

TOWN OF TUNNELTON

**Sewer Revenue Bonds, Series 2016 A
(United States Department of Agriculture)**

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TOWN OF TUNNELTON
Sewer Revenue Bonds, Series 2016 A
(United States Department of Agriculture)

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TOWN OF TUNNELTON

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS, EXTENSIONS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE TOWN OF TUNNELTON, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$650,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2016 A (UNITED STATES DEPARTMENT OF AGRICULTURE) IN ONE OR MORE SERIES; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE TOWN OF TUNNELTON:

ARTICLE I

**STATUTORY AUTHORITY, FINDINGS
AND DEFINITIONS**

Section 1.01 Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 16, Article 13 of the West Virginia Code of 1931, 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. The Town of Tunnelton (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Preston County of said State.

B. The Issuer presently owns and operates a public sewerage system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain extensions, additions, betterments and improvements for the existing public sewerage system of the Issuer, consisting of extension of its sanitary sewer system into

the Denver and Route 26 area to serve the Denver Elementary School and 36 new customers, together with all necessary appurtenances, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer, (collectively, the "Project") (the existing public sewerage system of the Issuer, the Project and any further extensions, additions, betterments and improvements thereto are herein called the "System"). The acquisition and construction of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

C. The estimated revenues to be derived in each year from the operation of the System after completion of the Project will be sufficient to pay all costs of operation and maintenance of the System, the principal of and interest on the Series 2016 A Bonds and the Prior Bonds (as hereinafter defined) and all debt service, reserve fund and other payments provided for herein and in the Prior Ordinance.

D. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds Series 2016 A (United States Department of Agriculture) in one or more series, in the aggregate principal amount not to exceed \$650,000 (the "Series 2016 A Bonds"), to permanently finance a portion of the cost of acquisition and construction of the Project. The cost of such acquisition and construction shall be deemed to include, without being limited to, the acquisition and construction of the Project; the acquisition of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest on the Series 2016 A Bonds prior to and during acquisition and construction, and for a period not exceeding six months after completion of such acquisition or construction, of the Project; engineering, fiscal agents and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the Project, administrative expense, and such other expenses as may be necessary or incidental to the acquisition and construction of the Project and the financing authorized hereby; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2016 A Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project.

E. The period of usefulness of the System, as herein defined, after completion of the Project is not less than 40 years.

F. The Issuer has Outstanding its Sewerage System Revenue Bond, Series 2002 (United States Department of Agriculture), dated April 19, 2002, issued in the original aggregate principal amount of \$290,000 (the "Series 2002 Bonds" or the "Prior Bonds"). The Issuer is in compliance with all covenants of the Prior Bonds and Prior Ordinance.

The Series 2016 A Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects.

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

Prior to the issuance of the Series 2016 A Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; and (ii) the written consent of the Holders of the Prior Bonds to the issuance of the Series 2016 A Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no other Outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

G. It is in the best interest of the Issuer that the Series 2016 A Bonds be sold to the Purchaser, pursuant to the terms and provisions of the Letter of Conditions dated June 19, 2002 and any amendments, thereto (collectively, the “Letter of Conditions”).

H. Pursuant to the Act, the Issuer has heretofore established a Sanitary Board, and the Sanitary Board has petitioned the Governing Body to issue the Series 2016 A Bonds for the purposes set forth herein.

I. The Issuer has complied with all requirements of law relating to the authorization of the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Series 2016 A Bonds, or will have so complied prior to issuance of the Series 2016 A Bonds, including, among other things and without limitation, obtaining a certificate of convenience and necessity and approval of the financing and necessary user rates and charges from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired or shall have been duly waived or otherwise provided for.

Section 1.03 Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2016 A Bonds by those who shall be the Registered Owner of the same from time to time, this Ordinance (the “Bond Legislation”) shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owner, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owner of the Series 2016 A Bonds.

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

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

“Bond Legislation” or “Ordinance” means this Ordinance and all ordinances, orders and resolutions supplemental hereto or amendatory hereof.

“Bond Registrar” or “Registrar” means the Issuer, which shall usually so act by its Recorder.

“Bonds” means collectively, the Series 2016 A Bonds, the Prior Bonds and where appropriate, any bonds on a parity herewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

“Closing Date” means the date upon which there is an exchange of the Series 2016 A Bonds for the proceeds, or at least a de minimus portion, thereof representing the purchase price of the Series 2016 A Bonds from the Purchaser.

“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 The Thrasher group, Bridgeport, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

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

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

“FDIC” means the Federal Deposit Insurance Corporation.

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

“Governing Body” or “Council” means the Council of the Issuer.

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

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

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

“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 “Borrower” means the Town of Tunnelton, a municipal corporation and political subdivision of the State of West Virginia, in Preston County, West Virginia, and includes the Governing Body.

“Letter of Conditions” means, collectively, the Letter of Conditions of the Purchaser dated June 19, 2002 and all amendments thereto, if any.

“Mayor” means the Mayor of the Issuer.

“Minimum Reserve” means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2016 A Bonds in the then current or any succeeding year.

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

“Operating Expenses” means the current expenses, paid or accrued, of operation and maintenance of the Project and the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, materials and supplies, pumping costs, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the Project and the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting principles and retention of a sum not to exceed one-sixth of the budgeted Operating Expenses stated above for the current year as working capital, and language herein requiring payment of Operating Expenses means also retention of not to exceed such sum as working capital, provided, that all monthly amortization payments upon the Series 2016 A Bonds and into the respective reserve accounts and the Renewal and Replacement Fund have been made to the last monthly date prior to the date of such retention.

“Ordinances” means, the Bond Legislation.

“Prior Bonds” means the Series 2002 Bonds.

“Prior Ordinance” means the Ordinances of the Issuer authorizing the Prior Bonds.

“Prior Bonds Reserve Accounts” means, collectively, the respective reserve accounts created for the Prior Bonds, as more fully described and defined in the Prior Ordinance.

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

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

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

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
- (c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;
- (d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;
- (e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC (hereinbefore defined) or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;
- (f) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of AAAM-G; AAA-m; or AA-m and, if rated by Moodies, rated AAA, Aa1 or Aa2;

(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 or Standard & Poor’s Corporation.

“Recorder” means the Recorder of the Issuer.

“Registered Owner,” “Bondholder,” “Holder of the Bond” or any similar term means any person who shall be the registered owner of the Series 2016 A Bonds.

“Reserve Funds” means, the respective reserve funds for the Series 2016 A Bonds and the Prior Bonds.

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

“Series 2002 Bonds” means the Issuer’s Sewerage System Revenue Bond, Series 2002 (United States Department of Agriculture), dated April 19, 2002, issued in the original aggregate principal amount of \$290,000.

“Series 2016 A Bonds” means the Sewer Revenue Bonds (United States Department of Agriculture), issued in one or more series authorized by this Ordinance.

“State” means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the supplemental resolution authorizing the sale of the Series 2016 A Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2016 A Bonds, and not so included may be included in another Supplemental Resolution.

“System” means the complete sewerage system of the Issuer and all sewerage facilities owned by the Issuer and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the sewerage systems, including the Project, and any and all additions, betterments, improvements, properties or other facilities at any time acquired or constructed for the sewerage system from any source whatsoever.

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

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine feminine or neutral gender shall include any other gender; and any requirement for execution or attestation of the Series 2016 A Bonds or any certificate or other document by the Mayor or the Recorder shall mean that such Series 2016 A Bonds, certificate or other documents may be executed or attested by an Acting Mayor or Acting Recorder.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost not to exceed \$1,990,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2016 A Bonds hereby authorized shall be applied as provided in Article IV hereof.

The estimated maximum cost of the acquisition and construction of the Project is \$1,990,000 of which \$650,00 will be obtained from the proceeds of the sale of the Series 2016 A Bonds herein authorized; \$1,040,000 will be obtained as a grant from the Purchaser and \$300,000 will be obtained as a West Virginia Infrastructure and Jobs Development Council grant.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BONDS

Section 3.01. Authorization of Bonds. Subject and pursuant to the provisions of this Bond Legislation, the Series 2016 A Bonds of the Issuer, to be known as “Sewer Revenue Bonds, Series 2016 A (United States Department of Agriculture),” are hereby authorized to be issued, in one or more series, in the principal amount of not to exceed \$650,000 for the purpose of permanently financing a portion of the cost of the acquisition and construction of the Project.

Section 3.02. Description of Bonds. The Series 2016 A Bonds shall be issued in one or more series, only as a fully registered Bond, and shall be dated on the date of delivery thereof. The Series 2016 A Bonds shall bear interest from date of delivery, payable monthly at the rate not to exceed 5.0% per annum, and shall be sold for the par value thereof. The said principal and interest shall be paid in the installments and interest rate as determined by the Supplemental Resolution.

The Series 2016 A Bonds shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, and shall be payable as provided in the Bond form hereinafter set forth.

Section 3.03 Negotiability, Registration, Transfer and Exchange of Bonds. The Series 2016 A Bonds shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but the Series 2016 A Bonds, and the right to the principal of and stated interest on the Series 2016 A Bonds, may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Series 2016 A Bonds for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Bond Registrar.

Whenever the Series 2016 A Bonds shall be surrendered for registration of transfer, the Issuer shall execute and deliver a new Bond or Bonds in authorized denominations, for a like aggregate principal amount. The Bond Registrar shall require the payment by the new owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer, but the Issuer shall pay any other expenses incurred by the Bond Registrar with respect to such transfer.

No registration of transfer of the Series 2016 A Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on the Series 2016 A Bonds.

Section 3.04 Bond Registrar. The Issuer shall be the Bond Registrar and will keep or cause to be kept at its office by its agent, sufficient books for the registration and transfer of the Series 2016 A Bonds, and, upon presentation for such purpose, the Bond Registrar shall, under such reasonable regulations as it may prescribe, register the Series 2016 A Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Series 2016 A Bonds as hereinbefore provided.

The Bond Registrar shall accept the Series 2016 A Bonds for registration of transfer only if ownership thereof is to be registered in the name of the Purchaser, an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or the social security numbers of the settlor and beneficiaries of each trust and the federal employer identification number and date of each trust and the name of the trustee of each trust, and/or such other identifying number and information as may be required by law. The Series 2016 A Bonds shall initially be fully registered as to both principal and interest in the name of the United States of America. So long as the Series 2016 A Bonds shall be registered in the name of the United States of America, the address of the United States of America for registration purposes shall be National Finance Office, St. Louis, Missouri 63103, or such other address as shall be stated in writing to the Issuer by the United States of America.

Section 3.05. Execution of Bonds. The Series 2016 A Bonds shall be executed in the name of the Issuer by the Mayor and the seal of the Issuer shall be affixed thereto and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed the Series 2016 A Bonds shall cease to be such officer of the Issuer before the Series 2016 A Bonds so signed and sealed has 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 Series 2016 A Bonds had not ceased to hold such office. The Series 2016 A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Series 2016 A Bonds 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 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Series 2016 A Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver a new Bond of like tenor as the 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 ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Series 2016 A Bonds so surrendered shall be canceled and held for the account of the Issuer. If the Series 2016 A Bonds shall have matured or be about to mature, instead of issuing a substitute Series 2016 A Bonds the Issuer may pay the same, and, if such Series 2016 A Bonds be destroyed, stolen or lost, without surrender thereof.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2016 A Bonds 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 as to the Series 2016 A Bonds on a parity with the Prior Bonds. The Net Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Series 2016 A Bonds and the Prior Bonds and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 2016 A Bonds and the Prior Bonds as the same becomes due.

Section 3.08. Form of Bonds. Subject to the provisions hereof, the text of the Series 2016 A Bonds and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or by any ordinance enacted after the date of enactment hereof and prior to the issuance thereof:

[Remainder of Page Intentionally Blank]

(FORM OF SERIES 2016 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF TUNNELTON
SEWER REVENUE BONDS, SERIES 2016 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

\$ _____

No. AR-1

Date: _____, 2016

FOR VALUE RECEIVED, the TOWN OF TUNNELTON (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of _____ DOLLARS (\$ _____), plus interest on the unpaid principal balance at the rate of _____ % per annum. The said principal and interest shall be paid in the following installments on the following dates: Annual installments of interest only, on _____, 2016 and _____, 20____, and \$ _____, covering principal and interest, beginning _____, 20____ and continuing on the _____ day each month, except that the final installment shall be paid _____, 20____ (40 years from the date of this Bond), in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided herein below. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

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

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

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

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

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the Holder promptly or, except for final payment, be retained by the Government and remitted to the Holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the Holder. The effective date of any prepayment retained and remitted by the Government to the Holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the Holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the Holder.

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

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

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and Outstanding for the purpose of providing funds for financing costs of acquisition and construction of additions, betterments, extensions and improvements to the sewerage system (the "System") of Borrower, is payable solely from and secured by the revenues to be derived from the operation of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation, nor shall the Borrower be obligated to pay the same or the interest thereon except from the special fund so provided.

Registration of this Bond is transferable by the Registered Owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Ordinance, 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 13 of the West Virginia Code of 1931 (herein called the "Act"), and an Ordinance of Borrower duly enacted on _____, 2016, and a Supplemental Resolution duly adopted on _____, 2016, authorizing issuance of this Bond (collectively, the "Ordinance").

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

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

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S SEWERAGE SYSTEM REVENUE BOND, SERIES 2002 (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED APRIL 19, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$290,000 (THE "SERIES 2002 BONDS" OR THE "PRIOR BONDS").

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

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the TOWN OF TUNNELTON has caused this Bond to be executed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Recorder, all as of the date hereinabove written.

TOWN OF TUNNELTON

[CORPORATE SEAL]

Mayor

ATTEST:

Recorder

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL \$ _____

(Form of Assignment)

ASSIGNMENT

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

Dated: _____, 20 ____.

In presence of:

ARTICLE IV

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

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

- (1) Revenue Fund (established by Prior Ordinance and continued hereby);
- (2) Renewal and Replacement Fund (established by Prior Ordinance and continued hereby); and
- (3) Series 2016 A Bonds Construction Account.

Section 4.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created (or continued if previously established by Prior Ordinance) with and shall be held by, the Commission separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

- (1) Series 2002 Bonds Reserve Account (established by Prior Ordinance and continued hereby); and
- (2) Series 2016 A Bonds Reserve Account.

Section 4.03. Bond Proceeds; Project Construction Account. The proceeds of sale of the Series 2016 A Bonds shall be deposited upon receipt by the Issuer in the Series 2016 A Bonds Construction Account. The monies in the Account in excess of the amount insured by FDIC shall be secured at all times by the Depository Bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Monies in the Series 2016 A Bonds Construction Account shall be expended by the Issuer solely for the purposes provided herein.

Monies in the Series 2016 A Bonds Construction Account shall be used solely to pay the cost of acquisition and construction of the Project upon vouchers and other documentation approved by the Purchaser.

Until completion of acquisition and construction of the Project, the Issuer will additionally transfer from the Series 2016 A Bonds Construction Account and pay to the Purchaser on or before the due date, such sums as shall be from time to time required to make the monthly installment payments on the Series 2016 A Bonds if there are not sufficient Net Revenues to make such monthly payment.

Pending application as provided in this Section 4.03, money and funds in the Series 2016 A Bonds Construction Account shall be invested and reinvested at the direction of the Issuer, to the extent possible in accordance with applicable law, in Qualified Investments.

When acquisition and construction of the Project has been completed and all Costs thereof have been paid or provision for such payment has been made, any balance remaining in the Series 2016 A Bonds Construction Account shall be disposed of in accordance with the regulations of the Purchaser.

Section 4.04. Covenants of the Issuer as to Revenues and Funds. So long as any of the Series 2016 A Bonds shall be Outstanding and unpaid, or until there shall have been set apart in the Series 2016 A Bonds Reserve Account, sums sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Series 2016 A Bonds remaining unpaid, together with interest accrued to the date of such payment, the Issuer further covenants with the Holder of the Series 2016 A Bonds as follows:

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

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

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

(2) The Issuer shall next, each month, on or before the due date thereof, transfer from the Revenue Fund and simultaneously remit to the National Finance Office (i) the amount required by the Prior Ordinance to pay the interest on the Prior Bonds; and (ii) the amount required to pay interest on the Series 2016 A Bonds.

(3) The Issuer shall next, each month, transfer from the Revenue Fund and simultaneously remit to the National Finance Office the amount required by the Prior Ordinance to pay the principal of the Prior Bonds and (ii) on or before the due date thereof, commencing 24 months following the date of delivery of the Series 2016 A Bonds, the amount required to amortize the principal of the Series 2016 A Bonds over the life of the bond issue.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission (i) the amount required by the Prior Ordinance to be deposited in the Reserve Account for the Prior Bonds; and (ii)

beginning on the date specified by the Purchaser, but in any event not later than the 24th monthly anniversary of the Closing Date, thereafter, transfer from the Revenue Fund and remit to the Commission for deposit in the Series 2016 A Bonds Reserve Account, an amount equal to 10% of the monthly payment amount each month, until the amount in the Series 2016 A Bonds Reserve Account equals the Series 2016 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 2016 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 2016 A Bonds 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, an amount equal to 2.5 % of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, improvements or extensions to the System; provided, that any deficiencies in any Reserve Accounts (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

(6) After all the foregoing provisions for use of monies in the Revenue Fund have been fully complied with, any monies remaining therein and not permitted to be retained therein may be used to prepay installments of the Bonds, pro rata, or for any lawful purpose of the System.

Whenever the monies in the Series 2016 A Bonds Reserve Account shall be sufficient to prepay the Series 2016 A Bonds in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Series 2016 A Bonds, at the earliest practical date and in accordance with applicable provisions hereof.

The Depository Bank is hereby designated as the Fiscal Agent for the administration of the Renewal and Replacement Fund as herein provided, and all amounts required for the Renewal and Replacement Fund will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written directions stating the amount remitted for deposit into each such fund.

The Commission is hereby designated as the Fiscal Agent for the administration of the Series 2016 A Bonds Reserve Account as herein provided, and all amounts required for said account shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Purchaser at anytime, the Issuer shall make the necessary arrangements whereby

required payments into said account shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

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

The Revenue Fund and the Renewal and Replacement Fund shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a lien thereon for further securing payment of the Series 2016 A Bonds and the interest thereon, but the Depository 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 on a parity and pro rata with respect to the Prior Bonds.

The Commission and the Depository Bank, at the direction of the Issuer, shall keep the monies in the Series 2016 A Bonds Reserve Account and the Renewal and Replacement Fund invested and reinvested to the fullest extent possible, in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund or account under this Bond Legislation shall, unless otherwise required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia Board of Treasury Investments. Any investment shall be held in and at all times deemed a part of the fund or account in which such monies were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. Earnings from monies in the Series 2016 A Bonds Reserve Account so long as the Minimum Reserve is on deposit and maintained therein, shall be returned not less than once each year, by the Commission to the Issuer to be deposited in the Revenue Fund.

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

D. USER CONTRACTS. The Issuer shall, prior to delivery of the Series 2016 A Bonds, provide evidence that there will be bona fide users upon the System on completion of the Project, in full compliance with the requirements and conditions of the Purchaser.

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

F. INVESTMENT OF EXCESS BALANCES. The monies in excess of the sum insured by FDIC in any of such funds or accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, in lawful manner for securing deposits of State and municipal funds under the laws of the State of West Virginia.

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

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

ARTICLE V

GENERAL COVENANTS

Section 5.01. General Statement. So long as the Series 2016 A Bonds shall be Outstanding and unpaid, or until there shall have been set apart in the Series 2016 A Bonds Reserve Account a sum sufficient to prepay the entire principal of the Series 2016 A Bonds remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Holder of the Series 2016 A Bonds.

Section 5.02. Rates. Prior to the issuance of the Series 2016 A Bonds, 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 (i) will always provide Revenues in each Fiscal Year sufficient to produce Gross Revenues equal to not less than 110% of the maximum annual debt service on the Series 2016 A Bonds and sufficient to make the payments required herein into all funds and accounts and all the necessary expenses of operating and maintaining the System during such Fiscal Year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate Revenues for such purposes; and (ii) so long as the Prior Bonds are Outstanding to provide for all reasonable expenses of operation, repair, maintenance of the System and to leave a balance each Fiscal Year equal to at least 115% of the maximum amount required in any Fiscal Year for the payment of principal of and interest on the Bonds and all other obligations secured by or payable from such revenues; provided, that in the event that an amount equal to or in excess of the reserve requirements for the Bonds prior to or on a parity with the 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 the payment of principal of and interest on the Bonds and all other obligations secured by or payable from such revenues.

Section 5.03. Sale of the System. So long as the Prior Bonds are Outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of or encumber the System, or any part thereof, except as provided in the Prior Ordinance.

So long as the Series 2016 A Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of the system, or any part thereof without the prior written consent of the Purchaser. Such consent will provide for the disposition of the proceeds of any such sale.

Section 5.04. Issuance of Additional Parity Bonds or Obligations. So long as the Prior Bonds are Outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinance shall be applicable. In addition, no additional Parity Bonds or obligations payable out of the Revenues of the System shall be issued, except with the prior written consent of the Purchaser.

So long as the Prior Bonds or Series 2016 A Bonds are Outstanding, no Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Recorder a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues for the Fiscal Year following the year in which such Parity Bonds are to be issued shall be at least 120% of the average annual debt service requirements on the following:

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

The foregoing limitation may be waived or modified by the written consent of the Holders of the Series 2016 A Bonds, representing 75% of the then-Outstanding principal indebtedness.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond over any other Bond. 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 revenues of the System is subject to the prior and superior liens of the Series 2016 A Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2016 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 Bond Legislation and the Prior Ordinance with respect to the Series 2016 A Bonds and Prior 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 such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Bond Legislation and the Prior Ordinance.

Section 5.05. Insurance and Bonds. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Series 2016 A Bonds remain Outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

A. FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System and mechanical and electrical equipment in place or stored on the site in an amount equal to the actual cost thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

B. PUBLIC LIABILITY INSURANCE, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Series 2016 A Bonds.

C. VEHICULAR PUBLIC LIABILITY INSURANCE, in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated at any time or times for the benefit of the Issuer, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of

others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle for the Issuer.

D. WORKERS' COMPENSATION COVERAGE FOR ALL EMPLOYEES OF THE ISSUER 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 coverage will be maintained as provided by law.

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

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

G. Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Series 2016 A Bonds are Outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Purchaser may specify, with insurance carriers or bonding companies acceptable to the Purchaser.

Section 5.06. Statutory Mortgage Lien. For the further protection of the Holder of the Series 2016 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of the Series 2016 A Bonds and shall be for the equal benefit of the Series 2016 A Bonds on a parity with the Prior Bonds.

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

A. Failure to make payment of any monthly amortization installment upon the Series 2016 A Bonds at the date specified for payment thereof;

B. Failure to duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Series 2016 A Bonds or herein, or violation of or failure to observe any provision of any pertinent law; or

C. If default occurs with respect to the Prior Bonds or the Prior Ordinance.

Section 5.08. Enforcement. 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 or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Series 2016 A Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Series 2016 A Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Series 2016 A Bonds, or the rights of such Registered Owners; provided, that all rights and remedies of the Holders of the Series 2016 A Bonds shall be on a parity with each other and with those of the Holders of the Prior Bonds.

Any Registered Owner of the Bonds may, by proper legal action, compel the performance of the duties of the Issuer under this Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Registered Owner of the Bonds 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 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 exercise.

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 Registered Owners of such Bonds 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.

Section 5.09. Fiscal Year; Budget. While the Series 2016 A Bonds are Outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a Fiscal Year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than 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 10%; and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

Section 5.10. Covenant to Proceed and Complete. The Issuer hereby covenants to proceed as promptly as possible with the acquisition and construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer and on file with the Recorder on the date of adoption hereof, subject to permitted changes.

Section 5.11. Books and Records; Audits. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and the Purchaser shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

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

Section 5.12. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Series 2016 A Bonds are Outstanding.

Section 5.13. No Competition. To the extent legally allowable, the Issuer will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

ARTICLE VI

RATES, ETC.

Section 6.01. Initial Schedule of Rates and Charges; Rules. A. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the rate ordinance of the Issuer enacted on May 5, 2015 which rate ordinance is incorporated herein by reference as a part hereof.

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

C. All delinquent fees, rates and charges for services or facilities of the System shall be a lien on the premises served if not paid when due. The Issuer shall have all remedies and powers provided under the Act and other applicable provisions of law with regard to the collection and

enforcement of such fees, rates and charges, including, without limitation, any right and power of foreclosure under the Act and/or such other applicable provisions of law.

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

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

F. The Issuer shall not be liable to any customer for any damage resulting from bursting or breakage of any pipe, line, main, valve, equipment or part or from discontinuance of the operation of any part of the System or from failure of any part thereof for any cause whatever.

G. In case of emergency, the Issuer shall have the right to restrict the use of any part of the System in any reasonable manner for the protection of the System and the inhabitants of the Issuer.

H. The fees, rates and charges above provided will be increased whenever such increase is necessary in order to comply fully with all provisions hereof, and the Issuer shall always be obligated to and shall fix, establish and collect fees, rates and charges for the services and facilities of the System which shall at all times be sufficient to provide revenues to meet its payments and obligations provided hereunder, but in any event, not less than 110% of the annual debt service on the Bonds Outstanding after Prior Bonds are paid in full.

ARTICLE VII

MISCELLANEOUS

Section 7.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid to the Holder of the Series 2016 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 2016 A Bonds, the pledge of Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Series 2016 A Bonds, shall thereupon cease, terminate and become void and be discharged and satisfied.

Except through such direct payment to the Holder of the Series 2016 A Bonds, the Issuer may not defease the Series 2016 A Bonds or otherwise provide for payment thereof by escrow or like manner.

Section 7.02. Modification or Amendment. Prior to issuance of the Series 2016 A Bonds, this Ordinance may be amended or supplemented in any way by ordinance or resolution. Following issuance of the Series 2016 A Bonds, no modification or amendment of this Ordinance, or any ordinance or resolution amendatory hereof or supplemental hereto, shall be made without the prior written consent of the Purchaser.

Section 7.03. Delivery of Bonds. The Mayor is hereby authorized and directed to cause the Series 2016 A Bonds, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 7.04. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed 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 Series 2016 A Bonds.

Section 7.05. Conflicting Provisions Repealed. Except for the Prior Ordinance, all ordinances, resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed; provided, that this section shall not be applicable to the Loan Resolution (Form FmHA 442-47).

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

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

Section 7.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Bond Legislation, determined by the Council to contain sufficient information as to give notice of the contents hereof, shall be published once a week for two successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication, in *Preston County Journal* being qualified newspapers of general circulation in the Town of Tunnelton,

together with a notice stating that this Ordinance has been adopted, and that the Issuer contemplates the issuance of the Bond, and that any person interested may appear before the Council upon a date certain, not less than ten days subsequent to the date of the first publication of the said abstract and notice and not prior to the last date of such publication, and present protests, and that a certified copy of the Ordinance is on file in the office of the Recorder of the Issuer for review by interested parties during regular office hours. At such hearing, all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

[Remainder of Page Intentionally Blank]

Section 7.09. Effective Date. This Bond Legislation shall take effect following public hearing and adoption by the Issuer hereon in accordance with the Act.

Passed on First Reading: March 15, 2016

Passed on Second Reading: April 5, 2016

Passed on Final Reading
Following Public Hearing: May 3, 2016

TOWN OF TUNNELTON

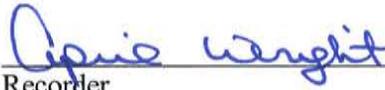

Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the Town of Tunnelton on the 3rd day of May, 2016.

Dated this 3rd day of June, 2016.

[SEAL]


Recorder

916240.00002

TOWN OF TUNNELTON

Sewer Revenue Bonds, Series 2016 A
(United States Department of Agriculture)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION MAKING PROVISIONS AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 2016 A OF THE TOWN OF TUNNELTON, AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the council (the “Governing Body”) of the Town of Tunnelton (the “Issuer”) has duly and officially adopted and enacted a bond ordinance, May 3, 2016 (the “Bond Ordinance”), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS, EXTENSIONS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE TOWN OF TUNNELTON, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$650,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2016 A (UNITED STATES DEPARTMENT OF AGRICULTURE) IN ONE OR MORE SERIES; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

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

WHEREAS, the Bond Ordinance provides for the issuance of Sewer Revenue Bonds, Series 2016 A, of the Issuer (the “Series 2016 A Bonds”), in an aggregate principal amount not to exceed \$650,000, and has authorized the execution and delivery of the documents

relating to the Bonds, all in accordance with Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (collectively, the “Act”);

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the “Supplemental Resolution”) be adopted;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF TOWN OF TUNNELTON:

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewer Revenue Bonds, Series 2016 A (United States Department of Agriculture), of the Issuer, originally represented by a single Bond, numbered AR-1 in the principal amount of \$450,000. The Series 2016 A Bonds shall be dated the date of delivery thereof, shall bear interest at the rate of 1.75% per annum, interest only payable in annual installments on June 3, 2017 and June 3, 2018 and, thereafter, principal and interest are payable in monthly installments of \$1,355 on the corresponding 3rd of each month, commencing July 3, 2018 to and including June 3, 2056 (forty (40) years from the date of the Series 2016 A Bonds), in the sum of the unpaid principal and interest due on the date thereof, except that prepayments may be made as hereinafter provided and as provided in the Series 2016 A Bonds, all such payments to be made at the National Finance Office, St. Louis, Missouri 63103, or at such other place as the Purchaser may designate after issuance of the Series 2016 A Bonds. Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Issuer.

Section 2. The Issuer does hereby appoint and designate WesBanco Bank, Inc., Kingwood, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 3. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Series 2016 A Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 4. The estimated maximum Cost of the Project is \$1,751,600 which will be obtained from the proceeds of the sale of the Series 2016 A Bonds herein authorized; a \$1,040,000 grant from the Purchaser and a \$261,600 West Virginia Infrastructure Council Grant.

Section 5. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project.

Section 6. The Mayor and the Recorder are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about June 3, 2016, to the Purchaser.

Section 7. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 31st day of May, 2016.

TOWN OF TUNNELTON



Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the Town of Tunnelton on the 31st day of May, 2016.

Dated: June 3, 2016.

[SEAL]


Recorder

916240.00002

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
5/16/2016
Per Commission
Order Waiving the
Exception Period

Entered: May 6, 2016

CASE NO. 15-0796-S-CN

TOWN OF TUNNELTON

Application for a certificate of convenience and necessity to extend sewer service to serve Denver Elementary School and an additional 36 new customers in Preston County.

RECOMMENDED DECISION

This Decision grants the certificate and approves the proposed financing for the Project.

PROCEDURAL HISTORY

On May 21, 2015, the Town of Tunnelton (Town) filed a duly verified Application for a certificate of convenience and necessity to construct an extension of its sanitary sewer system into the Denver and Route 26 area to serve the Denver Elementary School and 36 new customers, in and around Tunnelton, Preston County, West Virginia (Project).

The estimated cost of the Project is \$1,790,000, and the Town proposes to fund the Project with a United States Department of Agriculture (USDA) Rural Utilities Services (RUS) grant in the amount of \$1,040,000; a USDA RUS loan in the amount of \$450,000, with terms of 2.25% interest for 38 years; and a \$400,000 grant from the West Virginia Infrastructure and Jobs Development Council (WIJDC). The Project has been approved by the WVIJDC.

On May 22, 2015, the Commission ordered the Town to give notice of the filing of the Application by publishing in a qualified newspaper of general circulation in counties where service is provided, and provide the Commission with proper certification of publication within thirty (30) days from the date of publication.

On June 2, 2015, the Commission referred this matter to the Division of Administrative Law Judges for a decision to be rendered on or before October 5, 2015, if substantial protests have not been filed.

On June 5, 2015, the Town filed a Certificate of Publication evidencing that it published notice in *The Preston County Journal* on May 27, 2015.

On June 18, 2015, Commission Staff filed its Initial Joint Staff Memorandum and Data Requests seeking additional information from the Town and stating it is continuing to review the case.

On August 19, 2015, Commission Staff filed a Further Joint Staff Memorandum. Staff stated the Town adopted a new rate ordinance on July 7, 2015, to support the Project and it needed additional time to perform a cash flow and bill analysis to determine if the rates were sufficient.

Also, On August 19, 2015, the Town filed a Motion to toll the running of the statutory deadline for thirty days so it could provide further information to Staff and so Staff could have time to review the information.

On August 28, 2015, the Commission granted the Town's Motion to toll, extended the statutory deadline to December 17, 2015, and extended the Administrative Law Judge's (ALJ) due date to November 4, 2015.

On September 18, 2015, Commission Staff filed a Final Joint Staff Memorandum recommending the Application be dismissed because the Town's sewer rates were not sufficient to support the Project.

On September 28, 2015, the Town filed a Motion to Toll requesting a 120 day extension of the deadlines so it could adopt new rates that will support the Project.

On October 6, 2015, the Commission granted the Town's Motion to toll, extended the statutory deadline to April 15, 2016, and extended the ALJ's due date to March 3, 2016.

On December 17, 2015, the Town filed a Revised Rule 42 Exhibit.

On December 18, 2015, the Town filed a Motion to Toll requesting a 70 day extension of the deadlines so Staff could have time to review the Revised Rule 42 Exhibit.

On December 22, 2015, the Commission granted the Town's Motion to toll, extended the statutory deadline to June 24, 2016, and extended the ALJ's due date to May 12, 2016.

On March 8, 2016, the Town filed a Motion to Toll requesting a 30 day extension of the deadlines so it could publish notice of the revised rates.

On March 9, 2016, the Town filed a copy of the Revised Notice of Filing.

On March 11, 2016, a Procedural Order was issued requiring the Town to give notice of Revised Notice of Filing by publishing in a qualified newspaper of general circulation in counties where service is provided and provide the Commission with proper certification of publication within thirty (30) days from the date of publication.

On March 15, 2016, the Commission granted the Town's Motion to toll, extended the statutory deadline to July 24, 2016, and extended the ALJ's due date to June 13, 2016.

On March 25, 2016, the Town filed a Certificate of Publication evidencing that it published the Revised Notice in *The Preston County Journal* on March 15, 2016.

On April 22, 2016, Commission Staff filed its Second Final Joint Staff Memorandum. Engineering Staff represented there is a need for the Project since many of the individual sewage systems are not performing adequately with some individuals having direct sewage discharge into area waterways. Financial Staff's review revealed that, upon substantial completion of the Project, the Town will have a surplus of \$5,658 and a debt service coverage of 147.66%. Financial Staff made adjustments to the Town's Rule 42 Exhibit to allow for Senate Bill 234 funding and to properly reflect depreciation expense. Staff recommended approval of the Town's Application and further recommending the following:

1. Approve financing for the Project in the form of a USDA loan in the amount of \$450,000, with terms of 2% interest for 40 years, and a USDA grant in the amount of \$1,340,000;
2. If there are any changes in the plans or scope of the Project, the Town must seek Commission approval of such changes. Further, if there are changes in the rates to be charged associated with the Project, the Town must also seek Commission approval of such changes. Finally, provided Project-related rates remain unchanged, it is not necessary for the Town to seek further Commission approval of changes in Project costs or financing; however, under such circumstances, the Town should be required to file an affidavit executed by its certified public accountant verifying that its rates and charges are not affected; and
3. The Town promptly file a copy of the engineer's certified tabulation of bids for all contracts associated with this Project.

On May 2, 2016, the Town made a filing stating it concurs with Staff's recommendations and requesting expedited treatment of the Application.

DISCUSSION

The Project is in the public interest and necessary for the customers that will be served. As noted by Engineering Staff, many of the individual sewage systems are not performing adequately with some individuals having direct sewage discharge into area waterways. This Project will remedy those issues.

It appears the funding for the Project was restructured at some time, or at different times, during the course of this proceeding. The restructuring, however, does not appear to be significant and should not have an impact on rates or the associated debt service.

Since there have been no protests in the matter, the certificate should be granted, without hearing, and the financing should be approved.

FINDINGS OF FACT

1. The Town of Tunnelton filed an Application for a certificate of convenience and necessity to construct certain additions and improvements to its existing sewer system and for approval of financing for the Project. (Application, May 21, 2015.)
2. The Project has been approved by the WIJDC. (Id.)
3. The estimated cost of the Project is \$1,790,000, and the Town proposes to fund the Project with a USDA loan in the amount of \$450,000, with terms of 2% interest for 40 years, and a USDA grant in the amount of \$1,340,000. (Second Final Joint Staff Memorandum, April 22, 2016.)
4. The Town proposed and enacted a rate ordinance to support the Project. (Id.)
5. The Town published notice of the filing in *The Preston County Journal* on March 15, 2016. (Certificate of Publication, March 25, 2016.)
6. Commission Staff recommended approval of the Project and its related financing. (Second Final Joint Staff Memorandum, April 22, 2016.)
7. Many of the individual sewage systems in the area are not performing adequately with some individuals having direct sewage discharge into area waterways. (Id.)
8. Staff estimates operation and maintenance expenses to increase by \$11,300 per year as a result of the Project. (Id.)
9. There have been no protests in the case. (Case file, generally.)

CONCLUSIONS OF LAW

1. The public convenience and necessity require the proposed Project and it should be approved.
2. The final proposed financing for the Project is reasonable and should be approved.
3. Because there was not substantial protest in the matter, a formal hearing is not required.

ORDER

IT IS, THEREFORE, ORDERED that the Town of Tunnelton, be, and hereby is, granted a certificate of convenience and necessity to construct the proposed sewer Project as described in its Application of May 21, 2015. The cost of the Project shall not exceed \$1,790,000.

IT IS FURTHER ORDERED that the proposed financing for the Project, consisting of a USDA loan in the amount of \$450,000, with terms of 2% interest for 40 years, and a USDA grant in the amount of \$1,340,000, be, and hereby is, approved.

IT IS FURTHER ORDERED that, if the scope or plans for the Project change, or there are changes in any rates to be charged associated with the Project, the Town must obtain prior Commission approval of any such changes. Changes in Project costs or financing do not require separate approval if those changes do not affect rates and the Town submits an affidavit from a certified public accountant to this effect.

IT IS FURTHER ORDERED that the Town provide the Commission with a copy of an engineer's certified bid tabulation for all construction contracts associated with the Project, as soon as they are available, but no later than ten (10) days after the issuance of such documents.

IT IS FURTHER ORDERED that the Town submit to the Commission a copy of the certificate of substantial completion issued for each construction contract associated with the Project, as soon as they are available, but no later than ten (10) days after the issuance of such documents.

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

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

The Executive Secretary is ordered to serve this Order upon the Commission and its Staff by hand delivery, upon all parties of record who have filed an e-service agreement with the Commission by electronic service and upon all other parties by United States Certified Mail, return receipt requested.

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

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

Any party may request waiver of the right to file exceptions by filing an appropriate petition in writing with the Executive Secretary. No such waiver, however, will be effective until approved by order of the Commission.



K. B. Walker
Administrative Law Judge

KBW:ksf
150796ab.doc

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 11th day of May 2016.

CASE NO. 15-0796-S-CN

TOWN OF TUNNELTON,

Application for a certificate of convenience and necessity to extend sewer service to serve Denver Elementary School and an additional 36 new customers in Preston County.

**COMMISSION ORDER
WAIVING EXCEPTION PERIOD**

On May 6, 2016, the Administrative Law Judge entered a Recommended Decision in this matter that approved an Application for a certificate of convenience and necessity to construct an extension of the Town of Tunnelton (Tunnelton) sanitary sewer system into the Denver and Route 26 area, to become effective on and after the date that the Recommended Decision becomes a final order of the Commission.

On May 9, 2016, Tunnelton filed a petition to waive the fifteen-day period of time in which a party may file exceptions to the Recommended Decision in this proceeding, as provided in W. Va. Code §24-1-9.

Staff has indicated it has no objection to the petition. There are no other parties in this case.

IT IS THEREFORE ORDERED that the requested waiver of the fifteen-day exceptions period is granted.

IT IS FURTHER ORDERED that the Administrative Law Judge May 6, 2016 Recommended Decision in this case becomes final five days after the date of this Order, absent further action by the Commission.

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

A True Copy, Teste,



Ingrid Ferrell
Executive Secretary

IF/kc
150796sa.doc



Bond Counsel

Rural Development

June 1, 2016

West Virginia State
Office

1550 Earl Core Road,
Suite 101
Morgantown, WV
26505

Voice 304.284.4860
1.800.295.8228
Fax 855.859.1835

Mr. Timothy Kennedy, Mayor
Town of Tunnelton
P.O. Box 396
Tunnelton, WV 26444

COPY

RE: Amendment No. 2 to Letter of Conditions
Denver Sewer Extension

Dear Mayor Kennedy:

This letter, with Attachment No. 1 amends the USDA Rural Development (RD) Letter of Conditions dated June 19, 2012, and Amendment No. 1 to the Letter of Conditions dated July 31, 2012, and further establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The RD loan and grants will be administered by the State and Area staff of USDA, Rural Development. Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by USDA, Rural Development by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

The docket may be completed on the basis of an RD loan of \$450,000, an RD grant of \$500,000, a subsequent RD grant of \$540,000 and a West Virginia Infrastructure and Jobs Development Council (WVIJDC) grant of \$261,600 for a total project cost of \$1,751,600. The purpose of this amended Letter of Conditions is to officially document the changes that have occurred in the project funding package since Amendment No. 1 to the RD Letter of Conditions was issued.

Subject to the requirements noted herein, all of the conditions of the June 19, 2012 Letter of Conditions and of the July 31, 2012 Amendment to the Letter of Conditions remain in effect and must be satisfied prior to loan and grant closing. Extra copies of this letter are being provided for use by your engineer, attorney, bond counsel and accountant. The enclosures and attachments listed below are attached to the copies as noted below:

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

If the conditions set forth in this letter are not met within six (6) months from the date hereof, RD reserves the right to discontinue processing of the application. In the event the project has not advanced to the point of loan and grant closing within the six-month period and it is determined that the Town still wishes to proceed, it will be necessary for the proposed budget to be reviewed again in detail. If, during that review, it is

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

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

determined that the budget is no longer current and/or adequate, RD reserves the right to require that it be revised or replaced.

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

Sincerely,



SUSAN L. NEWCOMER
Assistant State Director

Attachment

cc: Alan Harris, Area Director
Attn: Area Specialist – Area II
Elkins, WV

The Thrasher Group
Attn: Dan Ferrell, P.E.
P.O. Box 940
Bridgeport, WV 26330

Steptoe & Johnson, PLLC
Attn: Katy Mallory, P.E.
P.O. Box 1588
Charleston, WV 25326

Smith, McMunn, & Glover, PLLC
Attn: David C. Glover, Esquire
516 West Main Street
Clarksburg, WV 26301

Roth and White, A.C.
Attn: Nancy E. Roth, CPA
202 Tunnelton Street
Kingwood, WV 26537

WV RCAP
Attn: Jeff Owens, State Coordinator
12 C Sunset View
Bridgeport, WV 26330

West Virginia Infrastructure & Jobs
Development Council
Attn: Jim Ellars, P.E.
1009 Bullitt Street
Charleston, WV 25301

Attachment No.1 to Amendment No. 2 to the Letter of Conditions
 For: Town of Tunnelton Denver Sewer Extension Project
 Date: June 1, 2016

**Project Construction Budget
 Town of Tunnelton
 Denver Sewer Extension Project**

<u>PROJECT COST</u>	<u>USDA LOAN</u>	<u>USDA GRANTS</u>	<u>WVIJDC GRANT</u>	<u>TOTAL</u>
CONSTRUCTION (Pro Contracting)	\$ 69,417.17	\$ 844,983.83	\$ 261,600.00	\$ 1,176,001.00
CONSTRUCTION CONTINGENCY	\$ -	\$ 62,716.17	\$ -	\$ 62,716.17
CHANGE ORDER No. 1	\$ 77,591.47	\$ -	\$ -	\$ 77,591.47
ELECTRICAL SERVICES	\$ -	\$ 15,000.00	\$ -	\$ 15,000.00
LAND & RIGHTS	\$ 15,000.00	\$ -	\$ -	\$ 15,000.00
LEGAL FEES (D. Glover)	\$ 16,000.00	\$ 4,000.00	\$ -	\$ 20,000.00
LEGAL FEES (T. Michael)	\$ 1,186.36	\$ -	\$ -	\$ 1,186.36
BOND COUNSEL	\$ 15,000.00	\$ -	\$ -	\$ 15,000.00
ACCOUNTING	\$ 5,805.00	\$ -	\$ -	\$ 5,805.00
ENGINEERING FEES (Includes Amendment 1) Study & Report - \$30,000 Basic - \$153,000 Inspection - \$85,000 Special - \$55,300	\$ 210,000.00	\$ 113,300.00	\$ -	\$ 323,300.00
INTEREST	\$ 18,000.00	\$ -	\$ -	\$ 18,000.00
PERMITS, ADS & FEES	\$ 22,000.00	\$ -	\$ -	\$ 22,000.00
TOTAL	\$ 450,000.00	\$ 1,040,000.00	\$ 261,600.00	\$ 1,751,600.00



R45

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

July 31, 2012

COPY

The Honorable Paul J. Fielder, Mayor
Town of Tunnelton
P.O. Box 396
Tunnelton, WV 26444

RE: Amendment No. 1 to
Letter of Conditions

Dear Mayor Fielder:

This letter, with Attachment No. 1 amends the letter of conditions dated June 19, 2012 and further establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan and grant will be administered on by the State and Area staff of USDA, Rural Development. Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by USDA, Rural Development by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

The docket may be completed on the basis of an RD loan in the amount of \$450,000, an initial RD grant in the amount of \$500,000, a subsequent RD grant in the amount of \$540,000, and other funding in the amount of \$300,000, for a total project cost of \$1,790,000. The other funding is planned in the form of a contribution from the Preston County Board of Education.

Subject to the requirements noted herein, all of the conditions of the June 19, 2012 letter of conditions remain in effect and must be satisfied prior to loan and grant closing.

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

Enclosed are the following:

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

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

Committed to the future of rural communities.

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

The conditions referred to above are as follows:

1. Public Service Commission Approval - You must obtain PSC approval of the project's proposed financing and user rates as may result from this amendment to the letter of conditions.
2. At a properly called meeting, you must adopt and properly execute the following forms, and minutes showing the adoption must be provided (you must also provide us with a copy of the minutes showing the adoption of the forms associated with the original letter of conditions):

RUS Bulletin 1780-12 - "Water or Waste System Grant Agreement"
RUS Bulletin 1780-27 - "Loan Resolution"
Form 1940-1 - "Request for Obligation of Funds"
Form RD 1942-46 - "Letter of Intent to Meet Conditions"

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

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

Sincerely,

BOBBY LEWIS
State Director

Enclosures

cc: Page 3.

cc: Craig Burns, Area Director
ATTN: Joe Crickenberger, Area Specialist
Elkins, WV

Thrasher Engineering, Inc.
ATTN: Dan Ferrell, P.E.
P.O. Box 1532
Clarksburg, WV 26301

Roth and White, A.C.
ATTN: Nancy E. Roth, CPA
202 Tunnelton Street
Kingwood, WV 26537

Thomas R. Michael, Esquire
P.O. Box 250
Lost Creek, WV 26385

David Glover

Preston County Board of Education
ATTN: Dr. Larry Parsons, Superintendent
731 Preston Drive
Kingwood, WV 26537

Attachment No.1 to the Letter of Conditions
 For: Town of Tunnelton Phase I Denver Sewer Extension Project
 Date: July 31, 2012

Project Construction Budget
 Town of Tunnelton
 Phase I Denver Sewer Extension Project
 2014S - 1S1Z
 RDC

PROJECT COST	RUS LOAN		TOTAL RUS GRANT		PRESTON CO. SCHOOL BOARD		TOTAL
CONSTRUCTION	\$ 133,300	\$	\$ 813,000	\$	\$ 300,000	\$	1,246,300
CONSTRUCTION CONTINGENCY	\$ 30,000	\$	\$ 94,600	\$	-	\$	124,600
LAND & RIGHTS	\$ 15,000	\$	-	\$	-	\$	15,000
LEGAL FEES (Local Attorney)	\$ 16,000	\$	\$ 4,000	\$	-	\$	20,000
BOND COUNSEL	\$ 13,000	\$	-	\$	-	\$	13,000
ACCOUNTING	\$ 4,400	\$	-	\$	-	\$	4,400
ENGINEERING FEES	\$ 199,000	\$	\$ 109,500	\$	-	\$	308,500
Study & Report - \$30,000							
Basic - \$143,000							
Inspection - \$85,000							
Special - \$50,500							
INTEREST - (2 Yrs. @ 2.00%)	\$ 18,000	\$	-	\$	-	\$	18,000
PERMITS & WVDOH FEES	\$ 15,000	\$	-	\$	-	\$	15,000
PROJECT CONTINGENCY	\$ 6,300	\$	\$ 18,900	\$	-	\$	25,200
TOTAL	\$ 450,000	\$	\$ 1,040,000	\$	\$ 300,000	\$	1,790,000

↑
 School Board grant did happen

Amendment
No. 1
7/31/2012



RUS

June 19, 2012

COPY

The Honorable Paul J. Fiedler
Town of Tunnelton
P.O. Box 396
Tunnelton, WV 26444

RE: Phase I Denver Sewer Project

Dear Mayor Fiedler:

This letter, with Attachments 1 through 9 and enclosures, establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan and grant will be administered by USDA, Rural Development (RD). Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by USDA, Rural Development, by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

The docket may be completed on the basis of an RD loan in the amount of \$450,000, an RD grant in the amount of \$500,000, and other funding in the amount of \$840,000, for a total project cost of \$1,790,000. The other funding is planned in the form of grants from the Preston County Board of Education and the State of West Virginia.

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

Extra copies of this letter are being provided for use by your engineer, attorney, bond counsel, and accountant. All parties may access our website located at www.rurdev.usda.gov/UWEP_HomePage.html for the following:

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

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

1550 Earl Core Road, Suite 101, Morgantown, WV 26505
304.284.4860 • 1.800.295.8228 • 304.284.4893 • TTY/TDD 304.284.4838 • Web: <http://www.rurdev.usda.gov>

Committed to the future of rural communities.

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

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

- Attachment No. 1 – Project Construction Budget (All Copies)
- Attachment No. 2 – Water and Waste Processing Checklist (All Copies)
- Attachment No. 3 – Form RD 1927-9, “Preliminary Title Opinion” (Attorney Copy)
- Attachment No. 4 – Form RD 442-22, “Opinion of Counsel Relative to Rights-of-Way” (Attorney Copy)
- Attachment No. 5 – Form RD 1927-10, “Final Title Opinion” (Attorney Copy)
- Attachment No. 6 – Guidance to Local Attorney (Applicant and Attorney Copies)
- Attachment No. 7 – Sample Credit Agreement (Applicant Copy)
- Attachment No. 8 – WV Supplemental General Conditions (Engineer Copy)
- Attachment No. 9 – Various other RD forms as identified on Attachment No. 2

The conditions referred to above are as follows:

1. Fund Usage – Funds obligated under the terms of this letter of conditions are committed on the basis that your project will proceed to the construction stage in an expedient manner. In accordance with RUS Staff Instruction 1782-1, Section 1782.20(u)(5), any funds not disbursed within 60 months from the date of obligation will be de-obligated and returned to the Department of Treasury for further disposition to other project applicants. In the event that USDA determines that your project has not progressed within the five (5) year timeline and that funds will be recaptured, you will be given appeal rights and due process to document reasons why you believe the decision to de-obligate your project funds is not justified.
2. Central Contractor Registration and Renewal – Central Contractor Registration (CCR) is a Federal Government database that gathers, stores, validates, and shares information to support Federal loans, grants, and contracts. CCR validates all registrants and sends the information to the relevant Federal agencies’ finance offices (USDA, for example) to help them create paperless payments through electronic funds transfer (EFT). Registrants are required to complete a one-time registration to provide basic information relevant to financial transactions. All of the information collected and shared is secure and encrypted. Registering with Central Contractor Registration (CCR) is required for all recipients of Federal loans and grants. Registration expires every 12 months and must be renewed. Detailed instructions on registration and renewal are available at www.bpn.gov or can be provided by our agency.
3. Loan Repayment – The loan will be scheduled for repayment over a period of 40 years. The payments due the first 24 months will consist of interest only. Payments for the remaining 456 months will be equal amortized monthly installments. For planning purposes use a 2.00% interest rate and a monthly amortization factor of .00314, which provides for a monthly payment of \$1,413.00. You have the option of participating in the

PREAUTHORIZED DEBIT (PAD) payment process. It will allow for your payment to be electronically debited from your account on the day your payment is due. Your Town must establish and fund monthly a debt service reserve account, which equals 10% of your monthly payment each month until you accumulate the equivalent of one annual installment on your loan. You will be required to establish this debt service reserve account with the West Virginia Municipal Bond Commission. We also recommend that, as part of this financing, you move any existing debt service reserve accounts to the Municipal Bond Commission as well. Your bond counsel will be able to assist you with this. We recommend that the Town establish Renewal and Replacement Reserve to be funded with 2.5% of gross sewer system revenues.

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

4. Security – The loan must be secured by a statutory lien of first priority, a pledge of the system's revenues and other agreements between you and RD as set forth in the bond ordinance which must be properly adopted and executed by the appropriate officials of your Town. Additional security requirements are contained in RUS Bulletin 1780-12 and RUS Bulletin 1780-27 which are mentioned later.
5. Users – This conditional commitment is based upon you providing evidence that you will have at least 173 bona fide users on the proposed system when it has been completed and is placed in operation.

This evidence will consist of a signed certification from you that identifies and attests to the number of users actually connected to and using the Town's existing sewer system, which is to be expanded by the new project, at the time you request authorization to advertise the proposed project for construction bids. The 30 proposed new users on the system will be required by statute (mandatory hook-up provision) to connect to and utilize the system. The Town must provide a written certification that it will enforce the state statute.

The RD loan and grant commitment is based on the town providing service to 1 large volume user. Evidence must be provided to show that user will actually be connected to the system when it is completed and that the monthly usage and revenue projected for each by the engineer is reasonable. In the event any of those users refuse the offered service, the Town must obtain enough additional revenue (i.e., increase in user rates, sign

up of an adequate number of other users, reduction in project scope to reduce debt service and O&M, etc.) to make up the projected income that would be lost by not having those users on the system.

6. Bond Counsel Services -- The services of a recognized bond counsel are required. The bond counsel will prepare the form of ordinance to be used, in accordance with Subpart D of RUS Instruction 1780. You should immediately provide your bond counsel with a copy of this letter of conditions, its attachments and enclosures.

7. Engineering Services -- It will be necessary for you to obtain the services of an engineer. EJCDC No. E-500, "Agreement between Owner and Engineer for Professional Services" (2008 Edition) should be utilized (3 Copies). The EJCDC document is issued under copyright and cannot be provided by RD.
8. Legal Services -- It will be necessary for you to obtain the services of a local attorney. For your convenience "RUS Legal Services Agreement" is enclosed for your use.
9. Accounting Services -- It will be necessary for you to obtain the services of a qualified accountant. The accountant must agree to develop and provide the following:
 - a. All necessary accounting material required by the Public Service Commission of West Virginia (Rule 42 Exhibit.)
 - b. Prior to loan and grant closing, your accountant must certify that the accounts and records as required by your bond ordinance have been established and are operational.

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

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

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

10. Facility Control – Prior to advertisement for construction bids, you must furnish satisfactory evidence that you have or can obtain adequate continuous and valid control over the lands and rights needed for the project. Such evidence must be in the following form:
- a. A right-of-way map showing clearly the location of all lands and rights needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.
 - b. A copy of deeds, contracts, or options for any lands needed other than rights-of-way, along with a preliminary title opinion covering such lands. Form RD 1927-9, "Preliminary Title Opinion" may be used. In the case of your existing system or where the Town already acquired real property (land or facilities), a preliminary title opinion(s) concerning all such property(s) will be provided.
 - c. A narrative opinion from your attorney concerning all permits, certifications, and other items necessary to show that all legal requirements can be met and stating how they will be met. This narrative should also identify any condemnation proceedings that are anticipated and state how they will be handled.
 - d. A certification and legal opinion relative to title to rights-of-way and easements. Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way," may be used. This form may contain a few exceptions such as properties that must be condemned; however, prior to the start of construction or *loan* closing, whichever occurs first, a new Form RD 442-22, must be provided which does not provide for any exceptions. The attorney's legal opinion should include a certification that all requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and West Virginia State Code Chapter 54 have been met in the acquisition of both real property and rights-of-way. Such requirements may include, but are not limited to, distributing informational material to all affected property owners, and completing appraisals of the affected properties.

- e. On the day of loan and grant closing, the Town's attorney must furnish final title opinions on all land(s) being acquired. Form RD 1927-10, "Final Title Opinion" may be used. In the case of your existing system or where the Town has already acquired real property(s) (land or facilities), the Town's attorney will provide a separate final title opinion(s) covering such property(s) on the day of loan and grant closing.

11. Permits – Copies of all permits needed for the project must be provided for review prior to advertisement for construction bids. Such permits will include but are not limited to the following:

- a. West Virginia Department of Highways
- b. Railroads
- c. State Department of Health
- d. Department of Environmental Protection
- e. Corps of Engineers
- f. Public Land Corporation

12. Public Service Commission Approvals – You must obtain the following from the West Virginia Public Service Commission:

- a. A Certificate of Convenience and Necessity.
- b. Approval of user charges that are acceptable to you and RD.
- c. Approval of financing for the project's proposed financing arrangements.

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

13. Insurance and Bonding Requirements – Prior to loan closing or start of construction, whichever occurs first, you must acquire the types of insurance and bond coverage shown below. The use of deductibles may be allowed providing you have the financial resources to cover potential claims requiring payment of the deductible. RD strongly recommends that you have your engineer, attorney, and insurance provider(s) review proposed types and amounts of coverage, including any exclusions and deductible

provisions. It is your responsibility and not that of RD to assure that adequate insurance and fidelity or employee dishonesty bond coverage is maintained.

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

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

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

tanks, or noncombustible materials used in treatment plants, clearwells, filters, and the like.

14. Environmental Requirements --

- a. Mitigation – At the conclusion of the proposal’s environmental review process, specific actions were negotiated with environmental regulatory officials to avoid or minimize adverse environmental impacts. Those actions(s) are required for successful completion of the project and must be adhered to during project design and construction.
- b. Project Modifications – The project as proposed has been evaluated to be consistent with all applicable environmental requirements. If the project or any project element deviates from or is modified from the original approved project, additional environmental review may be required.

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

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

RD does not need or want a copy of the VA or ERP. The requested certification will be sufficient to meet our needs. Technical assistance providers are available to provide you with on site assistance if desired.

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

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

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

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

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

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

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

17. Contract Documents, Final Plans and Specifications –

- a. The contract documents should consist of the following:
 - i. EJCDC Document No. C-520, 2007 Edition, “Suggested Form of Agreement between Owner and Contractor (Stipulated Price) and EJCDC Document No. C-700, 2007 Edition, “Standard General Conditions of the Construction Contract” and Attachments. The EJCDC document is issued under copyright and cannot be provided by RD.
 - ii. “WV Supplemental General Conditions.” (See Attachment No. 8)

RUS Bulletin 1780-26, “Guidance for the Use of EJCDC Standard Documents on Water and Waste Projects with RUS Financial Assistance (August 20, 2009

Version),” must be used by your engineer in the preparation of the contract documents.

- b. The contract documents must provide, as a minimum, the following insurance:
 - i. Liability Insurance – Personal Liability -- \$500,000; Property Damage -- \$200,000 each occurrence. This coverage must include indemnification of the Town and its engineer. EJCDC Document C-700, “Standard General Conditions of the Construction Contract” and Exhibit H to RUS Bulletin 1780-26, “Supplementary Conditions” both suggest certain limits of liability for insurance coverage. Those limits should be considered as minimum requirements only. It is recommended you consider increasing the given limits of liability after analyzing your specific needs.
 - ii. Builder’s Risk Insurance – On all structures and mechanical and electrical equipment in place or stored on the site to the full insurable value thereof.
 - iii. Workers’ Compensation – In accordance with applicable State laws.
- c. The contract documents and final plans and specifications must be submitted to RD for approval.
- d. The project must be designed in compliance with Section 504 of the Rehabilitation Act of 1973.

- 18. State Prevailing Wage Law – You should ensure that all requirements of Article 5A of the West Virginia State Prevailing Wage Law, “Wages for Construction of Public Improvements” are met during construction of the project.
- 19. Interim Financing – Interim financing may be used for the RD loan if it is available at reasonable rates and terms. You must provide RD with a copy of the tentative agreement reached in connection with interim financing. A copy of the proposed agreement should be provided for RD review. A Sample Credit Agreement is attached for your use in meeting this requirement (Attachment No. 7).
- 20. Disbursement of Funds – The RD funds will be advanced as they are needed in the amount(s) necessary to cover the RD proportionate share of any disbursements required of your Town, over 30 day periods. Funds will be disbursed by electronic transfer of funds.

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

- a. Federal grant awards (includes all Federal funding sources) are less than \$120,000 per year.
- b. The best available interest bearing account would not be expected to earn in excess of the following:

- i. Non-Profits

- Interest earned on grant funds in excess of \$250 per year will be remitted to RUS annually as required in 7 CFR 3019.

- ii. Public Bodies

- Interest earned on grant funds in excess of \$100 per year will be submitted to RD at least quarterly as required in 7 CFR 3016.

- c. The depository would require a minimum balance so high that it would not be feasible.

The Town will establish a separate fund, to be known and hereafter referred to as the Construction Account, with a lending institution insured by the Federal Deposit Corporation. The account shall be used solely for the purpose of paying the costs of the project as outlined in the construction budget. All funds in the account will be secured by a collateral pledge equaling at least 100% of the highest amount of funds expected to be deposited in the Construction Account. All deposits in excess of \$250,000 will be secured by a collateral pledge in accordance with Treasury Circular Number 176.

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

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

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

- a. Form RD 1940-1 – “Request for Obligation of Funds”
- b. RUS Bulletin 1780-12 – “Water or Waste System Grant Agreement”
- c. RUS Bulletin 1780-27 – “Loan Resolution (Public Bodies)”
- d. Form RD 400-1 – “Equal Opportunity Agreement”
- e. Form RD 400-4 – “Assurance Agreement”
- f. Form AD 1047 – “Certification Regarding Debarment – Primary”
- g. Form AD 1049 – “Certification Regarding Drug-Free Workplace”
- h. Form RD 1910-11 – “Applicant Certification, Federal Collection Policies”
- i. RD Instruction 1940-Q, Exhibit A-1 -- “Certification for Contracts, Grants, and Loans”
- j. Standard Form LLL – “Disclosure of Lobbying Activities” (If Applicable)
- k. Certification of Compliance
- l. Form RD 1942-46, “Letter of Intent to Meet Conditions”

23. The enclosed Water and Waste Processing Checklist (Attachment No. 2) outlines the items needed to complete the loan and grant docket. All the items listed must be included in the loan and grant docket when it is forwarded to the USDA - Rural Development State Office with a request for loan and grant closing instructions to be issued.

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

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

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

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

Sincerely,



BOBBY LEWIS
State Director

Enclosures

cc: Craig Burns, Area Director
ATTN: Joe Crickenberger, Area Specialist
Elkins, WV

Thrasher Engineering, Inc.
ATTN: Dan Ferrell, P.E.
P.O. Box 1532
Clarksburg, WV 26301

Roth & White, A.C.
ATTN: Nancy E. Roth, CPA
202 Tunnelton Street
Kingwood, WV 26537

Thomas R. Michael, Esquire
P.O. Box 250
Lost Creek, WV 26385

Preston County Board of Education
ATTN: Dr. Larry Parsons, Superintendent
731 Preston Drive
Kingwood, WV 26537

Attachment No. 1 to Letter of Conditions
 For: Town of Tunnelton
 Date: June 19, 2012

Project Construction Budget
 Town of Tunnelton - Phase I Denver Sewer Extension Project

<u>PROJECT COST</u>	<u>PRESTON CO. BOARD OF EDUCATION</u>				<u>RD LOAN</u>	<u>TOTAL</u>
	<u>OTHER STATE GRANT</u>	<u>EDUCATION</u>	<u>RD GRANT</u>			
CONSTRUCTION	\$ 430,400	\$ 300,000	\$ 388,600	\$ 127,300	\$ 1,246,300	
CONST. CONTINGENCY	\$ 49,300	\$	\$ 45,300	\$ 30,000	\$ 124,600	
LAND & RIGHTS				\$ 15,000	\$ 15,000	
LEGAL FEES (Local Attorney)	\$ 2,300	\$	\$ 1,700	\$ 16,000	\$ 20,000	
BOND COUNSEL				\$ 13,000	\$ 13,000	
ACCOUNTING				\$ 4,400	\$ 4,400	
ENGINEERING FEES	\$ 58,000	\$	\$ 51,500	\$ 199,000	\$ 308,500	
Study & Report - \$30,000						
Basic - \$143,000						
Inspection - \$85,000						
Special - \$50,500						
INTEREST - (2 Yrs. @ 2.00%				\$ 18,000	\$ 18,000	
PERMITS & WVDOH FEES				\$ 15,000	\$ 15,000	
PROJECT CONTG.			\$ 12,900	\$ 12,300	\$ 25,200	
TOTAL	\$ 540,000	\$ 300,000	\$ 500,000	\$ 450,000	\$ 1,790,000	

PROPOSED TARIFF - TUNNELTON MUNICIPAL SEWER SYSTEM

APPLICABILITY

Applicable in the entire territory served.

AVAILABILITY

Available for general domestic, commercial, and industrial service.

RATES

First	3,000 gallons used per month	\$13.18 per 1,000 gallons
Over	3,000 gallons used per month	\$13.18 per 1,000 gallons

MINIMUM CHARGE

No bill will be rendered for less than \$39.54 per month

UNMETERED CUSTOMER CHARGE

There shall be paid by unmetered customers \$59.31 per month based on 4,500 gallons.

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 is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

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

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

PAYMENT DEPOSIT

A deposit of \$50.00 or 2/12ths of the average annual usage of the applicant's specific customer class, whichever is greater.

RECONNECTION

The following charge of \$25.00 is to be made whenever the supply of water is turned off for violations of rules, nonpayment of bills or fraudulent use of water.

TUNNELTON MUNICIPAL SEWER SYSTEM

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the Town or a maximum of \$31.00 will be imposed upon any customer whose check for payment is returned by their bank due to insufficient funds.

LEAK ADJUSTMENT

\$1.84 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 is to be used for all such consumption above customer's historical average.

Attachment No. 1 to the Letter of Conditions
 For: Town of Tunnelton - Phase I Denver Sewer Extension Project
 Date: June 19, 2012

**TOWN OF TUNNELTON - PHASE I DENVER SEWER EXTENSION PROJECT
 USE AND INCOME ANALYSIS
 EXISTING SYSTEM--PROPOSED RATES**

Category	No. of Users	1,000's of Gals./Mo.	Minimum Bills (3,000 Gallons)	First 3,000	Over 3,000	TOTAL REVENUE
0 - 3,000 (Minimum)	69	207.000	69			
Over 3,000	71	337.000		213.000	124.000	
Unmetered	3	13.500		9.000	4.500	
Monthly Total	143	557.500	69	222.000	128.500	
Proposed Rates				\$ 39.54	\$ 13.18	\$ 13.18
Monthly Revenues				\$ 2,728.26	\$ 2,925.96	\$ 1,693.63
Annual Revenues				\$ 32,739.12	\$ 35,111.52	\$ 20,323.56
						\$ 88,174.20

Projected Annual Revenue (Rounded) = \$ 88,174.00

4,500 Gallon Rate = \$ 59.31

Attachment No. 1 to the Letter of Conditions
 For: Town of Tunnelton - Phase I Denver Sewer Extension Project
 Date: June 19, 2012

**TOWN OF TUNNELTON - PHASE I DENVER SEWER EXTENSION PROJECT
 USE AND INCOME ANALYSIS
 PROPOSED NEW USERS--PROPOSED RATES**

Category	No. of Users	1,000's of Gals./Mo.	Minimum Bills (3,000 Gallons)	First 3,000	Over 3,000	TOTAL REVENUE
0 - 3,000 (Minimum)	15	45,000	15			
Over 3,000	15	104,000		45,000	59,000	
Monthly Total	30	149,000	15	45,000	59,000	
Proposed Rates			\$ 39.54	\$ 13.18	\$ 13.18	
Monthly Revenues			\$ 593.10	\$ 593.10	\$ 777.62	\$ 1,963.82
Annual Revenues			\$ 7,117.20	\$ 7,117.20	\$ 9,331.44	\$ 23,565.84

Projected Annual Revenue (Rounded) = \$ 23,566.00

4,500 Gallon Rate = \$ 59.31

Attachment No. 1 to the Letter of Conditions
 For: Town of Tunnelton - Phase I Denver Sewer Extension Project
 Date: June 19, 2012

**TOWN OF TUNNELTON - PHASE I DENVER SEWER EXTENSION PROJECT
 OPERATING BUDGET PROPOSED RATES**

OPERATING INCOME		
Metered Sales	\$	111,740
Rents From Sewerage Properties	\$	2,804
Penalties	\$	4,218
Misc. Revenues	\$	261
TOTAL OPERATING INCOME		<u>\$ 119,023</u>
NON OPERATING INCOME		
Interest & Dividend Income	\$	25
TOTAL NON OPERATING INCOME		<u>\$ 25</u>
TOTAL INCOME		<u>\$ 119,048</u>
EXPENSES		
O & M	\$	78,593
Taxes	\$	2,336
TOTAL EXPENSES		<u>\$ 80,929</u>
INCOME AVAILABLE FOR D/S (A)		<u>\$ 38,119</u>
DEBT SERVICE		
Existing RUS 92-06 Bond P & I	\$	15,984
Proposed Bond P & I	\$	16,956
TOTAL DEBT SERVICE (B)		<u>\$ 32,940</u>
RESERVES		
Existing RUS Reserve Payments	Fully Funded	
Existing Non-RUS Reserves	\$	-
R&R Reserve - 2.5% of Gross Revenues	\$	2,976
Proposed Non-RUS Debt Reserve	\$	-
Proposed RUS Debt Service Reserve	\$	1,696
TOTAL ANNUAL RESERVES		<u>\$ 4,672</u>
SURPLUS (DEFICIT)		<u>\$ 507</u>
DEBT COVERAGE (A/B)		\$ 1.16

Based on an RUS Loan of \$450,000 @ 2.00% interest amortized for 38 years.

LOAN RESOLUTION
(Public Bodies)

A RESOLUTION OF THE Town Council

OF THE Town of Tunnelton

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS Sewer

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

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

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

FOUR HUNDRED FIFTY THOUSAND AND XX / 100 DOLLARS (450,000.00)

pursuant to the provisions of Chapter 16, Article 13 WV Code ; and

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

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

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

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0575-0015), Washington, DC 20503.

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

17. To accept a grant in an amount not to exceed \$1,040,000

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

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

Yeas 5 Nays 0 Absent 0

IN WITNESS WHEREOF, the Town Council of the Town of Tunnelton has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this 7th day of AUGUST, 2012

Town of Tunnelton
 By Paul D. Dudley
 Title Mayor

(SEAL) (if applicable)
 Attest: Rita Nicholson
 Title Town Clerk

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as Mayor of the Town of Tunnelton

hereby certify that the Town Council of such Association is composed of

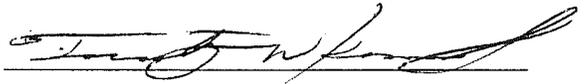
5 members, of whom 5 constituting a quorum, were present at a meeting thereof duly called and

held on the 7th day of August, 2012 that the foregoing resolution was adopted at such meeting

by the vote shown above. I further certify that as of June 3, 2016,

the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this 3rd day of June 2016.



of Town of Tunnelton

TOWN OF TUNNELTON

Sewer Revenue Bonds, Series 2016 A
(United States Department of Agriculture)

RECEIPT FOR BOND

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

1. On the 3rd day of June, 2016, at Tunnelton, West Virginia, the undersigned received for the Purchaser the single, fully registered the Town of Tunnelton Sewer Revenue Bonds, Series 2016 A (United States Department Agriculture), No. AR-1 (the "Series 2016 A Bonds"), in the principal amount of \$450,000, dated as of the date hereof, bearing interest at the rate of 1.75% per annum, and payable in monthly installments as stated in the Bond.

2. At the time of such receipt, the Series 2016 A Bonds had been executed and sealed by the designated officials of the Town of Tunnelton (the "Issuer").

3. At the time of such receipt, there was paid to the Issuer the sum of \$214,527.81, being a portion of the principal amount of the Series 2016 A Bonds. The balance of the principal amount of the Series 2016 A Bonds, will be paid to the Issuer as acquisition and construction of the Project progresses.

WITNESS my signature on this 3rd day of June, 2016.

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL UTILITIES SERVICE



Authorized Representative

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF TUNNELTON
SEWER REVENUE BONDS, SERIES 2016 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

\$450,000

No. AR-1

Date: June 3, 2016

FOR VALUE RECEIVED, the TOWN OF TUNNELTON (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of FOUR HUNDRED FIFTY THOUSAND DOLLARS (\$450,000), plus interest on the unpaid principal balance at the rate of 1.75% per annum. The said principal and interest shall be paid in the following installments on the following dates: Annual installments of interest only, on June 3, 2017 and June 3, 2018, and \$1,355, covering principal and interest, beginning July 3, 2018 and continuing on the 3rd day each month, except that the final installment shall be paid June 3, 2056 (40 years from the date of this Bond), in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided herein below. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

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

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

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

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

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

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

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

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

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and Outstanding for the purpose of providing funds for financing costs of acquisition and construction of additions, betterments, extensions and improvements to the sewerage system (the "System") of Borrower, is payable solely from and secured by the revenues to be derived from the operation of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation, nor shall the Borrower be obligated to pay the same or the interest thereon except from the special fund so provided.

Registration of this Bond is transferable by the Registered Owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Ordinance, 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 13 of the West Virginia Code of 1931 (herein called the "Act"), and an Ordinance of Borrower duly enacted on May 3, 2016, and a Supplemental Resolution duly adopted on May 31, 2016, authorizing issuance of this Bond (collectively, the "Ordinance").

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

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

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S SEWERAGE SYSTEM REVENUE BOND, SERIES 2002 (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED APRIL 19, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$290,000 (THE "SERIES 2002 BONDS" OR THE "PRIOR BONDS").

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

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the TOWN OF TUNNELTON has caused this Bond to be executed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Recorder, all as of the date hereinabove written.

TOWN OF TUNNELTON

[CORPORATE SEAL]

Mayor



A handwritten signature in black ink, appearing to read "T. J. ...", is written over a horizontal line. A large, diagonal red stamp with the word "SPECIMEN" is overlaid on the signature.

ATTEST:


Recorder

A handwritten signature in black ink, appearing to read "Opie Wright", is written over a horizontal line. A large, diagonal red stamp with the word "SPECIMEN" is overlaid on the signature.

EXHIBIT A
RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$214,527.81	06/03/2016	(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

TOTAL \$ _____

(Form of Assignment)

ASSIGNMENT

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

Dated: _____, 20 ____.

In presence of:

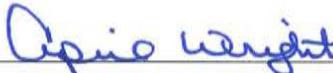
TOWN OF TUNNELTON

SEWER REVENUE BONDS, SERIES 2016 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

\$450,000

REGISTRATION BOOKS

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

Bond No.	Date of Registration	In Whose Name Registered	Signature of Secretary of Registrar
AR-1	June 3, 2016	United States Department of Agriculture	

June 3, 2016

Town of Tunnelton
Sewer Revenue Bonds, Series 2016 A
(United States Department of Agriculture)

Town of Tunnelton
Tunnelton, West Virginia

United States Department of Agriculture
Elkins, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the Town of Tunnelton, in Preston County, West Virginia (the "Issuer"), of its \$450,000 Sewer Revenue Bonds, Series 2016 A (United States Department of Agriculture), dated the date hereof (the "Series 2016 A Bonds"), pursuant to Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and a Bond Ordinance of the Issuer duly enacted on May 3, 2016, as supplemented by Supplemental Resolution duly adopted on May 31, 2016 (collectively, the "Bond Legislation"). We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion.

The Bonds are issued for the purposes of (i) paying a portion of the costs of acquisition and construction of certain additions, betterments, extensions and improvements to the existing public sewerage system of the Issuer (the "Project"); and (ii) paying certain issuance and other costs in connection therewith.

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

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

1. The Issuer is duly created and validly existing as a municipal corporation and political subdivision of the State of West Virginia with full power and authority to adopt and enact the Bond Legislation, perform the agreements on its part contained therein and issue and sell the Series 2016 A Bonds, pursuant to the provisions of the Act and other applicable provisions of law.

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

3. Pursuant to the Act, the Bond Legislation creates a valid lien on the Net Revenues of the System for the security of the Series 2016 A Bonds on a parity with the Issuer's Sewerage System Revenue Bond, Series 2002 (United States Department of Agriculture), dated April 19, 2002, issued in the original aggregate principal amount of \$290,000 (the "Series 2002 Bonds" or the "Prior Bonds"). Other than the Prior Bonds, there are no other Outstanding bonds or obligations of the Issuer which rank prior to or on a parity with the Series 2016 A Bonds as to liens, pledge and/or source of and security for payment.

4. The Series 2016 A Bonds have been duly authorized, executed and delivered by the Issuer and is a valid and binding special obligation of the Issuer, payable solely from the sources provided therefor in the Bond Legislation.

5. The Series 2016 A Bonds have not been issued on the basis that the interest, if any, thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes; therefore, the interest on the Series 2016 A Bonds is not excluded from gross income for federal income tax purposes. We express no opinion regarding other federal tax consequences arising with respect to the Series 2016 A Bonds.

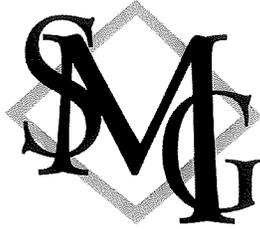
6. The Series 2016 A Bonds are, under the Act, exempt from all taxation by the State of West Virginia, and the other taxing bodies of said State, and interest on the Series 2016 A Bonds is exempt from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

It is to be understood that the rights of the Holder of the Series 2016 A Bonds and the enforceability of the Series 2016 A Bonds, the Bond Legislation and the liens and pledges set forth therein may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that the enforcement thereof may also be subject to the exercise of judicial discretion in appropriate cases.

Very truly yours,



STEPTOE & JOHNSON PLLC



Smith, McMunn & Glover, PLLC
Attorneys at Law

G. Thomas Smith
D. Andrew McMunn
David C. Glover

516 West Main Street
Clarksburg, WV 26301

Telephone: (304) 326-6000
Facsimile: (304) 326-4000
Writer's Email: davideglover@aol.com

June 3, 2016

Town of Tunnelton
Sewer Revenue Bonds, Series 2016 A
(United States Department of Agriculture)

Town of Tunnelton
Tunnelton, West Virginia

United States Department of Agriculture
Elkins, West Virginia

Steptoe & Johnson PLLC
Charleston, West Virginia

Ladies and Gentlemen:

We are counsel to the Town of Tunnelton, a municipal corporation and political subdivision of the State of West Virginia in Preston County of said State (the "Issuer"). As such counsel, we have examined a copy of the approving opinion of Steptoe & Johnson PLLC, as bond counsel, a Bond Ordinance of the Issuer duly enacted on May 3, 2016, as supplemented by Supplemental Resolution duly adopted May 31, 2016 (collectively, the "Bond Legislation"), and other documents and papers relating to the Issuer and the above-captioned Bonds of the Issuer (the "Bonds"). Terms used in the Bond Legislation and not otherwise defined herein shall have the same meanings as in the Bond Legislation when used herein.

We are of the opinion that:

1. The Issuer is duly created and validly existing as a municipal corporation and a political subdivision of the State of West Virginia.
2. The Mayor, Recorder, members of the Council of the Issuer and members of the Sanitary Board have been duly, lawfully and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act in their respective capacities on behalf of the Issuer.

3. The Bond Legislation has been duly adopted and enacted by the Issuer and is in full force and effect.

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

5. The Issuer has received all orders and approvals from the Public Service Commission of West Virginia, including the Recommended Decision entered May 6, 2016, which became Final Order on May 16, 2016 per Commission Order Waiving the Exception Period dated May 11, 2016 in Case No. 15-0796-S-CN among other things, granting to the Issuer a certificate of convenience and necessity for the Project and approving the financing for the Project. The Order is in full force and effect.

6. All permits, licenses, approvals, consents, certificates, orders, exemptions and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bond, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges have been entered and/or received, including, without limitation, all requisite orders, certificates, consents and approvals from the Public Service Commission of West Virginia, and the Issuer has duly taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance dated May 5, 2015 prescribing such rates and charges.

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

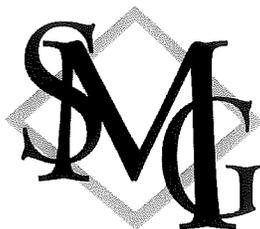
All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very truly yours,



David C. Glover

cc: Rita Nicholson, Clerk
David Watson, P.E.



Smith, McMunn & Glover, PLLC
Attorneys at Law

G. Thomas Smith
D. Andrew McMunn
David C. Glover

516 West Main Street
Clarksburg, WV 26301

Telephone: (304) 326-6000
Facsimile: (304) 326-4000
Writer's Email: davidcglover@aol.com

May 12, 2016

James W. Ellars, P.E.
Executive Director
West Virginia Infrastructure & Jobs Development Council
1009 Bullitt Street
Charleston, West Virginia 25301

Re: Town of Tunnelton
Phase I Denver Sewer Extension Project
IJDC Project No.: 2014S-1512
Preston County

Dear Council:

This firm represents the Town of Tunnelton (hereinafter "Tunnelton") with regard to the above-referenced Project, and provides this final title opinion on behalf of Tunnelton to satisfy the requirements of the funding agencies for the Project. As such, please be advised of the following:

1. That the Town of Tunnelton is a duly created and existing municipality possessed with all powers and authority granted to municipalities under the laws of the State of West Virginia and has the full power and authority to construct, operate and maintain the Project as set forth in the Final Recommended Decision (Case No. 15-0796-S-CN) of the Public Service Commission of West Virginia granting a Certificate of Convenience and Necessity to Tunnelton for the Project.
2. That Tunnelton has obtained all necessary permits and approvals for the construction of the Project.
3. That we 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 for the Project prepared by The Thrasher Group, the consulting engineers for the Project.

4. That we have examined the records on file in the Office of the Clerk of the County Commission of Preston County, West Virginia, the County in which the Project is to be located and, in our opinion, Tunnelton has acquired legal title in all the necessary easements and/or rights-of-way for the Project sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the Project. Additionally, Tunnelton has obtained the three (3) fee takes/property purchases necessary for the Project.

5. That all easements/rights-of-way and deeds which have been acquired to date by Tunnelton have been duly recorded in the aforesaid Clerk's Office in order to protect the legal title to and the interests of Tunnelton.

6. That there are no outstanding judgments against Tunnelton.

7. That there is no pending litigation against Tunnelton. Further, Tunnelton is unaware of any threatened litigation.

8. That all requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and West Virginia State Code Chapter 54 have been met in the acquisition of both real property and rights-of-way.

If you should have any questions regarding this matter or any of the information contained in this letter, please do not hesitate to contact me.

Very truly yours,



David C. Glover

cc: Rita Nicholson, Clerk
David Watson, P.E.

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

NEW ISSUE REPORT FORM

Date of Report: 6/3/2016

ISSUE: <u>Town of Tunnelton</u> <u>Sewer Revenue Bonds, Series 2016 A (United States Department of Agriculture)</u>	
ADDRESS: <u>75 Bank Street, Tunnelton, WV 26444</u>	COUNTY: <u>Preston</u>
PURPOSE OF ISSUE: New Money: <u>x</u> Refunding: _____	
REFUNDS ISSUE(S) DATED: <u>NA</u>	ISSUE DATE: <u>6/3/2016</u>
CLOSING DATE: <u>6/3/2016</u>	ISSUE AMOUNT: <u>\$450,000</u>
RATE: <u>1.750%</u>	1ST DEBT SERVICE DUE: <u>N/A</u>
1ST PRINCIPAL DUE: <u>N/A</u>	1ST DEBT SERVICE AMOUNT <u>N/A</u>
PAYING AGENT: <u>Issuer</u>	
BOND COUNSEL: Firm: <u>Steptoe & Johnson PLLC</u> Contact: <u>John Stump, Esquire</u> Phone: <u>(304) 353.8196</u>	UNDERWRITERS COUNSEL: Firm: _____ Contact: _____ Phone: _____
CLOSING BANK: Bank: <u>N/A</u> Contact: _____ Phone: _____	ESCROW TRUSTEE: Firm: _____ Contact: _____ Phone: _____
KNOWLEDGEABLE ISSUER CONTACT: Contact: <u>Rita Nicholson</u> Position: <u>Clerk</u> Phone: <u>304.568.2992</u>	OTHER: Agency: <u>United States Department of Agriculture</u> Contact: <u>Joe Crickenberger</u> Position: <u>Rural Development Specialist</u> Phone: <u>304.636.2158 x 105</u>
DEPOSITS TO MBC AT CLOSE By: _____ Wire _____ _____ Check _____	
Accrued Interest: \$ _____ Capitalized Interest: \$ _____ Reserve Account: \$ _____ Other: \$ _____	
REFUNDS & TRANSFERS BY MBC AT CLOSE By: _____ Wire _____ _____ Check _____ _____ IGT _____	
To Escrow Trustee \$ _____ To Issuer \$ _____ To Cons. Invest. Fun: \$ _____ To Other: _____ \$ _____	
NOTES: <u>Monthly debt service payments will be made directly to the National Finance Office.</u> <u>The Municipal Bond Commission will only hold the Series 2016 A Bonds Reserve Account.</u> <u>Payments into the Series 2016 A Bonds Reserve Account will commence 24 months following the date hereof.</u>	
FOR MUNICIPAL BOND COMMISSION USE ONLY: DOCUMENTS REQUIRED: _____ TRANSFERS REQUIRED: _____ _____	

TOWN OF TUNNELTON

Sewer Revenue Bonds, Series 2016 A
(United States Department of Agriculture)

COMBINED CERTIFICATE OF ISSUER AND ATTORNEY ON:

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

We, the undersigned MAYOR and RECORDER of the Town of Tunnelton, in Preston County, West Virginia (the "Issuer"), and the undersigned COUNSEL to the Issuer, acting for the Issuer and in its name, hereby state and certify on this 3rd day of June, 2016, in connection with the Town of Tunnelton Sewer Revenue Bonds, Series 2016 A (United States Department of Agriculture), No. AR-1, fully registered, dated the date hereof, in the principal amount of \$450,000, and bearing interest at the rate of 1.75% per annum (the "Series 2016 A Bonds") as follows:

1. AUTHORIZATION AND AWARD OF BOND: The undersigned are authorized to execute this certificate on behalf of the Issuer and are knowledgeable with respect to the matters set forth herein. The entire issue of the Series 2016 A Bonds have been duly awarded to the United States of America, acting by the United States Department of Agriculture, Rural Utilities Service (the "Purchaser"), pursuant to a Letter of Conditions from the Purchaser, dated June 19, 2012 as amended, and as appears in Section 7.03 of the Bond Ordinance duly enacted on May 3, 2016, as supplemented, authorizing issuance of the Bond (the "Ordinance" or "Bond Ordinance"). Terms used herein and not otherwise defined herein shall have the same meaning as defined in the Bond Ordinance when used herein. The Series 2016 A Bonds are being issued on this date to permanently finance the

cost of acquisition and construction of the Project located within the boundaries of the Issuer and to pay costs of issuance thereof.

2. NO LITIGATION: No controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting the issuance and delivery of the Series 2016 A Bonds; nor questioning the proceedings and authority by which the Issuer authorized the issuance and sale of the Series 2016 A Bonds; nor in any way questioning or affecting the validity of the Series 2016 A Bonds, or any provisions made or authorized for the payment thereof, including, without limitation, the pledge or application of the Gross Revenues or any other moneys or security provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Bonds, the acquisition and construction of the Project, the operation of the System, the pledge or application of moneys and security or the collection of the Gross Revenues; nor questioning the existence, powers or proceedings of the Issuer or the Council of the Issuer (the "Governing Body") or the title of the members and officers thereof to their respective offices; nor questioning the operation of the sewerage system of the Issuer (the sewerage system, as improved and expanded by the Project, as defined in the Ordinance, is herein called the "System") or the acquisition and construction of the Project being financed out of the proceeds of sale of the Series 2016 A Bonds; nor questioning the rates and charges provided for services of the System.

3. GOVERNMENTAL APPROVALS: All applicable and necessary approvals, permits, authorizations, registrations, exemptions, consents and certificates required by law for the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Series 2016 A Bonds have been duly and timely obtained and remain in full force and effect, the time for appeal of which or rehearing having expired. Competitive bids for the acquisition and construction of the Project have been solicited in accordance with Chapter 16, Article 13 of the West Virginia Code of 1931, as amended, which bids remain in full force and effect.

The Issuer has received the Recommended Decision dated May 6, 2016 which became a Final Order on on May 16, 2016 per Commission Order Waiving the Exception Period dated May 11, 2016 in Case No. 15-0796-S-CN of the Public Service Commission of West Virginia, granting to the Issuer a certificate of public convenience and necessity for the Project, and approving the financing for the Project. The time for appeal of the Commission Order has expired prior to the date hereof. Such Order is not subject to any appeal, further hearing, reopening or rehearing by any customer, protestant, intervenor or other person not a party to such Order. Such Order remains in full force and effect.

The Issuer enacted sewer rates and charges for the System on May 5, 2015. The time for appeal of such rates has expired prior to the date hereof without any timely appeals having been filed.

4. PUBLICATION AND NO PROTEST: Notice of public hearing upon the Bond Ordinance finally adopted and enacted on May 3, 2016 as supplemented was duly published as required by law.

There was not any protest to the passage of the Bond Ordinance, oral or written, and the Bond Ordinance became fully effective following the public hearing thereon and remains in full force and effect.

5. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer or the System since the approval by the Purchaser of a loan to assist in acquisition and construction of the Project.

The Issuer has Outstanding its Sewerage System Revenue Bond, Series 2002 (United States Department of Agriculture), dated April 19, 2002, issued in the original aggregate principal amount of \$290,000 (the "Series 2002 Bonds" or the "Prior Bonds").

Prior to the issuance of the Series 2016 A Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; and (ii) the written consent of the Holders of the Prior Bonds to the issuance of the Series 2016 A Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no other Outstanding bonds or obligations of the Issuer which are secured by revenues of the System.

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

6. SIGNATURES, ETC.: The undersigned Mayor and Recorder did, for the Issuer on the date hereof, officially execute and seal the Series 2016 A Bonds with the official corporate seal of the Issuer, an impression of which seal is on this certificate above our signatures and said officers are the duly elected or appointed (as applicable), qualified and serving officers as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Series 2016 A 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, supplemented or changed in any way unless modification appears from later documents also listed below.

Bond Ordinance

Supplemental Resolution

Prior Bond Ordinance

Public Service Commission Orders

United States Department of Agriculture Loan Resolution

Specimen Series 2016 A Bonds

Charter

Oaths of Office of Officers and Council Members

Rules of Procedure

Sewer Rates

Affidavit of Publication on Rate Ordinance

Minutes on Adoption and Enactment of Rate Ordinance

Affidavit of Publication on Bond Ordinance

Minutes on Adoption and Enactment of Bond Ordinance

United States Department of Agriculture Letter of Conditions

Receipt of Depository Bank

8. INCUMBENCY AND OFFICIAL NAME, ETC.: The proper corporate title of the Issuer is the "Town of Tunnelton." The Issuer is a municipal corporation in Preston County and is presently existing under the laws of, and a political subdivision of, the State of West Virginia. The governing body of the Issuer is its council, consisting of a Mayor, a Recorder and 4 council members, all duly elected or appointed, as applicable, qualified and acting, and whose names and dates of commencement and termination of current terms of office are as follows:

<u>Name</u>	<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Timothy Kennedy, Mayor	7/1/2015	6/30/2017
April Wright, Recorder	7/1/2015	6/30/2017
Walter Moats	7/1/2015	6/30/2017
Rose Wright	7/1/2015	6/30/2017
Donna Ziegler	7/1/2015	6/30/2017
Faye Zuchowski	7/1/2015	6/30/2017

The duly appointed and acting Counsel to the Issuer is Smith, McMunn & Glover, PLLC, Clarksburg, West Virginia.

9. DELIVERY AND PAYMENT: On the date hereof, the Series 2016 A Bonds were delivered to the Purchaser at Tunnelton, West Virginia, by the undersigned Mayor for the purposes herein set forth, and at the time of such delivery, the

Series 2016 A Bonds had been duly and fully executed and sealed on behalf of the Issuer in accordance with the Bond Ordinance.

The Series 2016 A Bonds is dated the date hereof and interest on advances thereon at the rate of 1.75% per annum is payable from the date of each respective advance.

The Series 2016 A Bonds and the entire proceeds thereof will be used for the purposes herein set forth and for no other purposes.

At the time of delivery of the Series 2016 A Bonds, the amount of \$214,527.81 was received by the undersigned Mayor, being a portion of the principal amount of the Series 2016 A Bonds, the balance to be paid as acquisition and construction of the Project progresses.

10. USE OF PROCEEDS: The total Cost of the Project is estimated at \$1,751,600. Sources and uses of funds for the Project are as follows:

SOURCES

Proceeds of the Series 2016 A Bonds	\$450,000
USDA Grant	1,040,000
WV Infrastructure Council Grant	<u>261,600</u>
Total Sources	<u>\$1,751,600</u>

USES

Costs of Acquisition and Construction of the Project	\$1,736,600
Costs of Issuance	<u>\$15,000</u>
Total Uses	<u>\$1,751,600</u>

11. LAND AND RIGHTS OF WAY: All land in fee simple and all rights of way and easements necessary for the acquisition and construction of the Project, and the operation and maintenance of the System have been acquired or can and will be acquired by purchase, or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Series 2016 A Bonds.

12. MEETINGS; PUBLICATION AND POSTING OF NOTICES, ETC.: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the acquisition, construction, operation and financing of the Project and the System were authorized, enacted or adopted at meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Charter of the Issuer and any Rules of Procedure of the Governing Body

and all applicable statutes, including particularly and without limitation, Chapter 6, Article 9A of the West Virginia Code of 1931, as amended, and a quorum of duly elected or appointed (as applicable), qualified and acting members of the Governing Body was present and acting at all times during all such meetings. All notices required to be published and/or posted were so published and/or posted.

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

14. CONNECTIONS, ETC.: The Issuer will serve at least 173 bona fide full time users of the System, upon completion of the Project, 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. 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 in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bond, the Bond Ordinance and/or the Project, including, without limitation, with respect to the Depository Bank, as defined in the Bond Ordinance. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

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

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

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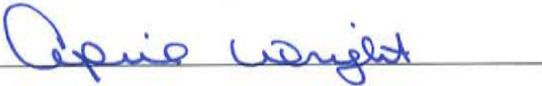
WITNESS our signatures and the official corporate seal of the TOWN OF TUNNELTON on the day and year first written above.

[CORPORATE SEAL]

SIGNATURE

OFFICIAL TITLE


_____ Mayor


_____ Recorder

Counsel to Issuer

916420.00002

WITNESS our signatures and the official corporate seal of the TOWN OF TUNNELTON on the day and year first written above.

[CORPORATE SEAL]

SIGNATURE

OFFICIAL TITLE

Mayor

Recorder

David C. Slu

Counsel to Issuer

916420.00002

Town of Tunnelton
Sewer Revenue Bonds, Series 2016 A
(United States Department of Agriculture)

ENGINEER'S CERTIFICATE

I, Daniel Ferrell, Registered Professional Engineer, West Virginia License No. 013462, of The Thrasher Group, Bridgeport, West Virginia, hereby certify this 3rd day of June, 2016 as follows:

1. My firm is engineer for the acquisition and construction of certain extensions, additions, betterments and improvements (the "Project") to the sewerage system (the "System") of the Town of Tunnelton (the "Issuer"), to be constructed in Preston County, West Virginia, which acquisition and construction are being permanently financed by the proceeds of the above-captioned bonds (the "Bonds") of the Issuer.

2. The Bonds are being issued (i) to pay a portion of the costs of acquisition and construction of the Project; and (ii) to pay certain costs of issuance and related costs.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the West Virginia Bureau for Public Health; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 40 years, if properly constructed, 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; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents and the bid forms provided to the bidders contain the critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; and (vii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the construction of the Project and operation of the System.

4. The Project is designed to serve 36 new customers in the Route 26 area south of Tunnelton as approved by the Infrastructure Council without substitution.

THE THRASHER GROUP



Daniel Ferrell, P.E.
West Virginia License No. 013462

961240.00002



**Tunnelton
Schedule B
Post-Bid
IJDC# 2014S-1512**

5/12/2016

A. COST OF PROJECT	TOTAL	USDA Loan / Grant	IJDC Grant
1 Construction (Pro-contracting)	1,176,001.00	914,401.00	261,600.00
Change Order No. 1	77,591.47	77,591.47	0.00
2 Construction Contingency 5.0%	62,716.17	62,716.17	0.00
3 Technical Services (Thrasher)			
i Study & Report	30,000.00	30,000.00	0.00
ii Basic	143,000.00	143,000.00	0.00
iii RPR	85,000.00	85,000.00	0.00
iv Special	50,500.00	50,500.00	0.00
v Amendment 1	14,800.00	14,800.00	0.00
4 Legal			
a Glover	20,000.00	20,000.00	0.00
b. Michael	1,186.36	1,186.36	0.00
5 Accounting	5,805.00	5,805.00	0.00
6 Lands & ROWs	15,000.00	15,000.00	0.00
7 Administration	0.00	0.00	0.00
8 Permits/Ads/Fees	22,000.00	22,000.00	0.00
9 Electrical Services	15,000.00	15,000.00	0.00
10 Sub Total	1,718,600.00	1,457,000.00	261,600.00
B. COST OF FINANCING			
11 Capitalized Interest	18,000.00	18,000.00	0.00
12 Reserve	0.00	0.00	0.00
13 Bond Counsel (S&J)	15,000.00	15,000.00	0.00
14 Sub Total Cost of Financing	33,000.00	33,000.00	0.00
15 TOTAL PROJECT COST	1,751,600.00	1,490,000.00	261,600.00
C. SOURCES OF OTHER FUNDS			
16 Federal Grant (USDA)	1,040,000.00	1,040,000.00	0.00
17 State Grant (IJDC)**	261,600.00	0.00	261,600.00
18 Any Other Grant	0.00	0.00	0.00
19 TOTAL GRANTS	1,301,600.00	1,040,000.00	261,600.00
20 Size of Bond Issue	450,000.00	450,000.00	0.00


Town of Tunnelton

June 3, 2016
Date


The Thrasher Group

June 3, 2016
Date

**IJDC grant committed at \$300,000 - reduced (\$38,400) due to bid underrun

ROTH & WHITE, A.C.
CERTIFIED PUBLIC ACCOUNTANTS
P.O. Box 67
Kingwood, WV 26537
(304)329-1020

June 3, 2016

Town of Tunnelton
Sewer Revenue Bonds, Series 2016 A
(United States Department of Agriculture)

Town of Tunnelton
Tunnelton, West Virginia

United States Department of Agriculture
Elkins, West Virginia

Ladies and Gentlemen:

Based upon the rates and charges set forth in the sewer rate ordinance enacted by the Town of Tunnelton (the "Issuer") May 5, 2015 and projected operation and maintenance expenses and anticipated customer usage as furnished to us by The Thrasher Group, consulting engineers, it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of sewerage system (the "System") of the Issuer, will pay all repair, operation and maintenance expenses of the System, and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Sewer Revenue Bonds, Series 2016 A (United States Department of Agriculture), dated June 3, 2016, issued in the aggregate principal amount of \$450,000 (the "Series 2016 A Bonds"), and the Issuer's Sewerage System Revenue Bond, Series 2002 (United States Department of Agriculture), dated April 19, 2002, issued in the original aggregate principal amount of \$290,000 (the "Series 2002 Bonds" or the "Prior Bonds").

It is further our opinion that the Net Revenues for the Fiscal Year following the year in which the Bonds are issued will be at least 120% of the annual debt service requirements on the Series 2016 A Bonds and the Prior Bonds.

Sincerely,

Roth & White, A.C.

ROTH & WHITE, A.C.