6 By execution and delivery of this Loan Agreement, notwithstanding the date hereof, the Local Entity 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.

7.7 This Loan Agreement shall terminate upon the earlier of:

(i) written notice of termination to the Local Entity from either the Authority or BPH;

(ii) 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 BPH if the Local Entity has failed to deliver the Local Bonds to the Authority;

(iii) termination by the Authority and BPH pursuant to Section 6.2 hereof; or

(iv) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Local Entity to the Authority or BPH.

In the event funds are not available to make all of the Loan, the responsibility of the Authority and BPH to make all the Loan is terminated; provided further that the obligation of the Local Entity to repay the outstanding amount of the Loan made by the Authority and BPH is not terminated due to such non-funding on any balance of the Loan. The BPH agrees to use its best efforts to have the amount contemplated under this Loan Agreement included in its budget. Non-funding of the Loan shall not be considered an event of default under this Loan Agreement.

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.

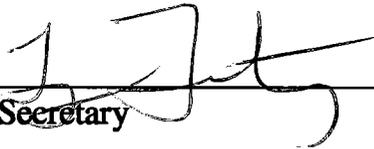
SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

(SEAL)

By:   
Its: Chairman

Attest:

Date: February 14, 2013

  
Its: Secretary

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By:   
Its: Executive Director

Attest:

Date: February 14, 2013

  
Its: Secretary-Treasurer

**EXHIBIT A**

**MONTHLY FINANCIAL REPORT**

**Name of Local Entity** \_\_\_\_\_  
**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>
<b>1. Gross Revenues</b>	_____	_____	_____	_____
<b>2. Operating Expenses</b>	_____	_____	_____	_____
<b>3. Bond Payments:</b>				
<u>Type of Issue</u>	_____	_____	_____	_____
<b>Clean Water SRF</b>	_____	_____	_____	_____
<b>Drinking Water TRF</b>	_____	_____	_____	_____
<b>Infrastructure Fund</b>	_____	_____	_____	_____
<b>Water Development Authority</b>	_____	_____	_____	_____
<b>Rural Utilities Service</b>	_____	_____	_____	_____
<b>Economic Development Administration</b>	_____	_____	_____	_____
<b>Other (Identify)</b>	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
<b>4. Renewal and Replacement Fund Deposits</b>	_____	_____	_____	_____

\_\_\_\_\_  
**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 Local Entity 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 Local Entity 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 Local Entity.

**The Local Entity 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 B**

**PAYMENT REQUISITION FORM**

EXHIBIT C

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 used herein and not defined herein shall have the same meaning 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 Bureau for Public Health (the "BPH"), 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 BPH and any change orders approved by the Issuer, BPH 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 Schedule B attached hereto as Exhibit A, and my firm<sup>1</sup> has ascertained that all successful bidders have made required provisions

<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

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 BPH 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 approved by BPH; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this \_\_\_\_day of \_\_\_\_\_,  
\_\_\_\_\_.

[SEAL]

By:

\_\_\_\_\_  
\_\_\_\_\_  
West Virginia License No. \_\_\_\_\_

\_\_\_\_\_  
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 D

### SPECIAL CONDITIONS

A. **PUBLIC RELEASE REQUIREMENT** – The Local Entity agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations, groundbreaking or project dedication program documents and other documents describing projects or programs funded in whole or in part with federal money, (1) the percentage of the total costs of the program or project which will be financed with federal money, (2) the dollar amount of federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. **EXHIBIT D-1** – The Local Entity shall complete the form attached as Exhibit D-1 and submit to the BPH prior to the Closing.

C. **BID UNDER RUN DRAW REQUIREMENTS** – Prior to the Local Entity requesting draws for the portion of the Project to be covered by the bid under run, the Local Entity shall submit the following to the BPH for review and approval:

1. Final Title Opinion for the additional scope areas;
2. Approval of the PSC for the additional scope work;
3. Any permits required for the additional scope work;
4. Any proposed change orders; and
5. All new contract bid documents for advertisement.

# EXHIBIT D-1

**For OIG Use Only**  
 Grant Number \_\_\_\_\_

**West Virginia Department of Health and Human Resources**  
**Subrecipient (Grantee) Information Form**  
 Please see the instructions for completion of the Subrecipient (Grantee) Information Form

**1. Subrecipient (Grantee) Name**  
 \_\_\_\_\_  
 \_\_\_\_\_

**2. Subrecipient (Grantee) Location (Street Address, City, State and Zip Code)**  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**3. Subrecipient (Grantee) 9-Digit DUNS Number**  
 \_\_\_\_\_

- 4. Subrecipient (Grantee) Type (Please check one box only)**
- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> State Government</li> <li><input type="checkbox"/> County Government</li> <li><input type="checkbox"/> City or Township Government</li> <li><input type="checkbox"/> Special District Government</li> <li><input type="checkbox"/> Regional Organization</li> <li><input type="checkbox"/> U.S. Territory or Possession</li> <li><input type="checkbox"/> Independent School District</li> <li><input type="checkbox"/> Public/State Controlled Institution of Higher Learning</li> <li><input type="checkbox"/> Indian/Native American Tribal Government (Federally Recognized)</li> <li><input type="checkbox"/> Indian/Native American Tribal Government (Other than Federally Recognized)</li> <li><input type="checkbox"/> Indian/Native American Tribally Designated Organization</li> <li><input type="checkbox"/> Public/Indian Housing Authority</li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> Nonprofit with 501(c)(3) IRS Status (Other than Institution of Higher Education)</li> <li><input type="checkbox"/> Nonprofit without 501(c)(3) IRS Status (Other than Institution of Higher Education)</li> <li><input type="checkbox"/> Private Institution of Higher Education</li> <li><input type="checkbox"/> Individual</li> <li><input type="checkbox"/> For-Profit Business (Other than Small Business)</li> <li><input type="checkbox"/> Small Business</li> <li><input type="checkbox"/> Hispanic-serving Institution</li> <li><input type="checkbox"/> Historically Black Colleges and Universities (HBCUs)</li> <li><input type="checkbox"/> Tribally Controlled Colleges and Universities (TCCUs)</li> <li><input type="checkbox"/> Alaska Native and Native Hawaiian Serving Institutions</li> <li><input type="checkbox"/> Non-domestic (non-US) entity</li> <li><input type="checkbox"/> Other (Please explain) _____</li> </ul> |
|--|--|

**5. Primary Performance Location (Street Address, City, State and Zip Code)**  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**6. Names, Titles and Total Compensation for the 5 Most Highly Compensated Officers**

Officer Name	Title	Total Compensation

**NOTE: This form must be signed by an individual no lower than the Executive Director or Chief Financial Officer.**

Printed Name \_\_\_\_\_ Title \_\_\_\_\_  
 Signature \_\_\_\_\_ Date \_\_\_\_\_ Phone # \_\_\_\_\_

OIG Form A-300

EXHIBIT E

MONTHLY PAYMENT FORM

West Virginia Water Development Authority  
1009 Bullitt Street  
Charleston, WV 25301

Re: [Name of bond issue]

Ladies and Gentlemen:

The following deposits were made to the West Virginia Municipal Bond Commission

on behalf of \_\_\_\_\_ on \_\_\_\_\_.  
[Local Entity] [Date]

Sinking Fund:

Interest \$ \_\_\_\_\_

Principal \$ \_\_\_\_\_

Total: \$ \_\_\_\_\_

Reserve Account: \$ \_\_\_\_\_

Witness my signature this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
[Name of Local Entity]

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

Enclosure: wire transfer form

EXHIBIT F

OPINION OF BOND COUNSEL FOR LOCAL ENTITY

[To Be Dated as of Date of Loan Closing]

West Virginia Water Development Authority  
1009 Bullitt Street  
Charleston, WV 25301

West Virginia Bureau for Public Health  
350 Capitol Street, Room 313  
Charleston, WV 25301-3713

Ladies and Gentlemen:

We are bond counsel to \_\_\_\_\_ (the "Local Entity"), a  
\_\_\_\_\_.

We have examined a certified copy of proceedings and other papers relating to the authorization of a (i) loan agreement dated \_\_\_\_\_, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Local Entity and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and (ii) the issue of a series of revenue bonds of the Local Entity, 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 principal and interest payable quarterly on March 1, June 1, September 1, and December 1 of each year, beginning \_\_\_\_\_1, \_\_\_\_\_, and ending \_\_\_\_\_1, \_\_\_\_\_, all 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 Local Entity on \_\_\_\_\_, as supplemented by the supplemental resolution duly adopted by the Local Entity 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 Local Entity and is a valid and binding special obligation of the Local Entity, enforceable in accordance with the terms thereof.

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

3. The Local Entity 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 Local Entity and constitute valid and binding obligations of the Local Entity, enforceable against the Local Entity 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 Local Entity to the Authority and are valid, legally enforceable and binding special obligations of the Local Entity, payable from the gross or net revenues of the System set forth in the Local Act and secured by a first lien on and pledge of the gross or net 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 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,**

## SCHEDULE X

### DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds	\$3,140,000
Purchase Price of Local Bonds	\$3,140,000

The Local Bonds shall bear no interest. Commencing December 1, 2014, principal of the Local Bonds is payable quarterly, with an administrative fee of 1%. 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 Local Entity shall submit its payments monthly to the Commission with instructions that the Commission will make quarterly payments to the Authority at such address as is given to the Commission in writing by the Authority. If the Reserve Account is not fully funded at closing, the Local Entity shall commence the payment of the 1/120 of the maximum annual debt service on the first day of the month it makes its first monthly payment to the Commission. The Local Entity shall instruct the Commission to notify the Authority of any monthly payments which are not received by the 20th day of the month in which the payment was due.

The Local Bonds are fully registered in the name of the Authority as to principal and interest, if any, and the Local Bonds shall grant the Authority a first lien on the gross or net revenues of the Local Entity's system as provided in the Local Act.

The Local Entity may prepay the Local Bonds in full at any time at the price of par upon 30 days' written notice to the Authority and BPH. The Local Entity shall request approval from the Authority and BPH in writing of any proposed debt which will be issued by the Local Entity 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 Local Entity:

- (i) Southern Jackson County Public Service District Water Revenue Bonds, Series 1977, of the Issuer, dated March 13, 1978, issued in the original principal amount of \$470,000;

(ii) Southern Jackson County Public Service District Water System Revenue Bonds, Series 1991, of the Issuer, dated March 18, 1991, issued in the original principal amount of \$143,500;

(iii) Southern Jackson County Public Service District Water Revenue Bonds, Series 1997, of the Issuer, dated March 21, 1997, issued in the original principal amount of \$500,000;

(iv) Southern Jackson County Public Service District Water Revenue Bonds (West Virginia Infrastructure Fund), Series 1998 A of the Issuer, dated May 22, 1998, issued in the original principal amount of \$380,000;

(v) Water Revenue Bond, Series 2001A of the Issuer, dated December 21, 2001 (the "2001A Bond") issued in the original principal amount of \$1,310,000 secured under the terms of the 2001 Resolution (hereinafter defined);

(vi) Southern Jackson County Public Service District Water Revenue Bond, Series 2001B of the Issuer, dated December 21, 2001, issued in the original principal amount of \$60,000; and

(vii) Southern Jackson County Public Service District Water Revenue Bond, Series 2005 of the Issuer, dated September 21, 2005, issued in the original principal amount of \$1,137,000.

Number of New Customers To Be Served: 80

Location: Faber Hollow, Pigeon Roost Run, Gins Creek (60) and Route 33 (20) area.

**SCHEDULE Y**  
**DEBT SERVICE SCHEDULE**

Net Debt Service							
Southern Jackson County PSD							
DWTRF							
\$3,140,000							
0% Interest Rate							
1% Administrative Fee							
30 Years							
	Date	Principal	Interest	Total Debt Service	Admin Fee	Reserve Fund	Net Debt Service
	12/1/2014	26,167		26,167	3,957.68	2,616.70	32,741.38
	3/1/2015	26,167		26,167	3,957.68	2,616.70	32,741.38
	6/1/2015	26,167		26,167	3,957.68	2,616.70	32,741.38
	9/1/2015	26,167		26,167	3,957.68	2,616.70	32,741.38
	12/1/2015	26,167		26,167	3,957.68	2,616.70	32,741.38
	3/1/2016	26,167		26,167	3,957.68	2,616.70	32,741.38
	6/1/2016	26,167		26,167	3,957.68	2,616.70	32,741.38
	9/1/2016	26,167		26,167	3,957.68	2,616.70	32,741.38
	12/1/2016	26,167		26,167	3,957.68	2,616.70	32,741.38
	3/1/2017	26,167		26,167	3,957.68	2,616.70	32,741.38
	6/1/2017	26,167		26,167	3,957.68	2,616.70	32,741.38
	9/1/2017	26,167		26,167	3,957.68	2,616.70	32,741.38
	12/1/2017	26,167		26,167	3,957.68	2,616.70	32,741.38
	3/1/2018	26,167		26,167	3,957.68	2,616.70	32,741.38
	6/1/2018	26,167		26,167	3,957.68	2,616.70	32,741.38
	9/1/2018	26,167		26,167	3,957.68	2,616.70	32,741.38
	12/1/2018	26,167		26,167	3,957.68	2,616.70	32,741.38
	3/1/2019	26,167		26,167	3,957.68	2,616.70	32,741.38
	6/1/2019	26,167		26,167	3,957.68	2,616.70	32,741.38
	9/1/2019	26,167		26,167	3,957.68	2,616.70	32,741.38
	12/1/2019	26,167		26,167	3,957.68	2,616.70	32,741.38
	3/1/2020	26,167		26,167	3,957.68	2,616.70	32,741.38
	6/1/2020	26,167		26,167	3,957.68	2,616.70	32,741.38
	9/1/2020	26,167		26,167	3,957.68	2,616.70	32,741.38
	12/1/2020	26,167		26,167	3,957.68	2,616.70	32,741.38
	3/1/2021	26,167		26,167	3,957.68	2,616.70	32,741.38
	6/1/2021	26,167		26,167	3,957.68	2,616.70	32,741.38
	9/1/2021	26,167		26,167	3,957.68	2,616.70	32,741.38
	12/1/2021	26,167		26,167	3,957.68	2,616.70	32,741.38
	3/1/2022	26,167		26,167	3,957.68	2,616.70	32,741.38
	6/1/2022	26,167		26,167	3,957.68	2,616.70	32,741.38
	9/1/2022	26,167		26,167	3,957.68	2,616.70	32,741.38
	12/1/2022	26,167		26,167	3,957.68	2,616.70	32,741.38
	3/1/2023	26,167		26,167	3,957.68	2,616.70	32,741.38
	6/1/2023	26,167		26,167	3,957.68	2,616.70	32,741.38
	9/1/2023	26,167		26,167	3,957.68	2,616.70	32,741.38
	12/1/2023	26,167		26,167	3,957.68	2,616.70	32,741.38
	3/1/2024	26,167		26,167	3,957.68	2,616.70	32,741.38
	6/1/2024	26,167		26,167	3,957.68	2,616.70	32,741.38
	9/1/2024	26,167		26,167	3,957.68	2,616.70	32,741.38
	12/1/2024	26,167		26,167	3,957.68		30,124.68
	3/1/2025	26,167		26,167	3,957.68		30,124.68
	6/1/2025	26,167		26,167	3,957.68		30,124.68
	9/1/2025	26,167		26,167	3,957.68		30,124.68
	12/1/2025	26,167		26,167	3,957.68		30,124.68
	3/1/2026	26,167		26,167	3,957.68		30,124.68

Net Debt Service							
Southern Jackson County PSD							
DWTRF							
\$3,140,000							
0% Interest Rate							
1% Administrative Fee							
30 Years							
Date	Principal	Interest	Total Debt Service	Admin Fee	Reserve Fund	Net Debt Service	
6/1/2026	26,167		26,167	3,957.68		30,124.68	
9/1/2026	26,167		26,167	3,957.68		30,124.68	
12/1/2026	26,167		26,167	3,957.68		30,124.68	
3/1/2027	26,167		26,167	3,957.68		30,124.68	
6/1/2027	26,167		26,167	3,957.68		30,124.68	
9/1/2027	26,167		26,167	3,957.68		30,124.68	
12/1/2027	26,167		26,167	3,957.68		30,124.68	
3/1/2028	26,167		26,167	3,957.68		30,124.68	
6/1/2028	26,167		26,167	3,957.68		30,124.68	
9/1/2028	26,167		26,167	3,957.68		30,124.68	
12/1/2028	26,167		26,167	3,957.68		30,124.68	
3/1/2029	26,167		26,167	3,957.68		30,124.68	
6/1/2029	26,167		26,167	3,957.68		30,124.68	
9/1/2029	26,167		26,167	3,957.68		30,124.68	
12/1/2029	26,167		26,167	3,957.68		30,124.68	
3/1/2030	26,167		26,167	3,957.68		30,124.68	
6/1/2030	26,167		26,167	3,957.68		30,124.68	
9/1/2030	26,167		26,167	3,957.68		30,124.68	
12/1/2030	26,167		26,167	3,957.68		30,124.68	
3/1/2031	26,167		26,167	3,957.68		30,124.68	
6/1/2031	26,167		26,167	3,957.68		30,124.68	
9/1/2031	26,167		26,167	3,957.68		30,124.68	
12/1/2031	26,167		26,167	3,957.68		30,124.68	
3/1/2032	26,167		26,167	3,957.68		30,124.68	
6/1/2032	26,167		26,167	3,957.68		30,124.68	
9/1/2032	26,167		26,167	3,957.68		30,124.68	
12/1/2032	26,167		26,167	3,957.68		30,124.68	
3/1/2033	26,167		26,167	3,957.68		30,124.68	
6/1/2033	26,167		26,167	3,957.68		30,124.68	
9/1/2033	26,167		26,167	3,957.68		30,124.68	
12/1/2033	26,167		26,167	3,957.68		30,124.68	
3/1/2034	26,167		26,167	3,957.68		30,124.68	
6/1/2034	26,167		26,167	3,957.68		30,124.68	
9/1/2034	26,166		26,166	3,957.68		30,123.68	
12/1/2034	26,166		26,166	3,957.68		30,123.68	
3/1/2035	26,166		26,166	3,957.68		30,123.68	
6/1/2035	26,166		26,166	3,957.68		30,123.68	
9/1/2035	26,166		26,166	3,957.68		30,123.68	
12/1/2035	26,166		26,166	3,957.68		30,123.68	
3/1/2036	26,166		26,166	3,957.68		30,123.68	
6/1/2036	26,166		26,166	3,957.68		30,123.68	
9/1/2036	26,166		26,166	3,957.68		30,123.68	
12/1/2036	26,166		26,166	3,957.68		30,123.68	
3/1/2037	26,166		26,166	3,957.68		30,123.68	
6/1/2037	26,166		26,166	3,957.68		30,123.68	
9/1/2037	26,166		26,166	3,957.68		30,123.68	

Net Debt Service							
Southern Jackson County PSD							
DWTRF							
\$3,140,000							
0% Interest Rate							
1% Administrative Fee							
30 Years							
Date	Principal	Interest	Total Debt Service	Admin Fee	Reserve Fund	Net Debt Service	
12/1/2037	26,166		26,166	3,957.68		30,123.68	
3/1/2038	26,166		26,166	3,957.68		30,123.68	
6/1/2038	26,166		26,166	3,957.68		30,123.68	
9/1/2038	26,166		26,166	3,957.68		30,123.68	
12/1/2038	26,166		26,166	3,957.68		30,123.68	
3/1/2039	26,166		26,166	3,957.68		30,123.68	
6/1/2039	26,166		26,166	3,957.68		30,123.68	
9/1/2039	26,166		26,166	3,957.68		30,123.68	
12/1/2039	26,166		26,166	3,957.68		30,123.68	
3/1/2040	26,166		26,166	3,957.68		30,123.68	
6/1/2040	26,166		26,166	3,957.68		30,123.68	
9/1/2040	26,166		26,166	3,957.68		30,123.68	
12/1/2040	26,166		26,166	3,957.68		30,123.68	
3/1/2041	26,166		26,166	3,957.68		30,123.68	
6/1/2041	26,166		26,166	3,957.68		30,123.68	
9/1/2041	26,166		26,166	3,957.68		30,123.68	
12/1/2041	26,166		26,166	3,957.68		30,123.68	
3/1/2042	26,166		26,166	3,957.68		30,123.68	
6/1/2042	26,166		26,166	3,957.68		30,123.68	
9/1/2042	26,166		26,166	3,957.68		30,123.68	
12/1/2042	26,166		26,166	3,957.68		30,123.68	
3/1/2043	26,166		26,166	3,957.68		30,123.68	
6/1/2043	26,166		26,166	3,957.68		30,123.68	
9/1/2043	26,166		26,166	3,957.68		30,123.68	
12/1/2043	26,166		26,166	3,957.68		30,123.68	
3/1/2044	26,166		26,166	3,957.68		30,123.68	
6/1/2044	26,166		26,166	3,957.68		30,123.68	
9/1/2044	26,167		26,167	3,957.68		30,124.68	
	3,140,000		3,140,000	474,921.60	104,668.00	3,719,589.60	
<b>Notes:</b>							
Estimated Monthly Net Debt Service Payments rounded up to the nearest cent:							
\$10,913.80 September 1, 2014 through August 1, 2024 (based on maximum quarterly payment of \$32,741.38)							
\$10,041.56 September 1, 2024 through August 1, 2044 (based on maximum quarterly payment of \$30,124.68)							
Admin Fee calculated based on 1.0% of bond value computed quarterly paid in equal quarterly payments rounded up to the nearest cent.							



USDA-FHA  
Form FHA 442-30  
(Rev. 4-19-72)

Position 5

WATER PURCHASE CONTRACT

**COPY**

This contract for the sale and purchase of water is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 19 77, between the CITY OF RIPLEY, WEST VIRGINIA  
RIPLEY, WEST VIRGINIA 25271  
(Address)

hereinafter referred to as the "Seller" and the SOUTHERN JACKSON COUNTY PUBLIC SERVICE  
DISTRICT  
(Address)

hereinafter referred to as the "Purchaser",

WITNESSETH:

Whereas, the Purchaser is organized and established under the provisions of Chapter 16 Article 13-a of the Code of West Virginia, as amended, for the purpose of constructing and operating a water supply distribution system serving water users within the area described in plans now on file in the office of the Purchaser and to accomplish this purpose, the Purchaser will require a supply of treated water, and

Whereas, the Seller owns and operates a water supply distribution system with a capacity currently capable of serving the present customers of the Seller's system and the estimated number of water users to be served by the said Purchaser as shown in the plans of the system now on file in the office of the Purchaser, and

Whereas, by resolution No. \_\_\_\_\_ enacted on the Third (3rd) day of August, 19 76, by the Seller, the sale of water to the Purchaser in accordance with the provisions of the said resolution was approved, and the execution of this contract carrying out the said resolution by the Mayor, John W. Miller and attested by the Secretary, was duly authorized, and

Whereas, by resolution of the Board of the Purchaser, enacted on the 8 day of June, 19 77, the purchase of water from the Seller in accordance with the terms set forth in the said resolution was approved, and the execution of this contract by the Chairman, and attested by the Secretary was duly authorized;

Now, therefore, in consideration of the foregoing and the mutual agreements hereinafter set forth,

A. The Seller Agrees:

1. (Quality and Quantity) To furnish the Purchaser at the point of delivery hereinafter specified, during the term of this contract or any renewal or extension thereof, potable treated water meeting applicable purity standards of the West Virginia State Department of Health

In such quantity as may be required by the Purchaser not to exceed \_\_\_\_\_ gallons per month.

2. (Point of Delivery and Pressure) That water will be furnished at a reasonably constant pressure calculated at least 4 PSI from an existing eight (8) inch main supply at a point located near Route 21 at the Southern side of the City

If a greater pressure than that normally available at the point of delivery is required by the Purchaser, the cost of providing such greater pressure shall be borne by the Purchaser. Emergency failures of pressure or supply due to main supply line breaks, power failure, flood, fire and use of water to fight fire, earthquake or other catastrophe shall excuse the Seller from this provision for such reasonable period of time as may be necessary to restore service.

3. (Metering Equipment) To furnish, install, operate, and maintain at its own expense at point of delivery, the necessary metering equipment, including a meter house or pit, and required devices of standard type for properly measuring the quantity of water delivered to the Purchaser and to calibrate such metering equipment whenever requested by the Purchaser but not more frequently than once every twelve (12) months. A meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate. The previous readings of any meter disclosed by test to be inaccurate shall be corrected for the three (3) months previous to such test in accordance with the percentage of accuracy found by such tests. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless Seller

and Purchaser shall agree upon a different amount. The metering equipment shall be read on last day of the month. An appropriate official of the Purchaser at all reasonable times shall have access to the meter for the purpose of verifying its readings. The purchaser will furnish and install the metering equipment initially and do the necessary connections to the existing line.

4. (Billing Procedure) To furnish the Purchaser at the above address not later than the 10th day of each month, with an itemized statement of the amount of water furnished the Purchaser during the preceding month.

**B. The Purchaser Agrees:**

1. (Rates and Payment Date) To pay the Seller, not later than the 10th day of each month, for water delivered in accordance with the following schedule of rates:
- 1,000 gallons of water
- a. \$ 2.03 per / for the first 2,000 gallons, which amount shall also be the minimum rate per month.
- b. \$ 1.22 cents per 1000 gallons for water in excess of 2,000 gallons but less than 9,000 gallons.
- c. \$ .92 cents per 1000 gallons for water in excess of 9,000 gallons but less than 60,000 gallons.
- d. \$.61 cents per 1,000 gallons of water in excess of 60,000 gallon but less than 672,000 gallons.
- e. \$.51 cents per 1,000 gallons of water in excess of 672,000 gallons.

2. (Connection Fee) To pay as an agreed cost, a connection fee to connect the Seller's system with the system of the Purchaser, the sum of \_\_\_\_\_ dollars which shall cover any and all costs of the Seller for installation of the metering equipment and \_\_\_\_\_

Position 5

**C. It is further mutually agreed between the Seller and the Purchaser as follows:**

1. (Term of Contract) That this contract shall extend for a term of 40 years from the date of the initial delivery of any water as shown by the first bill submitted by the Seller to the Purchaser and, thereafter may be renewed or extended for such term, or terms, as may be agreed upon by the Seller and Purchaser.
2. (Delivery of Water) That 30 days prior to the estimated date of completion of construction of the Purchaser's water supply distribution system, the Purchaser will notify the Seller in writing the date for the initial delivery of water.
3. (Water for Testing) When requested by the Purchaser the Seller will make available to the contractor at the point of delivery, or other point reasonably close thereto, water sufficient for testing, flushing, and trench filling the system of the Purchaser during construction, irrespective of whether the metering equipment has been installed at the time. ~~This cost will be billed directly to the Contractor and is to be paid by the Contractor, or on his failure to pay, by the Purchaser.~~ This cost will be billed directly to the Contractor and is to be paid by the Contractor.
4. (Failure to Deliver) That the Seller will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the Purchaser with quantities of water required by the Purchaser. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event of an extended shortage of water, or the supply of water available to the Seller is otherwise diminished over an extended period of time, the supply of water to Purchaser's consumers shall be reduced or diminished in the same ratio or proportion as the supply to Seller's consumers is reduced or diminished.
5. (Modification of Contract) That the provisions of this contract pertaining to the schedule of rates to be paid by the Purchaser for water delivered are subject to modification at the end of every 1 year period. Any increase or decrease in rates shall be based on a demonstrable increase or decrease in the costs of performance hereunder, but such costs shall not include increased capitalization of the Seller's system. Other provisions of this contract may be modified or altered by mutual agreement.
6. (Regulatory Agencies) That this contract is subject to such rules, regulations, or laws as may be applicable to similar agreements in this State and the Seller and Purchaser will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.
7. (Miscellaneous) That the construction of the water supply distribution system by the Purchaser is being financed by a loan made or insured by, and/or a grant from, the United States of America, acting through the Farmers Home Administration of the United States Department of Agriculture, and the provisions hereof pertaining to the undertakings of the Purchaser are conditioned upon the approval, in writing, of the State Director of the Farmers Home Administration.
8. (Successor to the Purchaser) That in the event of any occurrence rendering the Purchaser incapable of performing under this contract, any successor of the Purchaser, whether the result of legal process, assignment, or otherwise, shall succeed to the rights of the Purchaser hereunder.

Position 5

In witness whereof the parties hereto, acting under authority of their respective governing bodies, have caused this contract to be duly executed in 6 counterparts, each of which shall constitute an original.

Seller: CITY OF RIPLEY

John W. Miller

By JOHN W. MILLER, MAYOR

Title MAYOR

Attest:

Helen A. Costa

Secretary

Purchaser:

Carl DeLeon

By

Title Chairman, Jackson County, Southern Public Service District

Attest:

Dolores C. Willard

Secretary

This contract is approved on behalf of the Farmers Home Administration this 27 day of June, 1922.

By

Title Chief, Security Program

WATER PURCHASE CONTRACT

**COPY**

This contract for the sale and purchase of water is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 19 77, between the CITY OF RIPLEY, WEST VIRGINIA  
RIPLEY, WEST VIRGINIA 25271  
(Address)

hereinafter referred to as the "Seller" and the SOUTHERN JACKSON COUNTY PUBLIC SERVICE  
DISTRICT  
(Address)

hereinafter referred to as the "Purchaser",

WITNESSETH:

Whereas, the Purchaser is organized and established under the provisions of Chapter 16 Article 13-a of the Code of West Virginia, as amended, for the purpose of constructing and operating a water supply distribution system serving water users within the area described in plans now on file in the office of the Purchaser and to accomplish this purpose, the Purchaser will require a supply of treated water, and

Whereas, the Seller owns and operates a water supply distribution system with a capacity currently capable of serving the present customers of the Seller's system and the estimated number of water users to be served by the said Purchaser as shown in the plans of the system now on file in the office of the Purchaser, and

Whereas, by resolution No. \_\_\_\_\_ enacted on the Third (3rd) day of August, 19 76, by the Seller, the sale of water to the Purchaser in accordance with the provisions of the said resolution was approved, and the execution of this contract carrying out the said resolution by the Mayor, John W. Miller and attested by the Secretary, was duly authorized, and

Whereas, by resolution of the Board of the Purchaser, enacted on the 8 day of June, 19 77, the purchase of water from the Seller in accordance with the terms set forth in the said resolution was approved, and the execution of this contract by the Chairman, and attested by the Secretary was duly authorized;

Now, therefore, in consideration of the foregoing and the mutual agreements hereinafter set forth,

A. The Seller Agrees:

1. (Quality and Quantity) To furnish the Purchaser at the point of delivery hereinafter specified, during the term of this contract or any renewal or extension thereof, potable treated water meeting applicable purity standards of the West Virginia State Department of Health

in such quantity as may be required by the Purchaser not to exceed \_\_\_\_\_ gallons per month.

2. (Point of Delivery and Pressure) That water will be furnished at a reasonably constant pressure calculated at least 4 PSI from an existing eight (8) inch main supply at a point located near Route 21 at the Southern side of the City

If a greater pressure than that normally available at the point of delivery is required by the Purchaser, the cost of providing such greater pressure shall be borne by the Purchaser. Emergency failures of pressure or supply due to main supply line breaks, power failure, flood, fire and use of water to fight fire, earthquake or other catastrophe shall excuse the Seller from this provision for such reasonable period of time as may be necessary to restore service.

3. (Metering Equipment) To furnish, install, operate, and maintain at its own expense at point of delivery, the necessary metering equipment, including a meter house or pit, and required devices of standard type for properly measuring the quantity of water delivered to the Purchaser and to calibrate such metering equipment whenever requested by the Purchaser but not more frequently than once every twelve (12) months. A meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate. The previous readings of any meter disclosed by test to be inaccurate

shall be corrected for the three (3) months previous to such test in accordance with the percentage of inaccuracy found by such tests. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless Seller

and Purchaser shall agree upon a different amount. The metering equipment shall be read on last day of the month. An appropriate official of the Purchaser at all reasonable times shall have access to the meter for the purpose of verifying its readings. The purchaser will furnish and install the metering equipment initially and do the necessary connections to the existing line.

4. (Billing Procedure) To furnish the Purchaser at the above address not later than the 10th day of each month, with an itemized statement of the amount of water furnished the Purchaser during the preceding month.

B. The Purchaser Agrees:

1. (Rates and Payment Date) To pay the Seller, not later than the 10th day of each month, for water delivered in accordance with the following schedule of rates:

- 1,000 gallons of water
- a. \$ 2.03 per / 1,000 for the first 2,000 gallons, which amount shall also be the minimum rate per month.
  - b. \$ 1.22 cents per 1000 gallons for water in excess of 2,000 gallons but less than 9,000 gallons.
  - c. \$ .92 cents per 1000 gallons for water in excess of 9,000 gallons but less than 60,000 gallons.
  - d. \$.61 cents per 1,000 gallons of water in excess of 60,000 gallon but less than 672,000 gallons.
  - e. \$.51 cents per 1,000 gallons of water in excess of 672,000 gallo

2. (Connection Fee) To pay as an agreed cost, a connection fee to connect the Seller's system with the system of the Purchaser, the sum of \_\_\_\_\_ dollars which shall cover any and all costs of the Seller for installation of the metering equipment and \_\_\_\_\_

C. It is further mutually agreed between the Seller and the Purchaser as follows:

1. (Term of Contract) That this contract shall extend for a term of 40 years from the date of the initial delivery of any water as shown by the first bill submitted by the Seller to the Purchaser and, thereafter may be renewed or extended for such term, or terms, as may be agreed upon by the Seller and Purchaser.
2. (Delivery of Water) That 30 days prior to the estimated date of completion of construction of the Purchaser's water supply distribution system, the Purchaser will notify the Seller in writing the date for the initial delivery of water.
3. (Water for Testing) When requested by the Purchaser the Seller will make available to the contractor at the point of delivery, or other point reasonably close thereto, water sufficient for testing, flushing, and trench filling the system of the Purchaser during construction, ~~irrespective of whether the metering equipment has been installed at the time.~~ This cost will be billed directly to the Contractor and is to be paid by ~~the Purchaser, or the Contractor, or his failure to pay, by the Purchaser.~~ the Contractor.
4. (Failure to Deliver) That the Seller will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the Purchaser with quantities of water required by the Purchaser. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event of an extended shortage of water, or the supply of water available to the Seller is otherwise diminished over an extended period of time, the supply of water to Purchaser's consumers shall be reduced or diminished in the same ratio or proportion as the supply to Seller's consumers is reduced or diminished.
5. (Modification of Contract) That the provisions of this contract pertaining to the schedule of rates to be paid by the Purchaser for water delivered are subject to modification at the end of every 1 year period. Any increase or decrease in rates shall be based on a demonstrable increase or decrease in the costs of performance hereunder, but such costs shall not include increased capitalization of the Seller's system. Other provisions of this contract may be modified or altered by mutual agreement.
6. (Regulatory Agencies) That this contract is subject to such rules, regulations, or laws as may be applicable to similar agreements in this State and the Seller and Purchaser will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.
7. (Miscellaneous) That the construction of the water supply distribution system by the Purchaser is being financed by a loan made or insured by, and/or a grant from, the United States of America, acting through the Farmers Home Administration of the United States Department of Agriculture, and the provisions hereof pertaining to the undertakings of the Purchaser are conditioned upon the approval, in writing, of the State Director of the Farmers Home Administration.
8. (Successor to the Purchaser) That in the event of any occurrence rendering the Purchaser incapable of performing under this contract, any successor of the Purchaser, whether the result of legal process, assignment, or otherwise, shall succeed to the rights of the Purchaser hereunder.

In witness whereof the parties hereto, acting under authority of their respective governing bodies, have caused this contract to be duly executed in 6 counterparts, each of which shall constitute an original.

Seller: CITY OF RIPLEY  
John W. Miller

By JOHN W. MILLER, MAYOR

Title MAYOR

Attest: Helen H. Costa  
Secretary

Purchaser: Carl DeLore

By Chairman Jackson County

Title Southern Public Service District

Attest: Dolores Willard  
Secretary

This contract is approved on behalf of the Farmers Home Administration this 27 day of June,

19 22.

By M. D. P.  
Title Chief, Community Programs

**AMENDMENT TO  
WATER PURCHASE CONTRACT**

**THIS AMENDMENT TO WATER PURCHASE CONTRACT** (hereinafter, "Amendment") is made and entered into as of the 9th day of January, 2013, by and between the SOUTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT (hereinafter, "District"), and the CITY OF RIPLEY (hereinafter, "City").

**WITNESSETH:**

**WHEREAS**, the District currently purchases water from the City through a Water Purchase Contract (hereinafter, "Contract") with an effective date of June 8, 1977;

**WHEREAS**, the Contract provides for the City to deliver and sell water to the District from a main supply located near Route 21 at the Southern side of the City of Ripley;

**WHEREAS**, the District desires to upgrade and extend its water distribution system by constructing improvements to the existing City of Ripley public water system (hereinafter, "Ripley System Improvements");

**WHEREAS**, the District is willing to construct at the District's expense said Ripley System Improvements, as more specifically described below, so that the District's water distribution system may be upgraded and extended;

**WHEREAS**, the District plans to issue its water revenue bonds to finance the expense of designing and constructing said Ripley System Improvements;

**WHEREAS**, the District has the authority to construct said Ripley System Improvements, transfer it to the City, and enter into this Amendment, and the City has the authority to accept said transfer and own and operate said Ripley System Improvements; and

**WHEREAS**, the current contract should be amended to reflect the existing and the future points of supply and pressure.

**NOW, THEREFORE**, the City and the District hereby amend the Contract as follows:

**Section 1. Sections Amended and Added:**

A. Amend the following Section 2 to "A. The Seller Agrees:"

2. (Point of Delivery and Pressure) That water will be furnished at a reasonably constant pressure (currently 71 psi to 87 psi) from an existing 6-inch diameter main to a master meter installed in the 1970's, and at a reasonably constant pressure (currently 75 psi to 91 psi) from an existing 8-inch diameter supply line to a master meter installed in 1998, both points located near Route 21 at the southern end of the City.

As part of the Ripley Systems Improvement, the District will install a new point of service along US Route 33 at which point water will be provided to the master meter at a reasonably constant rate (30 psi to 44 psi) through an 8-inch diameter main.

If a greater pressure than that normally available at the point of delivery is required by the District, the cost of providing such a greater pressure shall be borne by the District. Emergency failures of pressure or supply due to main supply line breaks, power failure, flood, fire and use of water to fight fire, earthquake or other catastrophe shall excuse the Seller from this provision for such reasonable period of time as may be necessary to restore service.

B. Add the following Section 3 to “B. The District Agrees:”

“3. (Ripley System Improvements Costs) The District recognizes and understands that in order to upgrade and extend its water distribution system, improvements to the existing distribution system of the City of Ripley, is necessary. The improvements consist of the construction of a 150,000 gallon storage tank to replace the existing 100,000 gallon Spencer Road storage tank, upgrading of the Hillcrest Booster Station, and the installation of approximately 1,200 l.f. of 8-inch diameter water main, master meter, and necessary appurtenances.

- a. The District agrees that it will be responsible for the engineering, design and preparation of plans and specifications for the Ripley System Improvements described in this Contract. The City will pay no part of the engineering and design costs for these improvements.
- b. The District agrees to pay the entire cost of constructing the Ripley System Improvements, including all equipment, labor, and materials. The City will pay no part of the construction costs for these improvements.”

C. Add the following Sections 9 and 10 to “C. It is further mutually agreed between the Seller and the District as follows:”

“9. (Ripley System Improvements) The City and the District agree that the construction of Ripley System Improvements, is necessary to upgrade and extend the District’s water distribution system.

- a. Ownership and Maintenance: Upon completion of construction and placement in service of the Ripley System Improvements by the District, said Ripley System Improvements shall be transferred to and become the property of the City. Control, ownership, operation, and maintenance of said Ripley System Improvements shall be vested wholly and exclusively in the City, and the District will have no interest therein.
- b. Free of Liens: The transfer of the new Ripley System Improvements from the District to the City shall be free of any liens or encumbrances.

- c. Warranty: Upon transfer of the new Ripley System Improvements from the District to the City, any warranty for the new Ripley System Improvements that is available to the District shall be assigned to the City.

10. (Extension of Term of Contract) Upon issuance of water revenue bonds by the District for the purpose of financing the Ripley System Improvements, this Contract shall be extended for a term of 40 years, and thereafter may be renewed or extended for such a term, or terms, as may be agreed upon by the City and the District.”

**Section 2. Governing Law.** The City and the District agree that construction and performance of this Amendment and the Contract shall be governed by and construed in accordance with the laws of the State of West Virginia. If any paragraph, clause, or provision of this Amendment or the Contract is held to be invalid or unenforceable by a court of law, such holding shall not affect the validity of the remaining paragraphs, clauses and provisions hereof.

**Section 3. Sections not Amended.** All other terms and conditions in the Contract between the City and the District shall remain unchanged and in full force and effect. If this Amendment should conflict in any material way with the Contract, the terms of this Amendment shall prevail.

**Section 4. Entire Agreement.** This Amendment and the Contract constitute the entire agreement between the City and the District.

**IN WITNESS WHEREOF**, the parties hereto, acting under authority of their respective governing bodies, have caused this Amendment to the Water Purchase Contract to be duly executed in two counterparts, each of which shall constitute an original copy

CITY OF RIPLEY

By: Carolyn Rader  
Mayor

Attest:

[Signature]  
Clerk

SOUTHERN JACKSON COUNTY  
PUBLIC SERVICE DISTRICT

By: James L. Stover  
Chairman

Attest:

[Signature]  
Secretary

This Amendment is subject to approval by the Public Service Commission of West Virginia and shall not become effective until an Order approving the same is entered by the Public Service Commission of West Virginia and said Order becomes final and nonappealable.







**CLOSING MEMORANDUM**

**To:** Sheila Miller  
Jim Ellars  
Brian Blackwell  
Robert W. DeCrease  
Karl Vielhaber  
Samme Gee

**From:** Bill Bragg

**Date:** February 14, 2013

**Re:** Southern Jackson County Public Service District  
Water Revenue Bond (West Virginia DWTRF Program), Series 2013

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1. **DISBURSEMENT TO DISTRICT**

Payor: West Virginia Water Development Authority  
Sources: Grant and Bond Proceeds  
Amounts: \$206,695.22 from IJDC Grant Proceeds  
\$74,922.00 from DWTRF Bond Proceeds  
Date: February 14, 2013  
Form: Wire Transfer  
Payee: Southern Jackson County Public Service District  
Bank: United Bank, Inc.  
113 North St.  
Ripley, WV 25271  
(304) 372-2121  
Att'n.: Manager  
Routing No.: 051900395  
Account No.: 67778447  
Account: Construction Fund





## WEST VIRGINIA CODE

**CHAPTER 16. PUBLIC HEALTH.****ARTICLE 13A. PUBLIC SERVICE DISTRICTS.****§16-13A-1. Legislative findings.**

The Legislature of the state of West Virginia hereby determines and finds that the present system of public service districts within the state has provided a valuable service at a reasonable cost to persons who would otherwise have been unable to obtain public utility services. To further this effort, and to insure that all areas of the state are benefiting from the availability of public service district utility services and to further correct areas with health hazards, the Legislature concludes that it is in the best interest of the public to implement better management of public service district resources by expanding the ability and the authority of the public service commission to assist public service districts by offering advice and assistance in operational, financial and regulatory affairs.

In addition to the expanded powers which shall be given to the public service commission, the Legislature also concludes that it is in the best interest of the public for each county commission to review current technology available and consider consolidating existing public service districts where it is feasible and will not result in the interference with existing bond instruments. Further, if such consolidation is not feasible, the Legislature finds that it is in the best interest of the public for each county commission to review current technology available and consider consolidating or centralizing the management of public service districts within its county or multi-county area to achieve efficiency of operations. The Legislature also finds that additional guidelines should be imposed on the creation of new public service districts and that county commissions shall dissolve inactive public service districts as hereinafter provided. The Legislature also finds that the public service commission shall promulgate rules and regulations to effectuate the expanded powers given to the commission relating to public service districts.

**§16-13A-1a. Jurisdiction of the public service commission.**

The jurisdiction of the public service commission relating to public service districts shall be expanded to include the following powers and such powers shall be in addition to all other powers of the public service commission set forth in this code:

- (a) To study, modify, approve, deny or amend the plans created under section one-b of this article for consolidation or merger of public service districts and their facilities, personnel or administration;
- (b) To petition the appropriate circuit court for the removal of a public service district board member or members; and
- (c) To create by general order a separate division within the public service commission to provide assistance to public service districts in technological, operational, financial and regulatory matters.

**§16-13A-1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts.**

Each county commission shall conduct a study of all public service districts which have their principal offices within its county and shall develop a plan relating to the creation, consolidation, merger, expansion or dissolution of such districts or the consolidation or merger of management and administrative services and personnel and shall present such plan to the public service commission for approval, disapproval, or modification: Provided, That within ninety days of the effective date of this section each county commission in this state shall elect either to perform its own study or request that the public service commission perform such study. Each county commission electing to perform its own study has one year from the date of election to present such plan to the public service commission. For each county wherein the county commission elects not to perform its own study, the public service commission shall conduct a study of such county. The public service commission shall establish a schedule for such studies upon a priority basis, with those counties perceived to have the greatest need of creation or consolidation of public service districts receiving the highest priority. In establishing the priority schedule, and in the performance of each study, the bureau of public health and the division of environmental protection

shall offer their assistance and cooperation to the public service commission. Upon completion by the public service commission of each study, it shall be submitted to the appropriate county commission for review and comment. Each county commission has six months in which to review the study conducted by the public service commission, suggest changes or modifications thereof, and present such plan to the public service commission. All county plans, whether conducted by the county commission itself or submitted as a result of a public service commission study, shall, by order, be approved, disapproved or modified by the public service commission in accordance with rules promulgated by the public service commission and such order shall be implemented by the county commission.

**§16-13A-1c. General purpose of districts.**

Any territory constituting the whole or any part of one or more counties in the state so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of, properties supplying water, sewerage or stormwater services or gas distribution services or all of these within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may be constituted a public service district under and in the manner provided by this article. The words "public service properties," when used in this article, shall mean and include any facility used or to be used for or in connection with: (1) The diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses (herein sometimes referred to as "water facilities"); (2) the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (herein sometimes referred to as "sewer facilities" or "landfills"); (3) the distribution or the furnishing of natural gas to the public for industrial, public, private or other uses (herein sometimes referred to as "gas utilities or gas system"); or (4) the collection, control or disposal of stormwater (herein sometimes referred to as "stormwater system" or "stormwater systems"), or (5) the management, operation, maintenance and control of stormwater and stormwater systems (herein sometimes referred to as "stormwater management program" or "stormwater management programs"). As used in this article "stormwater system" or "stormwater systems" means a stormwater system in its entirety or any integral part thereof used to collect, control or dispose of stormwater, and includes all facilities, structures and natural water courses used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: Inlets, conduits, outlets, channels, ponds, drainage easements, water quality facilities, catch basins, ditches, streams, gulches, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, pipes, flood control systems, levies and pumping stations: *Provided*, That the term "stormwater system" or "stormwater systems" does not include highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways. As used in this article "stormwater management program" or "stormwater management programs" means those activities associated with the management, operation, maintenance and control of stormwater and stormwater systems, and includes, but is not limited to, public education, stormwater and surface runoff water quality improvement, mapping, planning, flood control, inspection, enforcement and any other activities required by state and federal law: *Provided, however*, That the term "stormwater management program" or "stormwater management programs" does not include those activities associated with the management, operation, maintenance and control of highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways without the express agreement of the commissioner of highways.

**§16-13A-2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the Secretary of State.**

(a) The county commission of any county may propose the creation, enlargement, reduction, merger, dissolution, or consolidation of a public service district by any of the following methods: (1) On its own motion by order duly adopted, (2) upon the recommendation of the Public Service Commission, or (3) by petition of twenty-five percent of the registered voters who reside within the limits of the proposed public service district within one or more counties. The petition shall contain a description, including metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed district: *Provided*, That after the effective date of this section, no new public service district shall be created, enlarged, reduced, merged, dissolved or consolidated under this section without the written consent and approval of the Public Service Commission, which approval and consent shall be in accordance with rules promulgated by the Public Service Commission and may only be requested after consent is given by the appropriate county commission or commissions pursuant to this section. Any territory may be included regardless of whether or not the territory includes one or more cities, incorporated towns or other municipal corporations which own and operate any public service properties and regardless of whether or not it includes one or more cities, incorporated towns or other municipal corporations being served by privately owned public service properties: *Provided, however*, That the same territory shall not be included within the

boundaries of more than one public service district except where the territory or part thereof is included within the boundaries of a separate public service district organized to supply water, sewerage services, stormwater services or gas facilities not being furnished within such territory or part thereof: *Provided further*, That no city, incorporated town or other municipal corporation shall be included within the boundaries of the proposed district except upon the adoption of a resolution of the governing body of the city, incorporated town or other municipal corporation consenting.

(b) The petition shall be filed in the office of the clerk of the county commission of the county in which the territory to constitute the proposed district is situated, and if the territory is situated in more than one county, then the petition shall be filed in the office of the clerk of the county commission of the county in which the major portion of the territory extends, and a copy thereof (omitting signatures) shall be filed with each of the clerks of the county commission of the other county or counties into which the territory extends. The clerk of the county commission receiving such petition shall present it to the county commission of the county at the first regular meeting after the filing or at a special meeting called for the consideration thereof.

(c) When the county commission of any county enters an order on its own motion proposing the creation, enlargement, reduction, merger, dissolution or consolidation of a public service district, as aforesaid, or when a petition for the creation is presented, as aforesaid, the county commission shall at the same session fix a date of hearing in the county on the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed public service district, which date so fixed shall be not more than forty days nor less than twenty days from the date of the action. Within ten days of fixing the date of hearing, the county commission shall provide the Executive Secretary of the Public Service Commission with a copy of the order or petition and notification of the time and place of the hearing to be held by the county commission. If the territory proposed to be included is situated in more than one county, the county commission, when fixing a date of hearing, shall provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county commission of each county in which any territory in the proposed public service district is located shall cause notice of the hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for the publication shall be by publication in each city, incorporated town or municipal corporation if available in each county in which any territory in the proposed public service district is located. The publication shall be at least ten days prior to the hearing.

(d) In all cases where proceedings for the creation, enlargement, reduction, merger, dissolution or consolidation of the public service districts are initiated by petition as aforesaid, the person filing the petition shall advance or satisfactorily indemnify the payment of the cost and expenses of publishing the hearing notice, and otherwise the costs and expenses of the notice shall be paid in the first instance by the county commission out of contingent funds or any other funds available or made available for that purpose. In addition to the notice required herein to be published, there shall also be posted in at least five conspicuous places in the proposed public service district, a notice containing the same information as is contained in the published notice. The posted notices shall be posted not less than ten days before the hearing.

(e) All persons residing in or owning or having any interest in property in the proposed public service district shall have an opportunity to be heard for and against its creation, enlargement, reduction, merger, dissolution or consolidation. At the hearing the county commission before which the hearing is conducted shall consider and determine the feasibility of the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed district. If the county commission determines that the construction or acquisition by purchase or otherwise and maintenance, operation, improvement and extension of public service properties by the public service district will be conducive to the preservation of public health, comfort and convenience of such area, the county commission shall by order create, enlarge, reduce, merge, dissolve or consolidate such public service district. If the county commission, after due consideration, determines that the proposed district will not be conducive to the preservation of public health, comfort or convenience of the area or that the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed district as set forth and described in the petition or order is not feasible, it may refuse to enter an order creating the district or it may enter an order amending the description of the proposed district and create, enlarge, reduce, merge, dissolve or consolidate the district as amended.

(f) If the county commission determines that any other public service district or districts can adequately serve the area of the proposed public service district, whether by enlargement, reduction, merger, dissolution or consolidation, it shall refuse to enter the order, but shall enter an order creating, enlarging, reducing, merging, dissolving or consolidating the area with an existing public service district, in accordance with rules adopted by the Public Service Commission for such purpose: *Provided*, That no enlargement of a public service district may occur if the present or proposed physical facilities of the

public service district are determined by the appropriate county commission or the Public Service Commission to be inadequate to provide such enlarged service. The clerk of the county commission of each county into which any part of such district extends shall retain in his office an authentic copy of the order creating, enlarging, reducing, merging, dissolving or consolidating the district: *Provided, however,* That within ten days after the entry of an order creating, enlarging, reducing, merging, dissolving or consolidating a district, such order must be filed for review and approval by the Public Service Commission. The Public Service Commission may provide a hearing in the affected county on the matter and may approve, reject or modify the order of the county commission if it finds it is in the best interests of the public to do so. The Public Service Commission shall adopt rules relating to such filings and the approval, disapproval or modification of county commission orders for creating, enlarging, merging, dissolving or consolidating districts. The provisions of this section shall not apply to the implementation by a county commission of an order issued by the Public Service Commission pursuant to this section and section one-b, of this article.

(g) The county commission may, if in its discretion it deems it necessary, feasible and proper, enlarge the district to include additional areas, reduce the area of the district, where facilities, equipment, service or materials have not been extended, or dissolve the district if inactive or create or consolidate two or more such districts. If consolidation of districts is not feasible, the county commission may consolidate and centralize management and administration of districts within its county or multi-county area to achieve efficiency of operations: *Provided,* That where the county commission determines on its own motion by order entered of record, or there is a petition to enlarge the district, merge and consolidate districts, or the management and administration thereof, reduce the area of the district or dissolve the district if inactive, all of the applicable provisions of this article providing for hearing, notice of hearing and approval by the Public Service Commission shall apply. The Commission shall at all times attempt to bring about the enlargement or merger of existing public service districts in order to provide increased services and to eliminate the need for creation of new public service districts in those areas which are not currently serviced by a public service district: *Provided, however,* That where two or more public service districts are consolidated pursuant to this section, any rate differentials may continue for the period of bonded indebtedness incurred prior to consolidation. The districts may not enter into any agreement, contract or covenant that infringes upon, impairs, abridges or usurps the duties, rights or powers of the county commission, as set forth in this article, or conflicts with any provision of this article.

(h) A list of all districts and their current board members shall be filed by the county commission with the Secretary of State and the Public Service Commission by the first day of July of each year.

**§16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.**

From and after the date of the adoption of the order creating any public service district, it is a public corporation and political subdivision of the state, but without any power to levy or collect ad valorem taxes. Each district may acquire, own and hold property, both real and personal, in its corporate name, and may sue, may be sued, may adopt an official seal and may enter into contracts necessary or incidental to its purposes, including contracts with any city, incorporated town or other municipal corporation located within or without its boundaries for furnishing wholesale supply of water for the distribution system of the city, town or other municipal corporation, or for furnishing stormwater services for the city, town or other municipal corporation, and contract for the operation, maintenance, servicing, repair and extension of any properties owned by it or for the operation and improvement or extension by the district of all or any part of the existing municipally owned public service properties of any city, incorporated town or other municipal corporation included within the district: *Provided,* That no contract shall extend beyond a maximum of forty years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

The powers of each public service district shall be vested in and exercised by a public service board consisting of not less than three members, who shall be persons residing within the district, who possess certain educational, business or work experience which will be conducive to operating a public service district. Each board member shall, within six months of taking office, successfully complete the training program to be established and administered by the public service commission in conjunction with the division of environmental protection and the bureau of public health. Board members shall not be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service, or in furnishing any supplies or materials to the district nor shall a former board member be hired by the district in any capacity within a minimum of twelve months after board member's term has expired or such board member has resigned from the district board. The members shall be appointed in the following manner:

Each city, incorporated town or other municipal corporation having a population of more than three thousand but less than eighteen thousand is entitled to appoint one member of the board, and each city, incorporated town or other municipal corporation having a population in excess of eighteen thousand shall be entitled to appoint one additional member of the board for each additional eighteen thousand population. The members of the board representing such cities, incorporated towns or other municipal corporations shall be residents thereof and shall be appointed by a resolution of the governing bodies thereof and upon the filing of a certified copy or copies of the resolution or resolutions in the office of the clerk of the county commission which entered the order creating the district, the persons so appointed become members of the board without any further act or proceedings. If the number of members of the board so appointed by the governing bodies of cities, incorporated towns or other municipal corporations included in the district equals or exceeds three, then no further members shall be appointed to the board and the members so appointed are the board of the district except in cases of merger or consolidation where the number of board members may equal five.

If no city, incorporated town or other municipal corporation having a population of more than three thousand is included within the district, then the county commission which entered the order creating the district shall appoint three members of the board, who are persons residing within the district and residing within the state of West Virginia, which three members become members of the board of the district without any further act or proceedings except in cases of merger or consolidation where the number of board members may equal five.

If the number of members of the board appointed by the governing bodies of cities, incorporated towns or other municipal corporations included within the district is less than three, then the county commission which entered the order creating the district shall appoint such additional member or members of the board, who are persons residing within the district, as is necessary to make the number of members of the board equal three except in cases of merger or consolidation where the number of board members may equal five, and the member or members appointed by the governing bodies of the cities, incorporated towns or other municipal corporations included within the district and the additional member or members appointed by the county commission as aforesaid, are the board of the district. A person may serve as a member of the board in one or more public service districts.

The population of any city, incorporated town or other municipal corporation, for the purpose of determining the number of members of the board, if any, to be appointed by the governing body or bodies thereof, is the population stated for such city, incorporated town or other municipal corporation in the last official federal census.

Notwithstanding any provision of this code to the contrary, whenever a district is consolidated or merged pursuant to section two of this article, the terms of office of the existing board members shall end on the effective date of the merger or consolidation. The county commission shall appoint a new board according to rules promulgated by the public service commission. Whenever districts are consolidated or merged no provision of this code prohibits the expansion of membership on the new board to five.

The respective terms of office of the members of the first board shall be fixed by the county commission and shall be as equally divided as may be, that is approximately one third of the members for a term of two years, a like number for a term of four years, the term of the remaining member or members for six years, from the first day of the month during which the appointments are made. The first members of the board appointed as aforesaid shall meet at the office of the clerk of the county commission which entered the order creating the district as soon as practicable after the appointments and shall qualify by taking an oath of office: *Provided*, That any member or members of the board may be removed from their respective office as provided in section three-a of this article.

Any vacancy shall be filled for the unexpired term within thirty days, otherwise successor members of the board shall be appointed for terms of six years and the terms of office shall continue until successors have been appointed and qualified. All successor members shall be appointed in the same manner as the member succeeded was appointed. The district shall provide to the public service commission, within thirty days of the appointment, the following information: The new board member's name, home address, home and office phone numbers, date of appointment, length of term, who the new member replaces and if the new appointee has previously served on the board. The public service commission shall notify each new board member of the legal obligation to attend training as prescribed in this section.

The board shall organize within thirty days following the first appointments and annually thereafter at its first meeting after the first day of January of each year by selecting one of its members to serve as chair and by appointing a secretary and a treasurer who need not be members of the board. The secretary shall keep a record of all proceedings of the board which shall be available for inspection as other public records. Duplicate records shall be filed with the county commission and

shall include the minutes of all board meetings. The treasurer is lawful custodian of all funds of the public service district and shall pay same out on orders authorized or approved by the board. The secretary and treasurer shall perform other duties appertaining to the affairs of the district and shall receive salaries as shall be prescribed by the board. The treasurer shall furnish bond in an amount to be fixed by the board for the use and benefit of the district.

The members of the board, and the chair, secretary and treasurer thereof, shall make available to the county commission, at all times, all of its books and records pertaining to the district's operation, finances and affairs, for inspection and audit. The board shall meet at least monthly.

**§16-13A-3a. Removal of members of public service board.**

The county commission or the public service commission or any other appointive body creating or establishing a public service district under the provisions of this article, or any group of five percent or more of the customers of a public service district, may petition the circuit court of the county in which the district maintains its principal office for the removal of any member of the governing board thereof for consistent violations of any provisions of this article, for reasonable cause which includes, but is not limited to, a continued failure to attend meetings of the board, failure to diligently pursue the objectives for which the district was created, or failure to perform any other duty either prescribed by law or required by a final order of the public service commission or for any malfeasance in public office. Any board member charged with a violation under this section who offers a successful defense against such charges shall be reimbursed for the reasonable costs of such defense from district revenues. Such costs shall be considered as costs associated with rate determination by the public service district and the public service commission. If the circuit court judge hearing the petition for removal finds that the charges are frivolous in nature, the judge may assess all or part of the court costs, plus the reasonable costs associated with the board member's defense, against the party or parties who petitioned the court for the board member's removal.

**§16-13A-4. Board chairman; members' compensation; procedure; district name.**

(a) The chairman shall preside at all meetings of the board and may vote as any other member of the board. If the chairman is absent from any meeting, the remaining members may select a temporary chairman and if the member selected as chairman resigns as such or ceases for any reason to be a member of the board, the board shall select one of its members as chairman to serve until the next annual organization meeting.

(b) Salaries of the board members are:

(1) For districts with fewer than six hundred customers, up to seventy-five dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed fifteen hundred dollars per annum;

(2) For districts with six hundred customers or more but fewer than two thousand customers, up to one hundred dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at additional special meetings, total salary not to exceed two thousand five hundred fifty dollars per annum;

(3) For districts with two thousand customers or more, up to one hundred twenty-five dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at additional special meetings, total salary not to exceed three thousand seven hundred fifty dollars per annum; and

(4) For districts with four thousand or more customers, up to one hundred fifty dollars per attendance at regular monthly meetings and one hundred dollars per attendance at additional special meetings, total salary not to exceed five thousand four hundred dollars per annum.

The public service district shall certify the number of customers served to the Public Service Commission beginning on the first day of July, one thousand nine hundred eighty-six, and continue each fiscal year thereafter.

(c) Public service districts selling water to other water utilities for resale may adopt the following salaries for its board members:

(1) For districts with annual revenues of less than fifty thousand dollars, up to seventy-five dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed fifteen hundred dollars per annum;

(2) For districts with annual revenues of fifty thousand dollars or more, but less than two hundred fifty thousand dollars, up to one hundred dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at special meetings, total salary not to exceed two thousand five hundred fifty dollars per annum;

(3) For districts with annual revenues of two hundred fifty thousand dollars or more, but less than five hundred thousand dollars, up to one hundred twenty-five dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at additional special meetings, total salary not to exceed three thousand seven hundred fifty dollars per annum; and

(4) For districts with annual revenues of five hundred thousand dollars or more, up to one hundred fifty dollars per attendance at regular monthly meetings and one hundred dollars per attendance at additional special meetings, total salary not to exceed five thousand four hundred dollars per annum.

The public service district shall certify the number of customers served and its annual revenue to the public service commission beginning on the first day of July, two thousand, and continue each fiscal year thereafter.

(d) Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as provided for by the rules of the board.

(e) The board shall by resolution determine its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings may be called. Public notice of meetings shall be given in accordance with section three, article nine-a, chapter six of this code. Emergency meetings may be called as provided for by said section. A majority of the members constituting the board also constitute a quorum to do business.

(f) The members of the board are not personally liable or responsible for any obligations of the district or the board, but are answerable only for willful misconduct in the performance of their duties. The county commission which created a district or county commissions if more than one created the district may, upon written request of the district, adopt an order changing the official name of a public service district: *Provided*, That such name change will not be effective until approved by the public service commission of West Virginia and the owners of any bonds and notes issued by the district, if any, shall have consented, in writing, to the name change. If a district includes territory located in more than one county, the county commission or county commissions changing the name of the district shall provide any county commission into which the district also extends with a certified copy of the order changing the name of the district. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located.

#### **§16-13A-5. General manager of board.**

The board may employ a general manager to serve a term of not more than five years and until his or her successor is employed, and his or her compensation shall be fixed by resolution of the board. Such general manager shall devote all or the required portion of his or her time to the affairs of the district and may employ, discharge and fix the compensation of all employees of the district, except as in this article otherwise provided, and he or she shall perform and exercise such other powers and duties as may be conferred upon him or her by the board.

Such general manager shall be chosen without regard to his or her political affiliations and upon the sole basis of his or her administrative and technical qualifications to manage public service properties and affairs of the district and he or she may be discharged only upon the affirmative vote of two thirds of the board. Such general manager need not be a resident of the district at the time he or she is chosen. Such general manager may not be a member of the board but shall be an employee of the board.

The board of any public service district which purchases water, sewer or stormwater service from a municipal water, sewer or stormwater system or another public service district may, as an alternative to hiring its own general manager, elect to permit the general manager of the municipal water, sewer or stormwater system or public service district from which such water, sewer or stormwater service is purchased provide professional management to the district, if the appropriate municipality or public service board agrees to provide such assistance. The general manager shall receive reasonable compensation for such service.

#### **§16-13A-6. Employees of board.**

The board may in its discretion from time to time by resolution passed by a majority vote provide for the employment of an attorney, fiscal agent, one or more engineers and such other employees as the board may determine necessary and

expedient. The board shall in and by such resolution fix the term of employment and compensation and prescribe the duties to be performed by such employees.

**§16-13A-7. Acquisition and operation of district properties.**

The board of these districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same, including, but not limited to, those activities necessary to comply with all federal and state requirements, including water quality improvement activities. All contracts involving the expenditure by the district of more than \$25,000 for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provision of article three, chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two of this article in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the Constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years. **§16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.**

The board may acquire any publicly or privately owned public service properties located within the boundaries of the district regardless of whether or not all or any part of such properties are located within the corporate limits of any city, incorporated town or other municipal corporation included within the district and may purchase and acquire all rights and franchises and any and all property within or outside the district necessary or incidental to the purpose of the district.

The board may construct any public service properties within or outside the district necessary or incidental to its purposes and each such district may acquire, construct, maintain and operate any such public service properties within the corporate limits of any city, incorporated town or other municipal corporation included within the district or in any unincorporated territory within ten miles of the territorial boundaries of the district: *Provided*, That if any incorporated city, town or other municipal corporation included within the district owns and operates either water facilities, sewer facilities, stormwater facilities or gas facilities or all of these, then the district may not acquire, construct, establish, improve or extend any public service properties of the same kind within such city, incorporated towns or other municipal corporations or the adjacent unincorporated territory served by such cities, incorporated towns or other municipal corporations, except upon the approval of the public service commission, the consent of such cities, incorporated towns or other municipal corporations and in conformity and compliance with the rights of the holders of any revenue bonds or obligations theretofore issued by such cities, incorporated towns or other municipal corporations then outstanding and in accordance with the ordinance, resolution or other proceedings which authorize the issuance of such revenue bonds or obligations.

Whenever such district has constructed, acquired or established water facilities, sewer facilities, a stormwater system, stormwater management program or gas facilities for water, sewer, stormwater or gas services within any city, incorporated town or other municipal corporation included within a district, then such city, incorporated town or other municipal corporation may not thereafter construct, acquire or establish any facilities of the same kind within such city, incorporated town or other municipal corporation without the consent of such district.

For the purpose of acquiring any public service properties or lands, rights or easements deemed necessary or incidental for the purposes of the district, each such district has the right of eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by cities, incorporated towns and other municipal corporations: *Provided*, That the power of eminent domain provided in this section does not extend to highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways without the express agreement of the commissioner of highways: *Provided, however*, That such board may not acquire all or any substantial part of a privately owned waterworks system unless and until authorized so to do by the public service commission of West Virginia, and that this section shall not be construed to authorize any district to acquire through condemnation proceedings either in whole or substantial part an existing privately owned waterworks plant or system or gas facilities located in or furnishing water or gas service within such district or extensions made or to be made by it in

territory contiguous to such existing plant or system, nor may any such board construct or extend its public service properties to supply its services into areas served by or in competition with existing waterworks or gas facilities or extensions made or to be made in territory contiguous to such existing plant or system by the owner thereof.

**§16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.**

(a) (1) The board may make, enact and enforce all needful rules in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district. The board shall establish rates, fees and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of the public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds under this article. The schedule of the rates, fees and charges may be based upon:

(A) The consumption of water or gas on premises connected with the facilities, taking into consideration domestic, commercial, industrial and public use of water and gas;

(B) The number and kind of fixtures connected with the facilities located on the various premises;

(C) The number of persons served by the facilities;

(D) Any combination of paragraphs (A), (B) and (C) of this subdivision; or

(E) May be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements or stormwater facilities constructed, owned or operated by the West Virginia Division of Highways.

(2) Where water, sewer, stormwater or gas services, or any combination thereof, are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate of the charges. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. Notwithstanding the provisions of section eight, article three, chapter twenty-four of this code to the contrary, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage of the applicant's specific customer class or \$50, with the district to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. If a district provides both water and sewer service, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage for water service or \$50 and the greater of a sum equal to two twelfths of the average annual usage for wastewater service of the applicant's specific customer class or \$50. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit equal to the greater of a sum equal to two twelfths of the average usage for the applicant's specific customer class or \$50 has been remitted to the district. After twelve months of prompt payment history, the district shall return the deposit to the customer or credit the customer's account at a rate as the Public Service Commission may prescribe: *Provided*, That where the customer is a tenant, the district is not required to return the deposit until the time the tenant discontinues service with the district. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The board may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both, ten days after the water or gas services become delinquent: *Provided, however*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the board to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(b) In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separately water facilities, sewer facilities or stormwater facilities and the district owns and operates another kind of facility either water or sewer, or both, as the case may be, then

the district and the publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer or stormwater service fees and charges: *Provided*, That any contracts entered into by a public service district pursuant to this section shall be submitted to the Public Service Commission for approval. Any public service district which provides water and sewer service, water and stormwater service or water, sewer and stormwater service has the right to terminate water service for delinquency in payment of water, sewer or stormwater bills. Where one public service district is providing sewer service and another public service district or a municipality included within the boundaries of the sewer or stormwater district is providing water service and the district providing sewer or stormwater service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer or stormwater district that is providing water service, upon the request of the district providing sewer or stormwater service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer or stormwater account: *Provided, however*, That any termination of water service must comply with all rules and orders of the Public Service Commission. *Provided further*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the Public Service Districts to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(c) Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the Division of Health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any sewer facilities where sewage will flow by gravity or be transported by other methods approved by the Division of Health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code, from the houses, dwellings or buildings into the sewer facilities, to connect with and use the sewer facilities and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from the houses, dwellings and buildings where there is gravity flow or transportation by any other methods approved by the Division of Health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code and the houses, dwellings and buildings can be adequately served by the sewer facilities of the district and it is declared that the mandatory use of the sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of the districts and of the state. If the public service district requires the property owner to connect with the sewer facilities even when sewage from dwellings may not flow to the main line by gravity and the property owner incurs costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the Public Service District Board shall authorize the district to pay all reasonable costs for the changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump or any other method approved by the Division of Health. Maintenance and operation costs for the extra installation should be reflected in the users charge for approval of the Public Service Commission. The circuit court shall adjudicate the merits of the petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

(d) Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near the sewer facility and the engineer for the district has certified that the sewer facilities are available to and are adequate to serve the owner, tenant or occupant and sewage will flow by gravity or be transported by other methods approved by the Division of Health from the house, dwelling or building into the sewer facilities, the district may charge, and the owner, tenant or occupant shall pay, the rates and charges for services established under this article only after thirty-day notice of the availability of the facilities has been received by the owner, tenant or occupant. Rates and charges for sewage services shall be based upon actual water consumption or the average monthly water consumption based upon the owner's, tenant's or occupant's specific customer class.

(e) The owner, tenant or occupant of any real property may be determined and declared to be served by a stormwater system only after each of the following conditions is met: (1) The district has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 40 C.F.R. §122.26; (2) the district's authority has been properly expanded to operate and maintain a stormwater system; (3) the district has made available a stormwater system where stormwater from the real property affects or drains into the stormwater system; and (4) the real property is located in the Municipal Separate Storm Sewer System's designated service area. It is further hereby found, determined and declared that the mandatory use of the stormwater system is necessary and essential for the health and welfare of the inhabitants and residents of the district and of the state. The district may charge and the owner, tenant or occupant shall pay the rates, fees and charges for stormwater services established under this article only after thirty-day notice of the availability of the stormwater system has been received by

the owner. An entity providing stormwater service shall provide a tenant a report of the stormwater fee charged for the entire property and, if appropriate, that portion of the fee to be assessed to the tenant.

(f) All delinquent fees, rates and charges of the district for either water facilities, sewer facilities, gas facilities or stormwater systems or stormwater management programs are liens on the premises served of equal dignity, rank and priority with the lien on the premises of state, county, school and municipal taxes. Nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the Public Service Districts to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill. In addition to the other remedies provided in this section, public service districts are granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of delinquent water, sewer, stormwater or gas bills. If the district collects the delinquent account, plus reasonable costs, from its customer or other responsible party, the district shall pay to the magistrate the normal filing fee and reasonable costs which were previously deferred. In addition, each public service district may exchange with other public service districts a list of delinquent accounts: *Provided*, That an owner of real property may not be held liable for the delinquent rates or charges for services or facilities of a tenant, nor may any lien attach to real property for the reason of delinquent rates or charges for services or facilities of a tenant of the real property, unless the owner has contracted directly with the public service district to purchase the services or facilities.

(g) Anything in this section to the contrary notwithstanding, any establishment, as defined in section three, article eleven, chapter twenty-two of this code, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the Department of Environmental Protection, as prescribed by section eleven of said article, is exempt from the provisions of this section.

(h) A public service district which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community shall prepare an annual report detailing the collection and expenditure of rates, fees or charges and make it available for public review at the place of business of the governing body and the stormwater utility main office.

#### **§16-13A-9a. Limitations with respect to foreclosure.**

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

#### **§16-13A-10. Budget.**

The board shall establish the beginning and ending of its fiscal year, which period shall constitute its budget year, and at least thirty days prior to the beginning of the first full fiscal year after the creation of the district and annually thereafter the general manager shall prepare and submit to the board a tentative budget which shall include all operation and maintenance expenses, payments to a capital replacement account and bond payment schedules for the ensuing fiscal year. Such tentative budget shall be considered by the board, and, subject to any revisions or amendments that may be determined by the board, shall be adopted as the budget for the ensuing fiscal year. Upon adoption of the budget, a copy of the budget shall be forwarded to the county commission. No expenditures for operation and maintenance expenses in excess of the budget shall be made during such fiscal year unless unanimously authorized and directed by the board.

#### **§16-13A-11. Accounts; audit.**

The general manager, under direction of the board, shall install and maintain a proper system of accounts, in accordance with all rules, regulations or orders pertaining thereto by the public service commission, showing receipts from operation and application of the same, and the board shall at least once a year cause such accounts to be properly audited: **Provided**, That such audit may be any audit by an independent public accountant completed within one year of the time required for the submission of the report: **Provided, however**, That if the district is required to have its books, records and accounts audited annually by an independent certified public accountant as a result of any covenant in any board resolution or bond instrument, a copy of such audit may be submitted in satisfaction of the requirements of this section, and is hereby found, declared and determined to be sufficient to satisfy the requirements of article nine, chapter six of this code pertaining

to the annual audit report by the state tax commission. A copy of the audit shall be forwarded within thirty days of submission to the county commission and to the public service commission.

The treasurer of each public service district shall keep and preserve all financial records of the public service district for ten years, and shall at all times have such records readily available for public inspection. At the end of his term of office, the treasurer of each public service district shall promptly deliver all financial records of the public service district to his successor in office. Any treasurer of a public service district who knowingly or willfully violates any provision of this section is guilty of a misdemeanor, and shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned in the county jail not more than ten days, or both.

**§16-13A-12. Disbursement of district funds.**

No money may be paid out by a district except upon an order signed by the chairman and secretary of such board, or such other person or persons authorized by the chairman or secretary, as the case may be, to sign such orders on their behalf. Each order for the payment of money shall specify the purposes for which the amount thereof is to be paid, with sufficient clearness to indicate the purpose for which the order is issued, and there shall be endorsed thereon the name of the particular fund out of which it is payable and it shall be payable from the fund constituted for such purpose, and no other. All such orders shall be reflected in the minutes of the next meeting of the board.

**§16-13A-13. Revenue bonds.**

For constructing or acquiring any public service properties for the authorized purposes of the district, or necessary or incidental thereto, and for constructing improvements and extensions thereto, and also for reimbursing or paying the costs and expenses of creating the district, the board of any such district is hereby authorized to borrow money from time to time and in evidence thereof issue the bonds of such district, payable solely from the revenues derived from the operation of the public service properties under control of the district. Such bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their respective dates, may bear interest at such rate or rates not exceeding eighteen percent per annum payable at such times, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place or places, may be subject to such terms of redemption with or without premium, may be declared or become due before maturity date thereof, may be authenticated in any manner, and upon compliance with such conditions, and may contain such terms and covenants as may be provided by resolution or resolutions of the board. Notwithstanding the form or tenor thereof, and in the absence of any express recital on the face thereof, that the bond is nonnegotiable, all such bonds shall be, and shall be treated as, negotiable instruments for all purposes. Bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding for all purposes notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be such officers. Notwithstanding the requirements or provisions of any other law, any such bonds may be negotiated or sold in such manner and at such time or times as is found by the board to be most advantageous, and all such bonds may be sold at such price that the interest cost of the proceeds therefrom does not exceed nineteen percent per annum, based on the average maturity of such bonds and computed according to standard tables of bond values. Any resolution or resolutions providing for the issuance of such bonds may contain such covenants and restrictions upon the issuance of additional bonds thereafter as may be deemed necessary or advisable for the assurance of the payment of the bonds thereby authorized.

**§16-13A-14. Items included in cost of properties.**

The cost of any public service properties acquired under the provisions of this article shall be deemed to include the cost of the acquisition or construction thereof, the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; for stormwater systems and associated stormwater management programs, those activities which include, but are not limited to, water quality improvement activities necessary to comply with all federal and state requirements; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses for estimates of cost and of revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the construction or acquisition of the properties and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof.

**§16-13A-15. Bonds may be secured by trust indenture.**

In the discretion and at the option of the board such bonds may be secured by a trust indenture by and between the district

and a corporate trustee, which may be a trust company or bank having powers of a trust company within or without the state of West Virginia, but no such trust indenture shall convey, mortgage or create any lien upon the public service properties or any part thereof. The resolution authorizing the bonds and fixing the details thereof may provide that such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the district and the members of its board and officers in relation to the construction or acquisition of public service properties and the improvement, extension, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that all or any part of the construction work shall be contracted for, constructed and paid for, under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, their successors, assignees or nominees, who may be given the right to require the security given by contractors and by any depository of the proceeds of bonds or revenues of the public service properties or other money pertaining thereto be satisfactory to such purchasers, their successors, assignees or nominees. Such indenture may set forth the rights and remedies of the bondholders and such trustee.

**§16-13A-16. Sinking fund for revenue bonds.**

At or before the time of the issuance of any bonds under this article the board shall by resolution or in the trust indenture provide for the creation of a sinking fund and for monthly payments into such fund from the revenues of the public service properties operated by the district such sums in excess of the cost of maintenance and operation of such properties as will be sufficient to pay the accruing interest and retire the bonds at or before the time each will respectively become due and to establish and maintain reserves therefor. All sums which are or should be, in accordance with such provisions, paid into such sinking fund shall be used solely for payment of interest and for the retirement of such bonds at or prior to maturity as may be provided or required by such resolutions.

**§16-13A-17. Collection, etc., of revenues and enforcement of covenants; default; suit, etc., by bondholder or trustee to compel performance of duties; appointment and powers of receiver.**

The board of any such district shall have power to insert enforceable provisions in any resolution authorizing the issuance of bonds relating to the collection, custody and application of revenues of the district from the operation of the public service properties under its control and to the enforcement of the covenants and undertakings of the district. In the event there shall be default in the sinking fund provisions aforesaid or in the payment of the principal or interest on any of such bonds or, in the event the district or its board or any of its officers, agents or employees, shall fail or refuse to comply with the provisions of this article, or shall default in any covenant or agreement made with respect to the issuance of such bonds or offered as security therefor, then any holder or holders of such bonds and any such trustee under the trust indenture, if there be one, shall have the right by suit, action, mandamus or other proceeding instituted in the circuit court for the county or any of the counties wherein the district extends, or in any other court of competent jurisdiction, to enforce and compel performance of all duties required by this article or undertaken by the district in connection with the issuance of such bonds, and upon application of any such holder or holders, or such trustee, such court shall, upon proof of such defaults, appoint a receiver for the affairs of the district and its properties, which receiver so appointed shall forthwith directly, or by his agents and attorneys, enter into and upon and take possession of the affairs of the district and each and every part thereof, and hold, use, operate, manage and control the same, and in the name of the district exercise all of the rights and powers of such district as shall be deemed expedient, and such receiver shall have power and authority to collect and receive all revenues and apply same in such manner as the court shall direct. Whenever the default causing the appointment of such receiver shall have been cleared and fully discharged and all other defaults shall have been cured, the court may in its discretion and after such notice and hearing as it deems reasonable and proper direct the receiver to surrender possession of the affairs of the district to its board. Such receiver so appointed shall have no power to sell, assign, mortgage, or otherwise dispose of any assets of the district except as hereinbefore provided.

**§16-13A-18. Operating contracts.**

The board may enter into contracts or agreements with any persons, firms or corporations for the operation and management of the public service properties within the district, or any part thereof, for such period of time and under such terms and conditions as shall be agreed upon between the board and such persons, firms or corporations. The board shall have power to provide in the resolution authorizing the issuance of bonds, or in any trust indenture securing such bonds, that such contracts or agreements shall be valid and binding upon the district as long as any of said bonds, or interest thereon, are outstanding and unpaid.

**§16-13A-18a. Sale, lease or rental of water, sewer, stormwater or gas system by district; distribution of proceeds.**

In any case where a public service district owns a water, sewer, stormwater or gas system, and a majority of not less than

sixty percent of the members of the public service board thereof deem it for the best interests of the district to sell, lease or rent such water, sewer, stormwater or gas system to any municipality or privately-owned water, sewer, stormwater or gas system, or to any water, sewer, stormwater or gas system owned by an adjacent public service district, the board may so sell, lease or rent such water, sewer, stormwater or gas system upon such terms and conditions as said board, in its discretion, considers in the best interests of the district: *Provided*, That such sale, leasing or rental may be made only upon: (1) The publication of notice of a hearing before the board of the public service district, as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, in a newspaper published and of general circulation in the county or counties wherein the district is located, such publication to be made not earlier than twenty days and not later than seven days prior to the hearing; (2) approval by the county commission or commissions of the county or counties in which the district operates; and (3) approval by the public service commission of West Virginia.

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

**§16-13A-19. Statutory mortgage lien created; foreclosure thereof.**

There shall be and is hereby created a statutory mortgage lien upon such public service properties of the district, which shall exist in favor of the holders of bonds hereby authorized to be issued, and each of them, and the coupons attached to said bonds, and such public service properties shall remain subject to such statutory mortgage lien until payment in full of all principal of and interest on such bonds. Any holder of such bonds, of any coupons attached thereto, may, either at law or in equity, enforce said statutory mortgage lien conferred hereby and upon default in the payment of the principal of or interest on said bonds, may foreclose such statutory mortgage lien in the manner now provided by the laws of the state of West Virginia for the foreclosure of mortgages on real property.

**§16-13A-20. Refunding revenue bonds.**

The board of any district having issued bonds under the provisions of this article is hereby empowered thereafter by resolution to issue refunding bonds of such district for the purpose of retiring or refinancing such outstanding bonds, together with any unpaid interest thereon and redemption premium thereunto appertaining and all of the provisions of this article relating to the issuance, security and payment of bonds shall be applicable to such refunding bonds, subject, however, to the provisions of the proceedings which authorized the issuance of the bonds to be so refunded.

**§16-13A-21. Complete authority of article; liberal construction; district to be public instrumentality; tax exemption.**

This article is full and complete authority for the creation of public service districts and for carrying out the powers and duties of same as herein provided. The provisions of this article shall be liberally construed to accomplish its purpose and no procedure or proceedings, notices, consents or approvals, are required in connection therewith except as may be prescribed by this article: *Provided*, That all functions, powers and duties of the public service commission of West Virginia, the bureau of public health, the division of environmental protection and the environmental quality board remain unaffected by this article. Every district organized, consolidated, merged or expanded under this article is a public instrumentality created and functioning in the interest and for the benefit of the public, and its property and income and any bonds issued by it are exempt from taxation by the state of West Virginia, and the other taxing bodies of the state: *Provided*, however, That the board of any such district may use and apply any of its available revenues and income for the payment of what such board determines to be tax or license fee equivalents to any local taxing body and in any proceedings for the issuance of bonds of such district may reserve the right to annually pay a fixed or computable sum to such taxing bodies as such tax or license fee equivalent.

**§16-13A-22. Validation of prior acts and proceedings of county courts for creation of districts, inclusion of additional territory, and appointment of members of district boards.**

All acts and proceedings taken by any county court of this state purporting to have been carried out under the provisions of this article which have been taken, prior to the date this section takes effect, for the purpose of creating public service districts or for the purpose of subsequent inclusion of additional territory to existing public service districts, after notice published by any such county court having territorial jurisdiction thereof of its intention to include such additional territory after hearing thereon, are hereby validated, ratified, approved and confirmed notwithstanding any other lack of power (other

than constitutional) of any such county court to create such public service districts or to include additional territory to existing public service districts or irregularities (other than constitutional) in such proceedings, relating to the appointment and qualification of more than three members to the board of any such public service district or the subsequent appointment of successors of any or all of such members, notwithstanding that no city, incorporated town or other municipal corporation having a population in excess of three thousand is included within the district, and the appointment and qualification of such members, and further including any irregularities in the petition for the creation of any public service district, irregularities in the description of the area embraced by such district, and irregularities in the notice and publication of notice for the hearing creating such district, prior to the date this section takes effect, is hereby validated, ratified, approved and confirmed; and, further, in such cases where more than three members of the board of such districts have been so appointed prior to the date this section takes effect then such county court shall appoint, and they are hereby authorized and empowered to appoint, successors to such members in the manner as otherwise provided by this article.

**§16-13A-23. Validation of acts and proceedings of public service boards.**

All acts and proceedings taken by any public service board the members of which were appointed, prior to the date this section takes effect, by any county court of this state having territorial jurisdiction thereof, are hereby validated, ratified, approved and confirmed, as to defects and irregularities which may otherwise exist on account of their appointment and qualification: **Provided, however,** That nothing herein contained shall be construed to excuse a criminal act.

**§16-13A-24. Acceptance of loans, grants or temporary advances.**

Any public service district created pursuant to the provisions of this article is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of construction or acquisition of water systems, sewage systems, stormwater systems or stormwater management systems or gas facilities, or all of these, and the other purposes herein authorized, from any authorized agency or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of the bonds authorized to be issued under the provisions of this article, the revenues of the said water system, sewage system, stormwater system or associated stormwater management system or gas facilities, or grants to the public service district from any authorized agency or from the United States of America or any federal or public agency or department of the United States or from any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any authorized agency or the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument.

**§16-13A-25. Borrowing and bond issuance; procedure.**

(a) Notwithstanding any other provisions of this article to the contrary, a public service district may not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of section thirteen, twenty or twenty-four of this article without the prior consent and approval of the Public Service Commission: *Provided,*

That approval of funding set forth in section eleven, article two, chapter twenty-four of this code or this section is not required if the funding is for a project which has received a certificate of public convenience and necessity after the eighth day of July, two thousand five, from the commission and where the cost of the project changes but the change does not affect the rates established for the project.

(b) The Public Service Commission may waive the provision of prior consent and approval for entering into contracts for engineering, design or feasibility studies pursuant to this section for good cause shown which is evidenced by the public service district filing a request for waiver of this section stated in a letter directed to the commission with a brief description of the project, a verified statement by the board members that the public service district has complied with chapter five-g of this code, and further explanation of ability to evaluate their own engineering contract, including, but not limited to:

(1) Experience with the same engineering firm; or

(2) Completion of a construction project requiring engineering services. The district shall also forward an executed copy of the engineering contract to the commission after receiving approval of the waiver.

(c) An engineering contract that meets one or more of the following criteria is exempt from the waiver or approval requirements:

(1) A contract with a public service district that is a Class A utility on the first day of April, two thousand three, or subsequently becomes a Class A utility as defined by commission rule;

(2) A contract with a public service district that does not require borrowing and that can be paid out of existing rates;

(3) A contract where the payment of engineering fees are contingent upon the receipt of funding, and commission approval of the funding, to construct the project which is the subject of the contract; or

(4) A contract that does not exceed fifteen thousand dollars.

(d) Requests for approval or waivers of engineering contracts shall be deemed granted thirty days after the filing date unless the staff of the Public Service Commission or a party files an objection to the request. If an objection is filed, the Public Service Commission shall issue its decision within one hundred twenty days of the filing date. In the event objection is received to a request for a waiver, the application shall be considered a request for waiver as well as a request for approval in the event a waiver is not appropriate.

(e) Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the Public Service Commission in accordance with the provision of chapter twenty-four of this code when a public service district is seeking to acquire or construct public service property.

Note: WV Code updated with legislation passed through the 2012 1st Special Session



## WEST VIRGINIA CODE

## CHAPTER 16. PUBLIC HEALTH.

## ARTICLE 13C. DRINKING WATER TREATMENT REVOLVING FUND ACT.

**§16-13C-1. Definitions.**

Unless the context in which used clearly requires a different meaning, as used in this article:

- (1) "Authority" means the water development authority provided for in section four, article one, chapter twenty-two-c of this code.
- (2) "Capacity development" means the technical, managerial and financial capability of a public water system.
- (3) "Cost" means the cost of all labor, materials, machinery, equipment, lands, property, rights and easements, plans and specifications and all other expenses necessary or incident to the acquisition, construction, improvement, expansion, extension, repair or rehabilitation of all or part of a project.
- (4) "Disadvantaged community" means the service area of a public water system that meets affordability criteria established after public review and comment by the state.
- (5) "Federal safe drinking water act" means the federal statute commonly known as the "Safe Drinking Water Act", 42 U.S.C. 300f et seq., as enacted, amended, and as may be subsequently amended.
- (6) "Fund" means the West Virginia drinking water treatment revolving fund created in this article.
- (7) "Instrumentality" means the division of health which has the primary responsibility for administering the fund and this article pursuant to requirements of the federal safe drinking water act.
- (8) "Local entity" means any municipality, public utility, or person, including any individual, firm, partnership, association, not-for-profit corporation or other corporation organized and existing under the laws of the state which may construct and operate an eligible project.
- (9) "Public water system" means that term as defined in section nine-a, article one, chapter sixteen of the code.
- (10) "Project" means a project for improving a drinking water system for the purpose of achieving or maintaining compliance with applicable state and federal drinking water regulations.
- (11) "Set-aside accounts" means those accounts that shall be set up for activities required by the federal Safe Drinking Water Act and the moneys for these accounts may be taken from the federal capitalization grant for these nonproject activities before the capitalization grant is deposited into the fund.
- (12) "Small system" means a public water system serving ten thousand or fewer persons.

**§16-13C-2. Designation of division of health as state**

**instrumentality; rules; small systems;**

**disadvantaged communities.**

(a) The division of health shall act as the instrumentality that is hereby empowered to enter into capitalization agreements with the United States Environmental Protection Agency, to accept capitalization grant awards made under the federal safe drinking water act, and to direct the administration and management of the drinking water treatment revolving fund created in this article in accordance with the requirements of federal law.

(b) The division of health shall propose rules for legislative approval in accordance with provisions of article three, chapter twenty-nine-a of the code for the purpose of effecting the administration of the provisions of this article. The rules shall include, but are not limited to, establishing requirements for: (1) Capacity development; (2) environmental review; (3) disadvantaged community designation; (4) receipt and disbursement of fund moneys; and (5) establishment of a drinking water treatment revolving fund program to direct the financial management of the fund to water systems and establish the interest rates and repayment terms of the loans.

(c) Two percent of the annual federal capitalization grants made to this state shall be utilized to provide technical assistance services for small systems to assist those systems in maintaining compliance with the federal safe drinking water act. The division of health shall enter into contracts to provide technical assistance services for small systems with such nonprofit organizations that: (1) Have a membership that represent at least twenty-five percent of the small systems of this state; and (2) have at least five years experience in providing on-site technical assistance to small systems.

(d) The division of health shall, in accordance with the provisions of the federal safe drinking water act, establish a program for loan subsidies to disadvantaged communities. Thirty percent of the annual federal capitalization grants made to this state shall be dedicated to the funding of projects for disadvantaged communities.

**§16-13C-3. Drinking water treatment revolving fund; duties of division of health and water development authority; set-aside accounts.**

(a) There is continued in the office of the state treasurer a permanent and perpetual special fund to be known as the "West Virginia drinking water treatment revolving fund". The fund shall be administered and managed in accordance with the provisions of the federal Safe Drinking Water Act. The division of health may draw all or a portion of those moneys available under capitalization agreements and with the capitalization grant awards from the United States environmental protection agency under the federal Safe Drinking Water Act and to deposit such moneys into the fund and the set-aside accounts.

(b) The fund, less the set-aside account moneys, shall be administered and managed by the water development authority under the direction of the division of health. The fund shall be comprised of moneys appropriated to the fund by the Legislature, moneys allocated to the state by the federal government expressly for the purpose of establishing and maintaining a drinking water treatment revolving fund and set-aside accounts, all receipts from loans made from the fund, all income from the investment of moneys held in the fund, and all other sums designated for deposits to the fund from any source, public or private. Moneys in the fund shall be used solely to make loans or provide other allowable financial assistance to eligible projects for public water systems, as described in the federal Safe Drinking Water Act.

(c) In order to carry out the administration and management of the fund, the authority and the division of health are authorized to employ officers, employees, agents, advisors and consultants, including attorneys, financial advisors, engineers, other technical advisors and public accountants, and notwithstanding any provisions of this code to the contrary, to determine their duties and compensation without the approval of any other agency or instrumentality.

(d) The authority shall propose legislative rules for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code to govern the pledge of loans to secure bonds of the authority.

(e) Disbursements from the fund shall be authorized for payment by the director of the authority or the director's designee. Moneys in the fund shall not be commingled with other money of the authority. If not needed for immediate use or disbursement, moneys in the fund may be invested or reinvested by the authority in obligations or securities which are considered lawful investments for public funds under this code.

(f) Pursuant to the provisions of the federal Safe Drinking Water Act, set-aside accounts shall be set up in accounts separate from the drinking water treatment revolving fund. These set-aside accounts shall include, but not be limited to, administration costs, source water protection, operator training and certification, technical assistance to systems, local assistance, and other state activities permitted by the federal Safe Drinking Water Act. The division of health shall establish and administer the set-aside accounts as permitted by the federal Safe Drinking Water Act. An application fee may be charged and deposited into the administrative account to defray the cost of administering the program.

**§16-13C-4. Management of funds.**

The authority shall manage the funds received pursuant to the provisions of this article for accounting purposes. The authority shall cause an audit of its books and accounts to be made at least once each fiscal year and the cost thereof may be defrayed as administrative expense under provisions of this article. The audit shall be conducted by a certified public

accountant and provide an auditor's opinion on the fund financial statements, a report on the internal controls and a report prepared in compliance with the provisions of the drinking water treatment revolving fund.

**§16-13C-5. Remedies to enforce payment.**

(a) In order to ensure the timely payment of all sums due and owing to the fund under a revolving fund loan agreement made between the state and a local entity, and notwithstanding any provisions of this code to the contrary, the authority has and may, at its option, exercise the following rights and remedies in the event of any default by a local entity under a loan agreement:

(1) The authority may directly impose, in its own name and for its own benefit, service charges upon all users of a project funded by a loan distributed to a local entity pursuant to this article, and may proceed directly to enforce and collect the service charges, together with all necessary costs of the enforcement and collection.

(2) The authority may exercise, in its own name or in the name of and as the agent for a particular local entity, all of the rights, powers and remedies of the local entity with respect to the project or which may be conferred upon the local entity by statute, rule, regulation or judicial decision, including all rights and remedies with respect to users of the project funded by the loan distributed to that local entity pursuant to this article.

(3) The authority may, by civil action, mandamus or other judicial or administrative proceeding, compel performance by a local entity of all the terms and conditions of the loan agreement between the state and that local entity including:

(A) The adjustment of service charges as required to repay the loan or otherwise satisfy the terms of the loan agreement;

(B) The enforcement and collection of service charges; and

(C) The enforcement by the local entity of all rights and remedies conferred by statute, rule, regulation or judicial decision.

(b) The rights and remedies enumerated in this article are in addition to rights and remedies conferred upon the authority by law or pursuant to the loan agreement.

**§16-13C-6. Construction of article.**

The provisions of this article shall be liberally construed to the end that its beneficial purposes may be effected. Insofar as the provisions of this article are inconsistent with the provisions of any other general, special or local law, the provisions of this article are controlling.

Note: WV Code updated with legislation passed through the 2012 1st Special Session