

**WHITMER WATER ASSOCIATION, INC.**

**Water Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Water Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)**

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**WHITMER WATER ASSOCIATION, INC.**

**WATER REVENUE BONDS, SERIES 2010 A  
(WEST VIRGINIA DWTRF PROGRAM); AND  
WATER REVENUE BONDS, SERIES 2010 B  
(WEST VIRGINIA DWTRF PROGRAM/ARRA)**

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**WHITMER WATER ASSOCIATION, INC.**

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS FACILITIES OF WHITMER WATER ASSOCIATION, INC. AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$370,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA DWTRF PROGRAM), AND NOT MORE THAN \$2,117,573 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA DWTRF PROGRAM/ARRA); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING THE ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A CREDIT LINE DEED OF TRUST, SECURITY AGREEMENT AND OTHER DOCUMENTS AND INSTRUMENTS RELATING TO THE BONDS AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF WHITMER WATER ASSOCIATION, INC. :

**ARTICLE I**

**STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS**

Section 1.01. Authority for this Resolution. This Resolution (together with any order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is adopted pursuant to the provisions of Chapter 31E, Article 1 and

Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

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

A. Whitmer Water Association, Inc. (the "Issuer") is a non-stock, non-profit corporation organized under the laws of the State of West Virginia in Randolph County of said State.

B. The Issuer presently owns and operates a public waterworks 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 to the existing public waterworks system of the Issuer, consisting of construction of a 50 gpm water treatment plant and expansion of the water distribution system, one new water storage tank, one new pressure reducing station, radio telemetry and all necessary appurtenances (collectively, the "Project") (the existing public waterworks system of the Issuer, the Project and any further extensions, additions, betterments and improvements thereto are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

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

D. It is deemed necessary for the Issuer to issue its Water Revenue Bonds in the total aggregate principal amount of not more than \$2,487,573 in two series (collectively, the "Series 2010 Bonds"), being the Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), in the aggregate principal amount of not more than \$370,000 (the "Series 2010 A Bonds"), and the Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), in the aggregate principal amount of not more than \$2,117,573 (the "Series 2010 B Bonds"), to permanently finance a portion of the costs of acquisition and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, upon the Series 2010 Bonds prior to and during acquisition and construction of the Project and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Reserve Accounts (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority, including the Administrative Fee (as hereafter defined); discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2010 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in

operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2010 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 32 years.

F. It is in the best interests of the Issuer that its Series 2010 Bonds be sold to the Authority pursuant to the terms and provisions of an ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the West Virginia Bureau for Public Health (the "BPH"), in form satisfactory to the respective parties (the "ARRA Assistance Agreement"), approved hereby if not previously approved by resolution of the Issuer.

G. The Series 2010 Bonds will be secured by a Credit Line Deed of Trust, Security Agreement and Fixture Filing by and among the Issuer, the trustees named therein and the Authority (the "Deed of Trust") and a Security Agreement by and between the Issuer and the Authority (the "Security Agreement") pursuant to which the Issuer shall grant the Authority a security interest in, among other things, the revenues and accounts receivable of the Issuer.

H. There are no outstanding bonds or obligations of the Issuer which will rank on a parity with the Series 2010 A Bonds and the Series 2010 B Bonds as to liens, pledge and source of and security for payment.

I. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all costs of operation and maintenance of the System, the principal of and interest, if any, on the Bonds (as hereinafter defined) and payments into all funds and accounts and other payments provided for herein, all as such terms are hereinafter defined.

J. The Issuer has complied with all requirements of West Virginia law and the ARRA Assistance Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 2010 A Bonds and the Series 2010 B Bonds, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, the approval of the Project and the financing thereof by the West Virginia Infrastructure and Jobs Development Council and the obtaining of a certificate of public convenience and necessity and approval of this financing and necessary user rates and charges described herein from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 2010 A Bonds and the Series 2010 B Bonds or such final order will not be subject to appeal or rehearing.

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

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2010 A Bonds and the Series 2010 B Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Series 2010 A Bonds and the Series 2010 B Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

"Act" means, collectively, Chapter 31E, Article 1 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

"Administrative Fee" means the Administrative Fee required, if any, to be paid pursuant to the ARRA Assistance Agreement for the Series 2010 Bonds.

"ARRA Assistance Agreement" means the ARRA Assistance Agreement heretofore entered, or to be entered, into by and between the Issuer and the Authority, on behalf of the BPH, providing for the purchase of the Series 2010 A Bonds from the Issuer by the Authority, and by and between the Issuer and the Authority, on behalf of the BPH, providing for the purchase of the Series 2010 B Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2010 A Bonds and the Series 2010 B Bonds, or any other agency, board or department of the State of West Virginia that succeeds to the functions of the Authority, acting in its administrative capacity and upon authorization from the BPH under the Act.

"Authorized Officer" means the President of the Governing Body of the Issuer, or any temporary President duly selected by the Governing Body.

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

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

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

"Bonds" means, collectively, the Series 2010 A Bonds, the Series 2010 B Bonds, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another resolution of the Issuer.

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

"BPH" means the West Virginia Bureau for Public Health, a division of the West Virginia Department of Health and Human Resources, or any successor thereto.

"President" means the President of the Governing Body of the Issuer.

"Closing Date" means the date upon which there is an exchange of the Series 2010 A Bonds and the Series 2010 B Bonds for all or a portion of the proceeds of the Series 2010 A Bonds and the Series 2010 B Bonds, respectively, from the Authority.

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

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

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

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

"Deed of Trust" means the Credit Line Deed of Trust, Security Agreements and Fixture Filing by and among the Issuer, the trustees named therein and the Authority securing the Series 2010 Bonds.

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

"DWTRF Regulations" means the DWTRF regulations set forth in the West Virginia Code of State Regulations, as amended from time to time.

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

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

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

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

"Grant" means all moneys received by the Issuer from any grant for the Project.

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

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

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

"Issuer" means Whitmer Water Association, Inc., a non-profit corporation organized under the laws of the State of West Virginia, in Randolph County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Net Proceeds" means the face amount of the Series 2010 A Bonds and the Series 2010 B Bonds, plus accrued interest and premium, if any, less original issue discount,

if any, and less proceeds, if any, deposited in the Series 2010 A Bonds Reserve Account and the Series 2010 B Bonds Reserve Account, respectively. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2010 A Bonds and the Series 2010 B Bonds, respectively, without regard to whether or not such investment is made in tax-exempt obligations.

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

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

"Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered, except (i) any Bond canceled by the Bond Registrar at or prior to said date; (ii) any Bond for the payment of which monies, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article X hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any Bonds registered to the Issuer.

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

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

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

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

- (a) Government Obligations;

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

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

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

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

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

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

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

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

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

"Registrar" means the Bond Registrar.

"Regulations" means temporary and permanent regulations promulgated under the Code or any predecessor to the Code.

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

"Reserve Accounts" means, collectively, the respective Reserve Accounts established for the Series 2010 A Bonds, and the Series 2010 B Bonds.

"Reserve Requirement" means, collectively, the respective amounts required to be on deposit in any Reserve Account for Series 2010 A Bonds and the Series 2010 B Bonds.

"Revenue Fund" means the Revenue Fund created by section 5.01 herein.

"Secretary" means the Secretary of the Governing Body of the Issuer.

"Security Agreement" mean the Security Agreement by and between the Issuer and the Authority pursuant to which the Issuer shall grant the Authority a security interest in, among other things, the revenues and accounts receivable of the Issuer to secure the Series 2010 Bonds.

"Series 2010 Bonds" means collectively, the Series 2010 A Bonds and the Series 2010 B Bonds.

"Series 2010 A Bonds" means the Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) of the Issuer, authorized by this Resolution.

"Series 2010 A Bonds Reserve Account" means the Series 2010 A Bonds Reserve Account established by Section 5.02 hereof.

"Series 2010 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2010 A Bonds in the then current or any succeeding year.

"Series 2010 A Bonds Sinking Fund" means the Series 2010 A Bonds Sinking Fund established by Section 5.02 hereof.

"Series 2010 B Bonds" means the Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA) of the Issuer, authorized by this Resolution.

"Series 2010 B Bonds Reserve Account" means the Series 2010 B Bonds Reserve Account established by Section 5.02 hereof.

"Series 2010 B Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2010 B Bonds in the then current or any succeeding year.

"Series 2010 B Bonds Sinking Fund" means the Series 2010 B Bonds Sinking Fund established by Section 5.02 hereof.

"Series 2010 Bonds Construction Trust Fund" means the Series 2010 Bonds Construction Trust Fund established by Section 5.01 hereof.

"Sinking Funds" means, collectively, the respective Sinking Funds established for the Series 2010 A Bonds and the Series 2010 B Bonds.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution or order of the Issuer supplementing or amending this Resolution and, when preceded by the article "the," refers specifically to the supplemental resolution or resolutions authorizing the sale of the Series 2010 A Bonds and the Series 2010 B Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 2010 A Bonds and the Series 2010 B Bonds, and not so included, may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Series 2010 A Bonds, the Series 2010 B Bonds, or any other obligations of the Issuer, including, without limitation, the Sinking Funds, Reserve Accounts and the Renewal and Replacement Fund.

"System" means the complete public waterworks system of the Issuer, as extended and improved by the Project, including the existing waterworks facilities owned by the Issuer and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the System; and shall also include any and

all extensions, additions, betterments and improvements thereto hereafter acquired or constructed for the waterworks system from any sources whatsoever.

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

"West Virginia DWTRF Program" means the West Virginia Drinking Water Treatment Revolving Fund program established by the State, administered by the BPH and funded by capitalization grants awarded to the State pursuant to the federal Safe Drinking Water Act, as amended, for the purpose of establishing and maintaining a permanent perpetual fund for the acquisition, construction and improvement of drinking water projects.

Additional terms and phrases are defined in this Resolution as they are used. Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender; and any requirement for execution or attestation of the Bonds or any certificate or other document by the President or the Secretary shall mean that such Bonds, certificate or other document may be executed or attested by an Acting President or Acting Secretary.

## ARTICLE II

### **AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT**

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of \$3,558,283.68, 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 2010 A Bonds and the Series 2010 B Bonds shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, in an amount and otherwise compatible with the financing plan submitted to the Authority and the BPH.

The cost of the Project is estimated not to exceed \$3,558,283.68, of which approximately \$370,000 will be obtained from proceeds of the Series 2010 A Bonds, approximately \$2,117,573 will be obtained from proceeds of the Series 2010 B Bonds, and \$1,070,710.68 will be obtained from a Small Cities Block Grant.

### ARTICLE III

#### **AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF ARRA ASSISTANCE AGREEMENT**

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 2010 A Bonds and the Series 2010 B Bonds, if any, funding reserve accounts for the Series 2010 A Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2010 A Bonds and the Series 2010 B Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the Series 2010 A Bonds and the Series 2010 B Bonds of the Issuer. The Series 2010 Bonds shall be issued in two series, each as a single bond, designated respectively as "Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program)," in the principal amount of not more than \$370,000, and "Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA)," in the principal amount of not more than \$2,117,573, and both shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2010 A Bonds and the Series 2010 B Bonds remaining after capitalizing interest, if any, on the Series 2010 A Bonds and the Series 2010 B Bonds, and funding the Series 2010 A Bonds Reserve Account and the Series 2010 B Bonds Reserve Account shall be deposited in or credited to the respective Bond Construction Trust Funds established by Section 5.01 hereof and applied as set forth in Article VI hereof.

Section 3.02. Terms of Bonds. The Series 2010 A Bonds and the Series 2010 B Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum rate, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the ARRA Assistance Agreement. The Series 2010 A Bonds and the Series 2010 B Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest, if any, on the Series 2010 A Bonds and the Series 2010 B Bonds shall be paid by check or draft of the Paying Agent mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 2010 A Bonds and the Series 2010 B Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 2010 A Bonds and the Series 2010 B Bonds. The Series 2010 A Bonds and the Series 2010 B Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the

amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

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

Section 3.03. Execution of Bonds. The Series 2010 A Bonds and the Series 2010 B Bonds shall be executed in the name of the Issuer by the President, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed the Series 2010 A Bonds and the Series 2010 B Bonds shall cease to be such officer of the Issuer before the Series 2010 A Bonds and the Series 2010 B Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any such Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 2010 A Bond nor Series 2010 B Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 2010 A Bond and the Series 2010 B Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Series 2010 A Bonds and the Series 2010 B Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2010 A Bonds and the Series 2010 B Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting the Series 2010 A Bonds and the Series 2010 B Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that such Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 2010 A Bonds and the Series 2010 B Bonds remain outstanding, the Issuer, through the Bond Registrar as its agent, shall keep and maintain books for the registration and transfer of the Series 2010 A Bonds and the Series 2010 B Bonds.

The registered Series 2010 A Bonds and the Series 2010 B Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging the Series 2010 A Bonds and the Series 2010 B Bonds or transferring the registered Bonds are exercised, Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2010 A Bond or Series 2010 B Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate, register and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be canceled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2010 A Bonds and the Series 2010 B Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided, the Deed of Trust and the Security Agreement. No holder or holders of the Series 2010 A Bonds and the Series 2010 B Bonds shall ever have the right

to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2010 A Bonds and the Series 2010 B Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues, Deed of Trust and Security Agreement. The payment of the debt service of the Series 2010 A Bonds and the Series 2010 B Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System, the Deed of Trust and the Security Agreement. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for, the Series 2010 A Bonds and the Series 2010 B Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2010 A Bonds and the Series 2010 B Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2010 A Bonds and the Series 2010 B Bonds to the original purchasers upon receipt of the documents set forth below:

- (i) If other than the Authority, a list of the names in which the Series 2010 A Bonds and the Series 2010 B Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;
- (ii) A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2010 A Bonds and the Series 2010 B Bonds to the original purchasers;
- (iii) The executed Deed of Trust;
- (iv) The executed Security Agreement;
- (v) An executed and certified copy of the Bond Legislation;
- (vi) An executed copy of the ARRA Assistance Agreement; and
- (vii) The unqualified approving opinion of bond counsel on the Series A Bonds and the Series 2010 B Bonds.

Section 3.10. Form of Bonds. The text of the Series 2010 A Bonds and the Series 2010 B Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 2010 A BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
WHITMER WATER ASSOCIATION, INC.  
WATER REVENUE BOND, SERIES 2010 A  
(WEST VIRGINIA DWTRF PROGRAM)

No. AR-1

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

KNOW ALL MEN BY THESE PRESENTS: That on this day \_\_\_\_ of \_\_\_\_\_, 2010, WHITMER WATER ASSOCIATION, INC., a West Virginia non-profit corporation in Randolph County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 20\_\_\_\_, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The Administrative Fee (as defined in the hereinafter described Bond Legislation) on this Bond shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_, 1, 20\_\_\_\_, as set forth on EXHIBIT B attached hereto.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated \_\_\_\_\_, 2010.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing waterworks system of the Issuer (the "Project"); and (ii) to pay costs of issuance for the Bonds of this Series (the "Bonds") and related costs. The existing public waterworks system of the Issuer, the Project and any further extensions, additions, betterments and

improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 31E, Article 1 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Resolution duly adopted by the Issuer on \_\_\_\_\_, 2010, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2010 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA DWTRF PROGRAM/ARRA), DATED \_\_\_\_\_, 2010, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$ \_\_\_\_\_ (THE "SERIES 2010 B BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues to be derived from the operation of the System, the Deed of Trust and the Security Agreement (all as defined in the Bond Legislation) on a parity with the pledge of Net Revenues in favor of the holders of the Series 2010 B Bonds and from monies in the reserve account created under the Bond Legislation for the Bonds (the "Series 2010 A Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2010 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, and the Series 2010 B Bonds; provided however, that so long as there exists in the Series 2010 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, and the Series 2010 B Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are

exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of The Huntington National Bank, Charleston, West Virginia (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, 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.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

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

IN WITNESS WHEREOF, WHITMER WATER ASSOCIATION, INC.  
has caused this Bond to be signed by its President and its corporate seal to be hereunto  
affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first  
written above.

[SEAL]

\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2010 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_, 2010.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

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

EXHIBIT A  
RECORD OF ADVANCES

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

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

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

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

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

(FORM OF SERIES 2010 B BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
WHITMER WATER ASSOCIATION, INC.  
WATER REVENUE BONDS, SERIES 2010 B  
(WEST VIRGINIA DWTRF PROGRAM/ARRA)

No. BR-1

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

KNOW ALL MEN BY THESE PRESENTS: That on this \_\_\_\_ day of \_\_\_\_\_, 2010, WHITMER WATER ASSOCIATION, INC. , a West Virginia non-profit corporation in Randolph County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year commencing \_\_\_\_\_ 1, 200\_\_\_\_, as set forth in the Debt Service Schedule attached as EXHIBIT B hereto and incorporated herein by reference. The Series 2010 B Bonds are not subject to the Administrative Fee (as defined in the hereinafter described Bond Legislation).

This Bond shall bear no interest. Principal installments of this Bond are forgivable quarterly as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated \_\_\_\_\_, 2010.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance for the Bonds of this Series (the "Bonds") and related costs. The existing public waterworks system of the Issuer, the Project and any further extensions, additions, betterments and improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 31E, Article 1 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Resolution

duly adopted by the Issuer on \_\_\_\_\_, 2010, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2010 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA DWTRF PROGRAM), DATED \_\_\_\_\_, 2010, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$ \_\_\_\_\_ (THE "SERIES 2010 A BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues to be derived from the operation of the System, the Deed of Trust and the Security Agreement (all as defined in the Bond Legislation), on a parity with the pledge of Net Revenues in favor of the holders of the Series 2010 A Bonds, and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2010 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, and the Series 2010 A Bonds; provided however, that so long as there exists in the Series 2010 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, and the Series 2010 A Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of The Huntington National Bank, Charleston, West Virginia (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written

instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, 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.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

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

IN WITNESS WHEREOF, WHITMER WATER ASSOCIATION, INC. has caused this Bond to be signed by its President and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first written above.

[SEAL]

\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2010 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_, 2010.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

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

EXHIBIT A  
RECORD OF ADVANCES

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

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

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

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

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of ARRA Assistance Agreement. The Series 2010 A Bonds and the Series 2010 B Bonds shall be sold to the Authority, pursuant to the terms and conditions of the respective ARRA Assistance Agreement. If not so authorized by previous resolution, the President is specifically authorized and directed to execute the ARRA Assistance Agreement in the form attached hereto as "EXHIBIT A" and made a part hereof, and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the ARRA Assistance Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The ARRA Assistance Agreement, including all schedules and exhibits attached thereto, is hereby approved and incorporated into this Bond Legislation.

Section 3.12. Filing of Amended Schedule. Upon completion of the acquisition and construction of the Project, the Issuer will file with the Authority and the BPH the respective amended schedules, the forms of which will be provided by the BPH, setting forth the actual costs of the Project and sources of funds therefor.

#### ARTICLE IV

[RESERVED]

#### ARTICLE V

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

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and the Issuer and from each other:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund; and
- (3) Series 2010 Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with and shall be held by the Commission separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

- (1) Series 2010 A Bonds Sinking Fund;
- (2) Series 2010 A Bonds Reserve Account;

- (3) Series 2010 B Bonds Sinking Fund; and
- (4) Series 2010 B Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All monies at any time on deposit in the Revenue Fund shall be disposed of only in the following order of priority:

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

- (2) The Issuer shall next, each month, simultaneously (i) on the first day of each month, remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2010 A Bonds, for deposit in the Series 2010 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2010 A Bonds on the next ensuing quarterly principal payment date; and (ii) on the first day of each month, remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2010 B Bonds, for deposit in the Series 2010 B Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2010 B Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2010 A Bonds Sinking Fund and the Series 2010 B Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

- (3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2010 A Bonds, if not fully funded upon issuance of the Series 2010 A Bonds, for deposit in the Series 2010 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2010 A Bonds Reserve Requirement; provided that, no further payments shall be made into the

Series 2010 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 2010 A Bonds Reserve Requirement; and (ii) to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2010 B Bonds, if not fully funded upon issuance of the Series 2010 B Bonds, for deposit in the Series 2010 B Bonds Reserve Account, an amount equal to 1/120th of the Series 2010 B Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2010 B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2010 B Bonds Reserve Requirement.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund to the Renewal and Replacement Fund an amount equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Accounts. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and 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 accounts have not, as of the date of determination of a deficiency, funded such accounts to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

(5) 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.

Monies in the Series 2010 A Bonds Sinking Fund and the Series 2010 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2010 A Bonds and the Series 2010 B Bonds, respectively, as the same shall become due. Monies in the Series 2010 A Bonds Reserve Account and the Series 2010 B Bonds Reserve Account shall be used only for the purposes of paying principal of and interest, if any, on the Series 2010 A Bonds and the Series 2010 B Bonds, respectively, as the same shall come due, when other monies in the Series 2010 A Bonds Sinking Fund and the Series 2010 B Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2010 A Bonds Sinking Fund, the Series 2010 B Bonds Sinking Fund, the Series 2010 A Bonds Reserve Account and the Series 2010 B Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the respective Bond Construction Trust Funds, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2010 A Bonds and the Series 2010 B Bonds, respectively, and then to the next ensuing principal payment due thereon, all on a pro rata basis.

Any withdrawals from the Series 2010 A Bonds Reserve Account or the Series 2010 B Bonds Reserve Account which result in a reduction in the balance of the Series 2010 A Bonds Reserve Account or the Series 2010 B Bonds Reserve Account to below the Series 2010 A Bonds Reserve Requirement or the Series 2010 B Bonds Reserve Requirement, respectively, shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the Series 2010 A Bonds and the Series 2010 B Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve accounts in an amount equal to the requirement thereof.

The Issuer shall not be required to make any further payments into the Series 2010 A Bonds Sinking Fund, the Series 2010 A Bonds Reserve Account, the Series 2010 B Bonds Sinking Fund and the Series 2010 B Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2010 A Bonds and the Series 2010 B Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

Principal, interest or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 2010 A Bonds and the Series 2010 B Bonds, in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2010 A Bonds Sinking Fund, the Series 2010 A Bonds Reserve Account, the Series 2010 B Bonds Sinking Fund and the Series 2010 B Bonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. The Issuer shall make the necessary arrangements whereby required payments into said accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Monies in the Series 2010 A Bonds Sinking Fund, the Series 2010 A Bonds Reserve Account, the Series 2010 B Bonds Sinking Fund and the Series 2010 B Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2010 A Bonds Sinking Fund, the Series 2010 A Bonds Reserve Account, the Series 2010 B Bonds Sinking Fund and the Series 2010 B Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2010 A Bonds and the Series 2010 B Bonds, respectively, under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required principal, interest and reserve account payments with respect to the Series 2010 A Bonds and the Series 2010 B 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 Issuer shall also on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the Administrative Fee, if any, as set forth in the Schedule Y attached to the ARRA Assistance Agreement for the Series 2010 A Bonds and Series 2010 B Bonds.

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

D. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

E. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay their respective charges and fees then due. In the case of payments to the Commission under this paragraph, the Issuer shall, the Authority at anytime, make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

F. The monies in excess of the maximum amounts insured by FDIC in all funds and accounts shall at all times be secured, to the full extent thereof in excess of such

insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

G. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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

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

J. All Tap Fees shall be deposited by the Issuer, as received, in the Series 2010 Bonds Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System.

## ARTICLE VI

### **BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS**

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the monies received from the sale of the Series 2010 A Bonds and the Series 2010 B Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2010 A Bonds, there shall first be deposited with the Commission in the Series 2010 A Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 2010 A Bonds for the period commencing on the date of issuance of the Series 2010 A Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. From the proceeds of the Series 2010 B Bonds, there shall first be deposited with the Commission in the Series 2010 B Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 2010 B Bonds for the period commencing on the date of issuance of the Series 2010 B Bonds and ending 6 months after the estimated date of completion of construction of the Project.

C. From the proceeds of the Series 2010 A Bonds, there shall next be deposited with the Commission in the Series 2010 A Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding the Series 2010 A Bonds Reserve Account.

D. From the proceeds of the Series 2010 B Bonds, there shall next be deposited with the Commission in the Series 2010 B Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding the Series 2010 B Bonds Reserve Account.

E. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2010 A Bonds, such monies shall be deposited with the Depository Bank in the Series 2010 Bonds Construction Trust Fund and applied solely to payment of costs of the Project in the manner set forth in Section 6.02 and until so expended, are hereby pledged as additional security for the Series 2010 A Bonds.

F. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2010 B Bonds, such monies shall be deposited with the Depository Bank in the Series 2010 Bonds Construction Trust Fund and applied solely to payment of costs of the Project in the manner set forth in Section 6.02 and until so expended, are hereby pledged as additional security for the Series 2010 B Bonds.

G. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2010 Bonds shall be applied as directed by the BPH.

Section 6.02. Disbursements From the Bond Construction Trust Fund.

On or before the Closing Date, the Issuer shall have delivered to the Authority and the BPH a report listing the specific purposes for which the proceeds of the Series 2010 Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for the costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the respective Series 2010 Bonds Construction Trust Fund shall be made only after submission to and approval from the BPH, of a certificate, signed by an Authorized Officer, as appropriate stating that:

- (A) None of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;
- (B) Each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;

- (C) Each of such costs has been otherwise properly incurred; and
- (D) Payment for each of the items proposed is then due and owing.

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

## ARTICLE VII

### ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2010 A Bonds and the Series 2010 B Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 2010 A Bonds and the Series 2010 B Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2010 A Bonds and the Series 2010 B Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2010 A Bonds and the Series 2010 B Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Series 2010 A Bonds or the Series 2010 B Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2010 A Bonds or the Series 2010 B Bonds or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Deed of Trust and Security Agreement. The payment of the debt service of the Series 2010 A Bonds and the Series 2010 B Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System, the Deed of Trust and the Security Agreement. The Net Revenues in an amount sufficient to pay the principal of and interest, if any, on the Series 2010 A Bonds and the Series 2010 B Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal and the Issuer shall supply an opinion of counsel to such effect. Such rates and charges shall be sufficient to comply with the requirements of the ARRA Assistance Agreement and the Issuer shall supply a certificate of certified public accountant to such effect. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth and approved and described in the Recommended Decision of the Public Service Commission of West Virginia dated October 5, 2009 which became Final Order on October 25, 2009, in Case No. 09-1099-W-SCN.

So long as the Series 2010 A Bonds and the Series 2010 B Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the ARRA Assistance Agreement. In the event the schedule of rates, fees and charges initially established for the System in connection with the Series 2010 A Bonds and the Series 2010 B Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the ARRA Assistance Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the ARRA Assistance Agreement.

Section 7.05. Sale of the System. The Issuer shall not sell, mortgage, lease or otherwise dispose of or encumber the System, or any part thereof. Additionally, so long as the Series 2010 A Bonds and the Series 2010 B Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the BPH, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2010 A Bonds and the Series 2010 B Bonds, immediately be remitted to the Commission for deposit in the respective Sinking Funds, and, with the written permission of the Authority and the BPH, or, in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Series 2010 A Bonds and the Series 2010 B Bonds. Any balance remaining after the payment of the Series 2010 A Bonds and the Series 2010 B Bonds and interest, if any, thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other

disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000, but not in excess of \$50,000, the Issuer shall first, in writing, determine upon consultation with a professional engineer that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding in accordance with the laws of the State. The proceeds derived from any such sale, lease or other disposition of such property shall be deposited in the Renewal and Replacement Fund. Payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amounts required to be paid into such fund by other provisions of this Bond Legislation.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2010 A Bonds and the Series 2010 B Bonds. All obligations issued by the Issuer after the issuance of the Series 2010 A Bonds and the Series 2010 B Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Series 2010 A Bonds and the Series 2010 B Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2010 A Bonds and the Series 2010 B Bonds, and the interest thereon, if any, upon any or all of the income and revenues of the

System pledged for payment of the Series 2010 A Bonds and the Series 2010 B Bonds and the interest thereon, if any, in this Bond Legislation, or upon the System or any part thereof.

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

Section 7.07. Parity Bonds. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2010 A Bonds and the Series 2010 B Bonds pursuant to this Bond Legislation, except with the prior written consent of the Authority and the BPH under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2010 A Bonds and the Series 2010 B Bonds.

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

So long as the Series 2010 Bonds are outstanding no Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues expected to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest, if any, on the following:

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

The "estimated average increased annual Net Revenues expected to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates adopted by the Issuer, the period for appeal of which has expired prior to the date of issuance of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Secretary prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the period for appeal of which has expired prior to issuance of such Parity Bonds.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, 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 2010 A Bonds and the Series 2010 B 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 2010 A Bonds and the Series 2010 B 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 with respect to the Bonds then Outstanding, and any other payments provided for in this Bond Legislation, shall have been made in full as required to the date of delivery of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Bond Legislation.

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

The Issuer shall permit the Authority and the BPH, or their agents and representatives, to inspect all records pertaining to the operation and maintenance of the

System at all reasonable times following completion of construction and commencement of operation of the Project, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

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

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

The Issuer shall file with the BPH, the Authority, or any other original purchaser of the Series 2010 A Bonds and the Series 2010 B Bonds, and shall mail in each year to any Holder or Holders of the Series 2010 A Bonds and the Series 2010 B Bonds and the Consulting Engineer, requesting the same, an annual report containing the following:

- (A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.
- (B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation, and the status of all said funds and accounts.
- (C) The amount of any Bonds, notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants (and to the extent legally required in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto), and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 2010 A Bonds and the Series 2010 B Bonds, and shall submit said report to the BPH and the Authority, or any other original purchaser of the Series 2010 A Bonds and the Series 2010 B Bonds. Such audit report submitted to the Authority and the BPH shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of

noncompliance and the audited financial statements shall include a statement that notes whether the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

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

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

The Issuer shall provide the BPH with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in Exhibit D of the ARRA Assistance Agreement for the Series 2010 B Bonds or as promulgated from time to time.

Section 7.09. Rates. Prior to the issuance of the Series 2010 A Bonds and the Series 2010 B Bonds, equitable rates or charges for the use of and service rendered by the System shall be established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2010 A Bonds and the Series 2010 B Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2010 A Bonds and the Series 2010 B Bonds; provided that, in the event amounts equal to or in excess of the reserve requirements are on deposit respectively in the Series 2010 A Bonds Reserve Account and the Series 2010 B Bonds Reserve Account and any reserve accounts for obligations on a parity with the Series 2010 A Bonds and the Series 2010 B Bonds, are

funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2010 A Bonds and the Series 2010 B Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2010 A Bonds and the Series 2010 B Bonds. In any event, the Issuer shall not reduce the rates or charges for services described in Section 7.04.

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

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

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

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the Authority and the BPH, covering the supervision and inspection of the development and construction of the Project, and bearing the responsibility of

assuring that construction conforms to the plans, specifications, and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority, the BPH, and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the DWTRF Regulations, to the Issuer within 60 days of the completion of the Project. The Issuer shall notify the BPH in writing of such receipt.

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

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

The Issuer will serve the additional customers at the location(s) as set forth in Certificate of Engineer. The Issuer will not reduce the amount of additional customers served by the project without the prior written approval of the Board of the Water Development Authority (the "Authority"). Following completion of the Project the Issuer will certify to the Authority the number of customers added to the System.

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

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

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

law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law.

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

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2010 A Bonds and the Series 2010 B Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

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

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

to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

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

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

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

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

The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project; provided that the amounts and terms of such coverage are satisfactory to the Authority and the BPH and the Issuer shall verify such insurance prior to commencement of construction. In the event the ARRA Assistance Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

Section 7.16. Connections. To the extent permitted by the laws of the State and rules and regulations of the Public Service Commission of West Virginia, the Issuer shall require every owner, tenant or occupant of any house, dwelling or building intended to be served by the System to connect thereto.

Section 7.17. Completion, Operation and Maintenance of Project; Permits and Orders. The Issuer shall complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and state requirements and standards. The Issuer shall take all steps to properly operate and maintain the System and make the necessary replacements due to normal wear and tear so long as the Series 2010 A Bonds and the Series 2010 B Bonds are outstanding.

The Issuer has obtained all permits required by State and federal laws for the acquisition and construction of the Project, all orders and approvals from the Public Service Commission of West Virginia and the West Virginia Infrastructure and Jobs Development Council necessary for the financing, acquisition and construction of the Project and the operation of the System and all approvals for issuance of the Series 2010 A Bonds and the Series 2010 B Bonds required by State law, with all requisite appeal periods having expired without successful appeal.

Section 7.18. Reserved.

Section 7.19. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2010 A Bonds and the Series 2010 B 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, shall take effect immediately upon delivery of the Series 2010 A Bonds and the Series 2010 B Bonds.

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

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

The Issuer shall perform an annual maintenance audit which maintenance audit shall be submitted to the Authority and the Public Service Commission of West Virginia.

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

Section 7.22. Contracts; Change Orders; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2010 A Bonds and the Series 2010 B Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the BPH for written approval. The Issuer shall obtain the written approval of the BPH before expending any proceeds of the Series 2010 A Bonds and the Series 2010 B Bonds held in "contingency" as set forth in the respective schedules attached to the certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the BPH before expending any proceeds of the Series 2010 A Bonds and the Series 2010 B Bonds made available due to bid or construction or project underruns.

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

## **ARTICLE VIII**

### **INVESTMENT OF FUNDS**

Section 8.01. Investments. Any monies held as a part of the funds and accounts created by this Bond Legislation other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the need for such monies for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

Any investment shall be held in and at all times deemed a part of the fund or account in which such monies were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission, the Depository Bank, or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank, or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its

own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2010 A Bonds and the Series 2010 B Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest, if any, on the Series 2010 A Bonds and the Series 2010 B Bonds from gross income for federal income tax purposes.

Section 8.02. Certificate as to Use of Proceeds; Covenants as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2010 Bonds as a condition to issuance of the Series 2010 Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2010 Bonds as may be necessary in order to maintain the status of the Series 2010 Bonds as governmental bonds; (ii) that it shall not take, or permit or suffer to be taken, any action with respect to the Issuer's use of the proceeds of the Series 2010 Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority or the BPH, as the case may be, from which the proceeds of the Series 2010 Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority, to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Resolution.

The Issuer shall annually furnish to the Authority, information with respect to the Issuer's use of the proceeds of the Series 2010 Bonds and any additional information requested by the Authority.

## ARTICLE IX

### **DEFAULT AND REMEDIES**

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2010 A Bonds and the Series 2010 B Bonds:

- (1) If default occurs in the due and punctual payment of the principal of or interest, if any, on any series of the Series 2010 A Bonds and the Series 2010 B Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2010 A Bonds and the Series 2010 B Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2010 A Bonds and the Series 2010 B Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Registrar or any other Paying Agent or a Holder of a Bond; or

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

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his 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 2010 A Bonds and the Series 2010 B 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 2010 A Bonds and the Series 2010 B Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Series 2010 A Bonds and the Series 2010 B Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Holders of the Series 2010 A Bonds and the Series 2010 B Bonds shall be on a parity with each other.

Section 9.03. Appointment of Receiver. Any Registered Owner of the Series 2010 A Bonds and the Series 2010 B Bonds may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project 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 Series 2010 A Bonds and the Series 2010 B 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 Series 2010 A Bonds and the Series 2010 B 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 Series 2010 A Bonds and the Series 2010 B 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 Series 2010 A Bonds and the Series 2010 B 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.

## **ARTICLE X**

### **PAYMENT OF BONDS**

Section 10.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid to the Holders of the Series 2010 A Bonds and the Series 2010 B Bonds,

the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2010 A Bonds and the Series 2010 B Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2010 A Bonds and the Series 2010 B Bonds from gross income for federal income tax purposes.

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2010 A Bonds and the Series 2010 B Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2010 A Bonds and the Series 2010 B Bonds, no material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2010 A Bonds and the Series 2010 B Bonds shall be made without the consent in writing of the Registered Owners of the Series 2010 A Bonds and the Series 2010 B Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest, if any, out of the funds herein respectively pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Series 2010 A Bonds and the Series 2010 B Bonds, required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the excludability of interest, if any, on the Series 2010 A Bonds and the Series 2010 B Bonds from gross income of the holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 2010 A Bonds and the Series 2010 B Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any

of the remaining provisions of this Resolution, the Supplemental Resolution, or the Series 2010 A Bonds and the Series 2010 B Bonds.

Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 11.05. Notices. All notices to be sent to the Issuer, the Authority or the BPH shall be in writing and shall be deemed to have been given when delivered in person or mailed by first class mail, postage prepaid, addressed as follows:

ISSUER:

Whitmer Water Association, Inc.  
Post Office Box 23  
Whitmer, West Virginia 26296  
Attention: President

AUTHORITY:

Water Development Authority  
180 Association Drive  
Charleston, West Virginia 25311-1571  
Attention: Director

BPH:

West Virginia Bureau for Public Health  
Capitol & Washington Streets  
One Davis Square, Suite 200  
Charleston, West Virginia 25301  
Attention: Environmental Engineering

All notices to be sent to the BPH hereunder, shall also be sent to the Authority.

Section 11.06. Conflicting Provisions Repealed. All orders, ordinances or resolutions, or parts thereof, in conflict with the provisions of this Resolution are to the extent of such conflict, hereby repealed.

Section 11.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the President, Secretary and members of the Governing Body

were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

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

[Remainder of Page Intentionally Blank]

Adopted this 12th day of January, 2010.

  
President

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Board of Directors of  
WHITMER WATER ASSOCIATION, INC. on the 12th day of January, 2010.

Dated: January 21, 2010.

[SEAL]

  
Susan Type Pennington  
Secretary

12.16.09  
972490.00001

EXHIBIT A

ARRA Assistance Agreement included in bond transcript as Document 3.

WHITMER WATER ASSOCIATION, INC.

Water Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Water Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE WATER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA DWTRF PROGRAM) AND WATER REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA DWTRF PROGRAM/ARRA), OF WHITMER WATER ASSOCIATION, INC.; APPROVING AND RATIFYING THE ARRA ASSISTANCE AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Board of Directors (the "Governing Body") of Whitmer Water Association, Inc. (the "Issuer") has duly and officially adopted a Bond Resolution, on January 12, 2010 (the "Bond Resolution" or the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS FACILITIES OF WHITMER WATER ASSOCIATION, INC. AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$370,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA DWTRF PROGRAM), AND NOT MORE THAN \$2,117,573 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA DWTRF PROGRAM/ARRA); PROVIDING FOR THE RIGHTS AND

REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING THE ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A CREDIT LINE DEED OF TRUST, SECURITY AGREEMENT AND OTHER DOCUMENTS AND INSTRUMENTS RELATING TO THE BONDS AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Bond Resolution provides for the issuance of Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) and Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), of the Issuer (collectively, the "Bonds" and individually, the "Series 2010 A Bonds" and the "Series 2010 B Bonds"), in the respective aggregate principal amounts not to exceed \$370,000 and \$2,117,573, and has authorized the execution and delivery of the ARRA Assistance Agreement relating to the Series 2010 A Bonds, and the Series 2010 B Bonds, by and between the Issuer and the Authority, on behalf of the BPH (the "ARRA Assistance Agreement"), all in accordance with Chapter 31E, Article 1 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Bond Resolution it is provided that the form of the ARRA Assistance Agreement and the exact principal amounts, dates, maturity dates, redemption provisions, interest rates, interest and principal payment dates, sale prices and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

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

WHEREAS, the Bonds are proposed to be purchased by the Authority pursuant to the ARRA Assistance Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the ARRA Assistance Agreement be approved and entered into by the Issuer, that the exact principal amounts, the dates, the maturity dates, the redemption provisions, the interest rates, the interest and principal payment dates and the sale prices of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF WHITMER WATER ASSOCIATION, INC.:

Section 1. Pursuant to the Bond Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the following bonds of the Issuer:

A. Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of \$370,000. The Series 2010 A Bonds shall be dated the date of delivery thereof, shall finally mature September 1, 2041 and shall bear no interest. The principal of the Series 2010 A Bonds shall be payable quarterly, on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2011 and to and including September 1, 2041 and in the amounts as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Series 2010 A Bonds. The Series 2010 A Bonds shall be subject to redemption upon the written consent of the Authority and the BPH, and upon payment of the redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2010 A Bonds. The Series 2010 A Bonds are not subject to the Administrative Fee.

B. Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), of the Issuer, originally represented by a single Bond, numbered BR-1, in the principal amount of \$2,117,573. The Series 2010 B Bonds shall be dated the date of delivery thereof, shall finally mature September 1, 2021 and shall bear no interest. The principal of the Series 2010 B Bonds shall be forgivable quarterly, on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2011 and to and including September 1, 2021, and in the amounts as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Series 2010 B Bonds. The Series 2010 B Bonds shall be subject to redemption upon the written consent of the Authority and the BPH, and upon payment of the redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2010 B Bonds. The Series 2010 B Bonds are not subject to the Administrative Fee.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Bond Resolution.

Section 3. The Issuer hereby approved the execution and delivery of the Credit Line Deed of Trust, Security Agreement and Fixture Filing, the Security Agreement, the UCC-1 Financing Statements and other such documents and instruments as shall be necessary or desirable to effect the transaction contemplated herein, and the President and Secretary are hereby authorized and directed to execute such documents in the form approved by the Issuer, their execution thereof being deemed conclusive of their approval of such form, and no further approval of the Issuer is deemed necessary for such execution and delivery.

Section 4. The Issuer does hereby authorize, ratify, approve and accept the ARRA Assistance Agreement, including all schedules and exhibits attached thereto, copies of which are incorporated herein by reference, and the execution and delivery of the ARRA Assistance Agreement by the President, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the ARRA Assistance Agreement and in the applications to the BPH and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon; provided that, the proceeds of the Bonds will be advanced from time to time as requisitioned by the Issuer.

Section 5. The Issuer does hereby appoint and designate The Huntington National Bank, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds under the Bond Resolution and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the President, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, approved and directed.

Section 6. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds under the Bond Resolution.

Section 7. The Issuer does hereby appoint and designate Grant County Bank, Davis, West Virginia, to serve as Depository Bank under the Bond Resolution.

Section 8. Series 2010 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2010 A Bonds Sinking Fund as capitalized interest.

Section 9. Series 2010 B Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2010 B Bonds Sinking Fund as capitalized interest.

Section 10. Series 2010 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2010 A Bonds Reserve Account.

Section 11. Series 2010 B Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2010 B Bonds Reserve Account.

Section 12. The balance of the proceeds of the Series 2010 A Bonds and the Series 2010 B Bonds shall be deposited in or credited to the Series 2010 Bonds Construction Trust Fund as received from time to time for payment of costs of the Project, including, without limitation, costs of issuance of the Series 2010 A Bonds and the Series 2010 B Bonds and related costs.

Section 13. The President and Secretary are hereby authorized and directed to execute and deliver such other documents, agreements, instruments and certificates required or desirable in connection with the Bonds hereby and by the Bond Resolution approved and

provided for, to the end that the Bonds may be delivered to the Authority pursuant to the ARRA Assistance Agreement on or about January 21, 2010.

Section 14. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 15. The Issuer does hereby ratify, approve and accept all contracts relating to the financing, acquisition and construction of the Project.

Section 16. The Issuer hereby determines that it is in the best interest of the Issuer to invest all monies in the funds and accounts established by the Bond Resolution held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such monies to be invested in such repurchase agreements or time accounts, until further directed in writing by the Issuer. Monies in the Sinking Funds and the Reserve Accounts for the Bonds shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 17. The Special Conditions of the ARRA Assistance Agreement attached as Exhibit A and hereby accepted and agreed to and incorporated herein.

Section 18. This Supplemental Resolution shall be effective immediately following adoption hereof.

[Remainder of Page Intentionally Blank]

Adopted this 12th day of January, 2010.

WHITMER WATER ASSOCIATION, INC.

By: Paula J. Teter  
Its: President

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Board of Directors of WHITMER WATER ASSOCIATION, INC. on the 12th day of January, 2010.

Dated: January 21, 2010.

[SEAL]

  
Secretary

EXHIBIT A

SPECIAL CONDITIONS – ARRA FUNDED PROJECTS

The Local Entity shall include the following covenants in its bond authorizing documents:

A. PUBLIC RELEASE REQUIREMENT – The Local Entity agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations, groundbreaking or project dedication program documents and other documents describing projects or programs funded in whole or in part with Federal money, (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. AUDIT REQUIREMENT (Supplement to Article IV 4.1 (b) (xi)) – Effective October 1, 2003, the Local Entity that receives \$500,000 or more (in federal funds) in a fiscal year must obtain audits in accordance with the Single Audit Act and the applicable OMB Circular or any successor thereto. Financial statement audits are required once all funds have been received by the Local Entity.

C. BUY AMERICAN CERTIFICATION – The Local Entity shall cause the contractor(s) to comply with, and provide certification of, the Buy American provisions of the ARRA in accordance with final guidance from the EPA.

D. ASSET MANAGEMENT – The Local Entity shall develop and implement an asset management plan in accordance with guidelines issued by BPH and as approved by BPH.

E. CONTRACTS – The Local Entity shall enter into contracts or commence construction by January 28, 2010.

F. LOGO – The Local Entity must display the ARRA logo in a manner that informs the public that the project is an ARRA investment.

G. LOBBYING - The Local Entity shall comply with Title 40 CFR Part 34, New Restrictions on Lobbying and shall submit certification and disclosure forms as required by BPH.

H. PURCHASING REQUIREMENTS – The Local Entity shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

I. SUSPENSION AND DEBARMENT – The Local Entity shall comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled “Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons). To the extent required by BPH, the Local Entity shall provide certifications as to compliance.

J. REPORTING – The Local Entity shall comply with all requests for data related to the use of the funds provided under this agreement, including the information required in section 1512 of ARRA when requested by BPH.

K. INSPECTOR GENERAL REVIEWS – The Local Entity shall allow any appropriate representative of the Office of US Inspector General to (1) examine its records relating to the Project and this ARRA Assistance Agreement and (2) interview any officer or employee of the Local Entity.

L. FALSE CLAIMS – The Local Entity must promptly refer to EPA’s Inspector General any credible evidence that a principal, employee, agent, sub-grantee contractor, subcontractor, loan recipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this ARRA Assistance Agreement.

M. LIMIT ON FUNDS – The Local Entity shall not use funds for particular activities for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

N. WAGE RATES – The Local Entity shall require that all laborers and mechanics employed by its contractors and subcontractors be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 32 of title 40, United States Code. The Local Entity must require that contractors and

subcontractors obtain wage determinations from DOL and comply with DOL guidance and regulations implementing wage rate requirements applicable to ARRA funds.

O. OFFICE OF MANAGEMENT AND BUDGET (OMB) GUIDANCE – The Local Entity acknowledges and agrees that this ARRA Assistance is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on [www.recovery.gov](http://www.recovery.gov), and any subsequent guidance documents issued by OMB.

P. DISADVANTAGED BUSINESS ENTERPRISE – Pursuant to 40 CFR, Section 33.301, the Local Entity agrees to make good faith efforts whenever procuring construction, equipment, services and supplies, and to require that prime contractors also comply. The Local Entity shall provide BPH with MBE/WBE participation reports semi-annually.

Q. CIVIL RIGHTS – The Local Entity shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific statutes with nondiscrimination requirements. The Local Entity shall also comply with Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and Local Entities, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

R. BOND DESIGNATION – Each Local Bond contain “(WVDWTRF Program/ARRA)” in the bond name.

S. USER RATES – The Local Entity shall covenant that it will not reduce its approved customer rates for at least eighteen months after completion of the Project or (a) until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses or (b) new rates have been established by order of the Public Service Commission. The Local Entity shall notify the Authority and the BPH of any action to reduce rates during the eighteen months following completion of construction of the Project.

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

**THIS CREDIT LINE DEED OF TRUST, SECURITY AGREEMENT  
AND FIXTURE FILING**, effective as of the 21st day of January, 2010, by and among the **WHITMER WATER ASSOCIATION, INC.**, a West Virginia nonprofit corporation, hereinafter called "Grantor," to **CHRIS JARRETT**, a resident of Kanawha County, West Virginia, as Trustee, hereinafter called "Trustee," and the **WEST VIRGINIA WATER DEVELOPMENT AUTHORITY**, hereinafter called "Authority" or "Lender," on behalf of the **WEST VIRGINIA BUREAU FOR PUBLIC HEALTH**, hereinafter called "BPH."

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

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

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

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

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

(e) All rentals and other income and revenues from the aforesaid land and improvements or any part thereof. All property described above, together with the real estate described above, shall secure the indebtedness herein described

and covered by this deed of trust; and all the foregoing property, interests in property and other rights and interests are herein sometimes referred to collectively as the "Property."

**TO HAVE AND TO HOLD** the Property unto Trustee and his successor in the trust forever; and Grantor hereby covenants to and with Trustee and Lender that Grantor will warrant generally the Property; that Grantor has the right to convey the Property to Trustee; that the same is free from any and all liens and encumbrances, other than real estate taxes assessed but not yet due and payable; that Trustee shall have quiet possession thereof and that Grantor will execute such further assurances of the Property as may be requisite, including, but not limited to, the execution and delivery of financing statements and such other instruments as Lender may require to impose the lien hereof more specifically upon any of the Property.

**IN TRUST NEVERTHELESS** to secure the payment of (i) that certain Water Revenue Bond, Series 2010 A (West Virginia DWTRF Program), dated January 21, 2010, in the principal sum of \$370,000, executed by Grantor and payable to the order of Lender, the beneficial owner and holder of said bond, at its principal office at 180 Association Drive, Charleston, West Virginia 25311, and to secure also any and all extensions, modifications and renewals of said bond, or any part thereof, however changed in form, manner or amount (the "Series 2010 A Bond"); (ii) that certain Water Revenue Bond, Series 2010 B (West Virginia DWTRF Program/ARRA), dated January 21, 2010, in the principal sum of \$2,117,573, executed by Grantor and payable to the order of Lender, the beneficial owner and holder of said bond, at its principal office at 180 Association Drive, Charleston, West Virginia 25311, and to secure also any and all extensions, modifications and renewals of said bond, or any part thereof, however changed in form, manner or amount (the "Series 2010 B Bond" and together with the Series 2010 A Bond, collectively referred to herein sometimes as the "Bonds"); and (iii) all other indebtedness of Grantor to Lender or Trustee, at any time and from time to time arising hereunder or under any commitment letter issued by Lender or any loan agreement with Lender pertaining to the loans evidenced by the Bonds, including interest thereon, if any, (any such commitment letter or loan agreement being hereinafter referred to as the "Loan Agreement") (all of which indebtedness, together with the interest thereon, is sometimes hereinafter collectively referred to as the "Secured Debt"). A copy of the Bonds are attached to and incorporated in

this deed of trust as Exhibit A and Exhibit B. THIS IS A CREDIT LINE DEED OF TRUST FOR THE PURPOSES OF WEST VIRGINIA CODE SECTION 38-1-14. THIS CREDIT LINE DEED OF TRUST SECURES A MAXIMUM PRINCIPAL AMOUNT OF \$370,000, exclusive of interest, taxes, insurance premiums and other obligations undertaken by Lender or Trustee. This Credit Line Deed of Trust secures future advances which Lender has agreed to make in accordance with the terms and provisions of the aforementioned Loan Agreement, which FUTURE ADVANCES are intended to be OBLIGATORY within the meaning of West Virginia Code Section 38-1-14.

Grantor covenants, warrants and agrees as follows:

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

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

3. (a) In this deed of trust (i) "hazardous materials" means petroleum products, flammable explosives, radioactive materials, asbestos or any material containing asbestos, polychlorinated biphenyls or any hazardous, toxic or dangerous waste, substance or material defined as such or defined as a hazardous substance or other similar term by, in or for the purposes of any environmental laws, and (ii) "environmental laws" means any "superfund" or "superlien" law or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree, regulating, relating to or imposing liability

or standards of conduct concerning any hazardous materials as may now or at any time hereafter be in effect.

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

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

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

(e) Grantor shall indemnify and hold Lender harmless from and against all loss, damage and expense, including without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims, that Lender may incur as the result of or in connection with the assertion against Lender of any claim directly or indirectly, related to the presence or removal of any hazardous materials whether prior to, during or after the term of the loan secured by this deed of trust, and whether such activity was carried on by Grantor or any other person. Grantor shall promptly notify Lender in writing of any order or pending or threatened action by any governmental body, or any claims made by any third party relating to environmental laws or hazardous materials on or

emanations from the Property and shall promptly furnish Lender with copies of any correspondence or legal pleadings in connection therewith. Lender shall have the right, but absolutely no duty, to take any action it deems necessary or desirable, including without limitation appearing in or defending any such claims or actions, all at the cost of Grantor.

4. The occurrence of any of the following events shall constitute an event of default hereunder (hereinafter called an "Event of Default"), upon the occurrence of which the Secured Debt shall at the option of Lender, upon the expiration of any grace period allowed in the Bonds or the Loan Agreement, become due and payable without further notice to or demand on Grantor, or any other person: (a) if default is made in the payment as and when due of any installment or other payment required in the Bonds, or of any sum due under the provisions of this deed of trust; (b) if Grantor shall fail to pay as and when due any installment of principal or interest due on, or shall otherwise be in default under, any indebtedness or other obligation owed to any creditor of Grantor (other than the Lender) relating to the Project; (c) if default is made in the payment, as and when due and payable, of any tax, assessment or other governmental charge or fee or any insurance premium, or if the required insurance is not effected by Grantor or the policies delivered to Lender as herein required; (d) if there is a breach of or default in the performance of any covenant, condition, agreement, warranty or provisions contained in this deed of trust or the Loan Agreement; (e) if Grantor or any obligor on the Bonds becomes insolvent or makes an assignment for the benefit of creditors, or if any petition for bankruptcy or arrangement pursuant to the Federal Bankruptcy Code, or any similar federal or state law, is filed by or against Grantor or any obligor on the Bonds; (f) if any representation or warranty made to Lender by Grantor or any obligor on the Bonds herein or in the application for the loan evidenced by the Bonds or to induce Lender to extend credit is incorrect or untrue; (g) if there now or hereafter exists upon the Property, any claim or encumbrance other than real estate taxes assessed but not yet due and payable or other liens and encumbrances, if any, mentioned above, which might be superior to the lien of this deed of trust; (h) if the Property

or any part thereof or interest therein is conveyed or transferred (or if Grantor is dissolved, merged or reorganized) without Lender's prior written consent; or (i) if Grantor does or allows to be done any act or thing which would impair the security for the Secured Debt.

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

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

take charge of the Property or to collect said rents, issues or profit or to have a receiver appointed for such purposes; or (iii) exercise any or all of the rights and remedies provided for in paragraph 2 of this deed of trust.

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

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

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

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

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

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

postage prepaid, addressed to the party or parties who receive such notice at the following addresses or at such other addresses any such party may give to the other parties in writing:

| To Grantor:   | To Lender:  | To Trustee:  |
|---|---|--|
| Whitmer Water Association, Inc.<br>P.O. Box 23<br>Whitmer, WV 26296<br>Attention: President | West Virginia Water Development Authority, on behalf of West Virginia Bureau for Public Health<br>1 Davis Square, Suite 200<br>Charleston, WV 25301<br>Attention: Robert DeCrease | Chris Jarrett<br>180 Association Drive<br>Charleston, WV 25311 |

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

10. Lender may from time to time, for any reason or for no reason, substitute another Trustee or Trustees, corporations or persons, in place of any Trustee herein named. Upon each such appointment, the substituted Trustee or Trustees shall be vested with all the rights, titles, interests, powers, duties and trusts conferred upon the Trustees herein named. Each appointment and substitution shall be evidenced by an instrument in writing, executed and acknowledged by Lender, which when recorded in the office of the Clerk of the County Commission of Randolph County, West Virginia, shall be conclusive proof of the proper substitution and appointment and notice to all parties in interest.

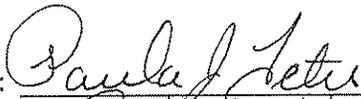
11. No failure of Lender or Trustee to exercise any right or remedy constitutes a waiver of any right or privilege herein given to them, and a waiver by Lender or Trustee of the right to exercise any option as to any breach or default does not constitute a waiver of the same option, or any other option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

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

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

WITNESS the following signature:

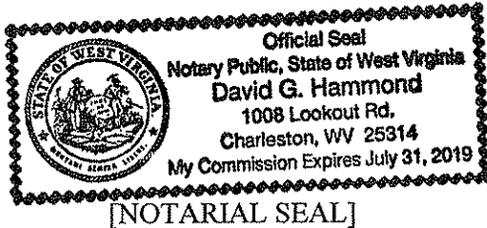
**WHITMER WATER ASSOCIATION, INC.**

By:   
Name: Paula J. Teter  
Title: President

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

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of January, 2010, by Paula J. Teter the President of WHITMER WATER ASSOCIATION, INC., a West Virginia nonprofit corporation, on behalf of said corporation.

My commission expires July 31, 2019.



[NOTARIAL SEAL]

*David G. Hammond*  
Notary Public

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

12.17.09  
972490.00001

**SCHEDULE I**

PROPERTY DESCRIPTION

(Attached)

---

Beginning at a ¾" x 30" rebar set at the southeast corner of Lot 129, owned by Willis and Patricia Nelson; thence running through a tract or parcel owned by Betty Reed for thirteen (13) calls and distances as surveyed:

N 85° 36' 39" E for 23.90 feet to a point;

thence S 55° 06' 17" E for 50.02 feet to a ¾" x 30" rebar set;

thence S 20° 51' 57" E for 36.52 feet to a point;

thence S 06° 29' 43" E for 52.61 feet to a point;

thence S 12° 52' 38" E for 75.29 feet to a ¾" x 30" rebar set;

thence S 69° 42' 35" E for 29.03 feet to a point;

thence S 85° 55' 14" E for 95.31 feet to a point;

thence N 84° 05' 21" E for 223.50 feet to a ¾" x 30" rebar set;

thence N 28° 32' 02" E for 79.97 feet to a ¾" x 30" rebar set;

thence N 67° 03' 48" E for 39.94 feet to a ¾" x 30" rebar set;

thence S 85° 48' 50" E for 139.49 feet to a ¾" x 30" rebar set;

thence S 01° 01' 18" E for 71.75 feet to a ¾" x 30" rebar set;

thence S 63° 28' 49" W for 361.63 feet to a point located on the northerly right-of-way of the old county road; thence running with said northerly right-of-way for four (4) calls and distances as surveyed:

N 76° 00' 33" W for 140.01 feet to a point;

thence N 73° 01' 14" W for 109.46 feet to a point;

thence N 85° 26' 06" W for 60.33 feet to a point;

thence N 64° 36' 56" W for 47.72 feet to a point located at the southernmost corner of a tract or parcel owned by Alonzo Tingler; thence leaving the old county road and running with the easterly line of Tingler N 06° 56' 39" E for 210.84 feet to a ¾" x 30" rebar set at the northeast corner of Tingler; thence running with the northerly line of Tingler S 85° 26' 39" W for 16.00 feet to a point; thence crossing an unnamed alley N 04° 03' 21" W for 39.13 feet to the place of beginning, containing 2.00 acres as shown on the attached plat, and being a part of those certain tracts owned by Betty Reed, as recorded in the office of the County Clerk of Randolph County, West Virginia in Deed Book 236 at page 340.

**EXHIBIT A**

WATER REVENUE BOND, SERIES 2010 A  
(WEST VIRGINIA DWTRF PROGRAM)

(Attached)

# SPECIMEN

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
WHITMER WATER ASSOCIATION, INC.  
WATER REVENUE BOND, SERIES 2010 A  
(WEST VIRGINIA DWTRF PROGRAM)

No. AR-1

\$370,000

KNOW ALL MEN BY THESE PRESENTS: That on this day 21st of January, 2010, WHITMER WATER ASSOCIATION, INC., a West Virginia non-profit corporation in Randolph County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of THREE HUNDRED SEVENTY THOUSAND DOLLARS (\$370,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2011 to and including September 1, 2041 as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The Series 2010 A Bonds are not subject to the Administrative Fee.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated January 21, 2010.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing waterworks system of the Issuer (the "Project"); and (ii) to pay costs of issuance for the Bonds of this Series (the "Bonds") and related costs. The existing public waterworks system of the Issuer, the Project and any further extensions, additions, betterments and improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 31E, Article 1 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Resolution

duly adopted by the Issuer on January 12, 2010, and a Supplemental Resolution duly adopted by the Issuer on January 12, 2010 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA DWTRF PROGRAM/ARRA), DATED JANUARY 21, 2010, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,117,573 (THE "SERIES 2010 B BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues to be derived from the operation of the System, the Deed of Trust and the Security Agreement (all as defined in the Bond Legislation) on a parity with the pledge of Net Revenues in favor of the holders of the Series 2010 B Bonds and from monies in the reserve account created under the Bond Legislation for the Bonds (the "Series 2010 A Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2010 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, and the Series 2010 B Bonds; provided however, that so long as there exists in the Series 2010 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, and the Series 2010 B Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of The Huntington

National Bank, Charleston, West Virginia (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

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

{Remainder of Page Intentionally Blank}

IN WITNESS WHEREOF, WHITMER WATER ASSOCIATION, INC.  
has caused this Bond to be signed by its President and its corporate seal to be hereunto  
affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first  
written above.

[SEAL]

*Paula J. Peter*  
\_\_\_\_\_  
President

SPECIMEN

ATTEST:

*Susan J. Pennington*  
\_\_\_\_\_  
Secretary

SPECIMEN

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2010 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: January 21, 2010.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

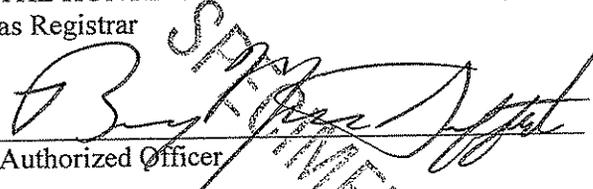
  
Authorized Officer

EXHIBIT A  
RECORD OF ADVANCES

| AMOUNT       | DATE             | AMOUNT | DATE |
|--------------|------------------|--------|------|
| (1) \$62,200 | January 21, 2010 | (19)   |      |
| (2)          |                  | (20)   |      |
| (3)          |                  | (21)   |      |
| (4)          |                  | (22)   |      |
| (5)          |                  | (23)   |      |
| (6)          |                  | (24)   |      |
| (7)          |                  | (25)   |      |
| (8)          |                  | (26)   |      |
| (9)          |                  | (27)   |      |
| (10)         |                  | (28)   |      |
| (11)         |                  | (29)   |      |
| (12)         |                  | (30)   |      |
| (13)         |                  | (31)   |      |
| (14)         |                  | (32)   |      |
| (15)         |                  | (33)   |      |
| (16)         |                  | (34)   |      |
| (17)         |                  | (35)   |      |
| (18)         |                  | (36)   |      |

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

EXHIBIT B

DEBT SERVICE SCHEDULE

**BOND DEBT SERVICE**  
Whitmer Water Association, Inc.  
0% Interest Rate  
30 Years

Dated Date 1/21/2010  
Delivery  
Date 1/21/2010

| Period<br>Ending | Principal | Interest | Debt Service |
|------------------|-----------|----------|--------------|
| 1/21/2010        |           |          |              |
| 12/1/2011        | 3,084     |          | 3,084        |
| 3/1/2012         | 3,084     |          | 3,084        |
| 6/1/2012         | 3,084     |          | 3,084        |
| 9/1/2012         | 3,084     |          | 3,084        |
| 12/1/2012        | 3,084     |          | 3,084        |
| 3/1/2013         | 3,084     |          | 3,084        |
| 6/1/2013         | 3,084     |          | 3,084        |
| 9/1/2013         | 3,084     |          | 3,084        |
| 12/1/2013        | 3,084     |          | 3,084        |
| 3/1/2014         | 3,084     |          | 3,084        |
| 6/1/2014         | 3,084     |          | 3,084        |
| 9/1/2014         | 3,084     |          | 3,084        |
| 12/1/2014        | 3,084     |          | 3,084        |
| 3/1/2015         | 3,084     |          | 3,084        |
| 6/1/2015         | 3,084     |          | 3,084        |
| 9/1/2015         | 3,084     |          | 3,084        |
| 12/1/2015        | 3,084     |          | 3,084        |
| 3/1/2016         | 3,084     |          | 3,084        |
| 6/1/2016         | 3,084     |          | 3,084        |
| 9/1/2016         | 3,084     |          | 3,084        |
| 12/1/2016        | 3,084     |          | 3,084        |
| 3/1/2017         | 3,084     |          | 3,084        |
| 6/1/2017         | 3,084     |          | 3,084        |
| 9/1/2017         | 3,084     |          | 3,084        |
| 12/1/2017        | 3,084     |          | 3,084        |
| 3/1/2018         | 3,084     |          | 3,084        |
| 6/1/2018         | 3,084     |          | 3,084        |
| 9/1/2018         | 3,084     |          | 3,084        |
| 12/1/2018        | 3,084     |          | 3,084        |
| 3/1/2019         | 3,084     |          | 3,084        |
| 6/1/2019         | 3,084     |          | 3,084        |
| 9/1/2019         | 3,084     |          | 3,084        |
| 12/1/2019        | 3,084     |          | 3,084        |
| 3/1/2020         | 3,084     |          | 3,084        |
| 6/1/2020         | 3,084     |          | 3,084        |
| 9/1/2020         | 3,084     |          | 3,084        |
| 12/1/2020        | 3,084     |          | 3,084        |
| 3/1/2021         | 3,084     |          | 3,084        |
| 6/1/2021         | 3,084     |          | 3,084        |
| 9/1/2021         | 3,083     |          | 3,083        |
| 12/1/2021        | 3,083     |          | 3,083        |
| 3/1/2022         | 3,083     |          | 3,083        |
| 6/1/2022         | 3,083     |          | 3,083        |
| 9/1/2022         | 3,083     |          | 3,083        |

**BOND DEBT SERVICE**  
Whitmer Water Association, Inc.  
0% Interest Rate  
30 Years

| Period<br>Ending | Principal | Interest | Debt Service |
|------------------|-----------|----------|--------------|
| 12/1/2022        | 3,083     |          | 3,083        |
| 3/1/2023         | 3,083     |          | 3,083        |
| 6/1/2023         | 3,083     |          | 3,083        |
| 9/1/2023         | 3,083     |          | 3,083        |
| 12/1/2023        | 3,083     |          | 3,083        |
| 3/1/2024         | 3,083     |          | 3,083        |
| 6/1/2024         | 3,083     |          | 3,083        |
| 9/1/2024         | 3,083     |          | 3,083        |
| 12/1/2024        | 3,083     |          | 3,083        |
| 3/1/2025         | 3,083     |          | 3,083        |
| 6/1/2025         | 3,083     |          | 3,083        |
| 9/1/2025         | 3,083     |          | 3,083        |
| 12/1/2025        | 3,083     |          | 3,083        |
| 3/1/2026         | 3,083     |          | 3,083        |
| 6/1/2026         | 3,083     |          | 3,083        |
| 9/1/2026         | 3,083     |          | 3,083        |
| 12/1/2026        | 3,083     |          | 3,083        |
| 3/1/2027         | 3,083     |          | 3,083        |
| 6/1/2027         | 3,083     |          | 3,083        |
| 9/1/2027         | 3,083     |          | 3,083        |
| 12/1/2027        | 3,083     |          | 3,083        |
| 3/1/2028         | 3,083     |          | 3,083        |
| 6/1/2028         | 3,083     |          | 3,083        |
| 9/1/2028         | 3,083     |          | 3,083        |
| 12/1/2028        | 3,083     |          | 3,083        |
| 3/1/2029         | 3,083     |          | 3,083        |
| 6/1/2029         | 3,083     |          | 3,083        |
| 9/1/2029         | 3,083     |          | 3,083        |
| 12/1/2029        | 3,083     |          | 3,083        |
| 3/1/2030         | 3,083     |          | 3,083        |
| 6/1/2030         | 3,083     |          | 3,083        |
| 9/1/2030         | 3,083     |          | 3,083        |
| 12/1/2030        | 3,083     |          | 3,083        |
| 3/1/2031         | 3,083     |          | 3,083        |
| 6/1/2031         | 3,083     |          | 3,083        |
| 9/1/2031         | 3,083     |          | 3,083        |
| 12/1/2031        | 3,083     |          | 3,083        |
| 3/1/2032         | 3,083     |          | 3,083        |
| 6/1/2032         | 3,083     |          | 3,083        |
| 9/1/2032         | 3,083     |          | 3,083        |
| 12/1/2032        | 3,083     |          | 3,083        |
| 3/1/2033         | 3,083     |          | 3,083        |
| 6/1/2033         | 3,083     |          | 3,083        |
| 9/1/2033         | 3,083     |          | 3,083        |
| 12/1/2033        | 3,083     |          | 3,083        |
| 3/1/2034         | 3,083     |          | 3,083        |
| 6/1/2034         | 3,083     |          | 3,083        |
| 9/1/2034         | 3,083     |          | 3,083        |
| 12/1/2034        | 3,083     |          | 3,083        |

**BOND DEBT SERVICE**  
Whitmer Water Association, Inc.  
0% Interest Rate  
30 Years

| Period<br>Ending | Principal      | Interest | Debt Service   |
|------------------|----------------|----------|----------------|
| 3/1/2035         | 3,083          |          | 3,083          |
| 6/1/2035         | 3,083          |          | 3,083          |
| 9/1/2035         | 3,083          |          | 3,083          |
| 12/1/2035        | 3,083          |          | 3,083          |
| 3/1/2036         | 3,083          |          | 3,083          |
| 6/1/2036         | 3,083          |          | 3,083          |
| 9/1/2036         | 3,083          |          | 3,083          |
| 12/1/2036        | 3,083          |          | 3,083          |
| 3/1/2037         | 3,083          |          | 3,083          |
| 6/1/2037         | 3,083          |          | 3,083          |
| 9/1/2037         | 3,083          |          | 3,083          |
| 12/1/2037        | 3,083          |          | 3,083          |
| 3/1/2038         | 3,083          |          | 3,083          |
| 6/1/2038         | 3,083          |          | 3,083          |
| 9/1/2038         | 3,083          |          | 3,083          |
| 12/1/2038        | 3,083          |          | 3,083          |
| 3/1/2039         | 3,083          |          | 3,083          |
| 6/1/2039         | 3,083          |          | 3,083          |
| 9/1/2039         | 3,083          |          | 3,083          |
| 12/1/2039        | 3,083          |          | 3,083          |
| 3/1/2040         | 3,083          |          | 3,083          |
| 6/1/2040         | 3,083          |          | 3,083          |
| 9/1/2040         | 3,083          |          | 3,083          |
| 12/1/2040        | 3,083          |          | 3,083          |
| 3/1/2041         | 3,083          |          | 3,083          |
| 6/1/2041         | 3,083          |          | 3,083          |
| 9/1/2041         | 3,084          |          | 3,084          |
|                  | <b>370,000</b> |          | <b>370,000</b> |

(Form of)

ASSIGNMENT

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

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

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

**EXHIBIT B**

WATER REVENUE BOND, SERIES 2010 B  
(WEST VIRGINIA DWTRF PROGRAM/ARRA)

(Attached)

# SPECIMEN

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
WHITMER WATER ASSOCIATION, INC.  
WATER REVENUE BONDS, SERIES 2010 B  
(WEST VIRGINIA DWTRF PROGRAM/ARRA)

No. BR-1

\$2,117,573

KNOW ALL MEN BY THESE PRESENTS: That on this 21st day of January, 2010, WHITMER WATER ASSOCIATION, INC., a West Virginia non-profit corporation in Randolph County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of TWO MILLION ONE HUNDRED SEVENTEEN THOUSAND FIVE HUNDRED SEVENTY THREE DOLLARS (\$2,117,573), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year commencing December 1, 2011 to and including September 1, 2021 as set forth in the Debt Service Schedule attached as EXHIBIT B hereto and incorporated herein by reference. The Series 2010 B Bonds are not subject to the Administrative Fee (as defined in the hereinafter described Bond Legislation).

This Bond shall bear no interest. Principal installments of this Bond are forgivable quarterly as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated January 21, 2010.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance for the Bonds of this Series (the "Bonds") and related costs. The existing public waterworks system of the Issuer, the Project and any further extensions, additions, betterments and improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 31E, Article 1 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Resolution

duly adopted by the Issuer on January 12, 2010, and a Supplemental Resolution duly adopted by the Issuer on January 12, 2010 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA DWTRF PROGRAM), DATED JANUARY 21, 2010, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$370,000 (THE "SERIES 2010 A BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues to be derived from the operation of the System, the Deed of Trust and the Security Agreement (all as defined in the Bond Legislation), on a parity with the pledge of Net Revenues in favor of the holders of the Series 2010 A Bonds, and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2010 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, and the Series 2010 A Bonds; provided however, that so long as there exists in the Series 2010 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, and the Series 2010 A Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of The Huntington National Bank, Charleston, West Virginia (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written

instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

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

IN WITNESS WHEREOF, WHITMER WATER ASSOCIATION, INC. has caused this Bond to be signed by its President and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first written above.

[SEAL]

*Paula J. Leter*  
\_\_\_\_\_  
President

ATTEST:

*Susan Lynn Lemington*  
\_\_\_\_\_  
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2010 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: January 21, 2010.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

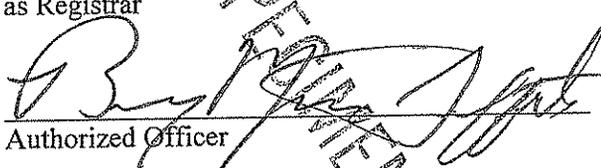
  
Authorized Officer

EXHIBIT A  
RECORD OF ADVANCES

| <u>AMOUNT</u> | <u>DATE</u>      | <u>AMOUNT</u> | <u>DATE</u> |
|---------------|------------------|---------------|-------------|
| (1) \$-0-     | January 21, 2010 | (19)          |             |
| (2)           |                  | (20)          |             |
| (3)           |                  | (21)          |             |
| (4)           |                  | (22)          |             |
| (5)           |                  | (23)          |             |
| (6)           |                  | (24)          |             |
| (7)           |                  | (25)          |             |
| (8)           |                  | (26)          |             |
| (9)           |                  | (27)          |             |
| (10)          |                  | (28)          |             |
| (11)          |                  | (29)          |             |
| (12)          |                  | (30)          |             |
| (13)          |                  | (31)          |             |
| (14)          |                  | (32)          |             |
| (15)          |                  | (33)          |             |
| (16)          |                  | (34)          |             |
| (17)          |                  | (35)          |             |
| (18)          |                  | (36)          |             |

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

EXHIBIT B

DEBT SERVICE SCHEDULE

**BOND DEBT SERVICE**  
Whitmer Water Association, Inc.  
10 Years

Dated Date 1/21/2010  
Delivery  
Date 1/21/2010

| Period<br>Ending | Debt Service     | Principal<br>Forgiveness |
|------------------|------------------|--------------------------|
| 1/21/2010        |                  |                          |
| 12/1/2011        | -52,940          | -52,940                  |
| 3/1/2012         | -52,940          | -52,940                  |
| 6/1/2012         | -52,940          | -52,940                  |
| 9/1/2012         | -52,940          | -52,940                  |
| 12/1/2012        | -52,940          | -52,940                  |
| 3/1/2013         | -52,940          | -52,940                  |
| 6/1/2013         | -52,940          | -52,940                  |
| 9/1/2013         | -52,940          | -52,940                  |
| 12/1/2013        | -52,940          | -52,940                  |
| 3/1/2014         | -52,940          | -52,940                  |
| 6/1/2014         | -52,940          | -52,940                  |
| 9/1/2014         | -52,940          | -52,940                  |
| 12/1/2014        | -52,939          | -52,939                  |
| 3/1/2015         | -52,939          | -52,939                  |
| 6/1/2015         | -52,939          | -52,939                  |
| 9/1/2015         | -52,939          | -52,939                  |
| 12/1/2015        | -52,939          | -52,939                  |
| 3/1/2016         | -52,939          | -52,939                  |
| 6/1/2016         | -52,939          | -52,939                  |
| 9/1/2016         | -52,939          | -52,939                  |
| 12/1/2016        | -52,939          | -52,939                  |
| 3/1/2017         | -52,939          | -52,939                  |
| 6/1/2017         | -52,939          | -52,939                  |
| 9/1/2017         | -52,939          | -52,939                  |
| 12/1/2017        | -52,939          | -52,939                  |
| 3/1/2018         | -52,939          | -52,939                  |
| 6/1/2018         | -52,939          | -52,939                  |
| 9/1/2018         | -52,939          | -52,939                  |
| 12/1/2018        | -52,939          | -52,939                  |
| 3/1/2019         | -52,939          | -52,939                  |
| 6/1/2019         | -52,939          | -52,939                  |
| 9/1/2019         | -52,939          | -52,939                  |
| 12/1/2019        | -52,939          | -52,939                  |
| 3/1/2020         | -52,939          | -52,939                  |
| 6/1/2020         | -52,939          | -52,939                  |
| 9/1/2020         | -52,939          | -52,939                  |
| 12/1/2020        | -52,939          | -52,939                  |
| 3/1/2021         | -52,939          | -52,939                  |
| 6/1/2021         | -52,939          | -52,939                  |
| 9/1/2021         | -52,940          | -52,940                  |
|                  | <b>2,117,573</b> | <b>2,117,573</b>         |

(Form of)

ASSIGNMENT

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

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

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

WEST VIRGINIA, RANDOLPH COUNTY CLERK'S OFFICE.  
This instrument was this day presented to me in my office, and  
thereupon, together with the Certificate thereto annexed, is  
admitted to record. 01/21/10

Teste: Brenda Wiseman Clerk

SECURITY AGREEMENT

BORROWER:

WHITMER WATER ASSOCIATION, INC  
P.O. Box 23  
Whitmer, WV 26296

SECURED PARTY:

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY  
On behalf of West Virginia Bureau for Public  
Health  
1 Davis Square, Suite 200  
Charleston, WV 25301

THIS SECURITY AGREEMENT is effective as of this 21st day of January, 2010, between WHITMER WATER ASSOCIATION INC., a West Virginia nonprofit corporation (referred to below as "Grantor"), and WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, on behalf of West Virginia Bureau for Public Health (referred to below as "Lender"). For valuable consideration, Grantor grants to Lender a security interest in the Collateral to secure the Indebtedness, and agrees that Lender shall have the rights stated in this Agreement with respect to the Collateral, in addition to all other rights which Lender may have by law.

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

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

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

**Bonds.** The word "Bonds" means, collectively, the Series 2010 A Bonds and the Series 2010 B Bonds.

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

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

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

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

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

**Grantor.** The word "Grantor" means the Whitmer Water Association Inc., its successors and assigns.

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

**Lender.** The word "Lender" means West Virginia Water Development Authority, on behalf of West Virginia Bureau for Public Health.

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

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

**Series 2010 A Bonds.** The words "Series 2010 A Bonds" mean the Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), dated January 21, 2010, and issued by the Grantor in the original aggregate principal amount of \$370,000.

**Series 2010 B Bonds.** The words "Series 2010 B Bonds" mean the Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ ARRA), dated January 21, 2010, and issued by the Grantor in the original aggregate principal amount of \$2,117,573.

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

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

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

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

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

**Location of the Collateral.** Grantor, upon request of Lender, will deliver to Lender in form satisfactory to Lender a schedule of Collateral locations relating to Grantor's operations, including without limitation the following: (a) all storage facilities owned, rented, leased, or being used by Grantor; and (b) all other properties where Collateral is or may be located. Except in the ordinary

course of its business, Grantor shall not remove the Collateral from its existing locations without the prior written consent of Lender.

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

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

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

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

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

**Taxes, Assessments and Liens.** Grantor will pay when due all taxes, assessments and liens upon the Collateral, its use or operation, upon this Agreement, upon any promissory note or notes evidencing the Indebtedness, or upon any of the other Related Documents. Grantor may withhold any such payment or may elect to contest any lien if Grantor is in good faith conducting an appropriate proceeding to contest the obligation to pay and so long as Lender's interest in the Collateral is not jeopardized in Lender's sole opinion. If the Collateral is subjected to a lien which is not discharged within fifteen (15) days, Grantor shall deposit with Lender cash, a sufficient corporate surety bond or other security satisfactory to Lender in an amount adequate to

provide for the discharge of the lien plus any interest, costs, attorneys' fees or other charges that could accrue as a result of foreclosure or sale of the Collateral. In any contest Grantor shall defend itself and Lender and shall satisfy any final adverse judgment before enforcement against the Collateral. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

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

**Principal Place of Business.** The principal place of business and chief executive office of the Whitmer Water Association Inc. is P.O. Box 2448, County Road 29, Whitmer, West Virginia 26296. Grantor is a West Virginia nonprofit corporation, duly organized and validly existing pursuant to the laws of the State of West Virginia. The Grantor shall advise the Lender, within thirty (30) days, of any new facts which, under applicable provisions of the law, would affect the priority of the security interest granted to the Lender by this instrument. Upon default, the Lender may at any time in its discretion notify all obligees on accounts to make payments thereon directly to the Lender.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Collect Revenues, Apply Accounts.** Lender, either itself or through a receiver, may collect the payments, rents, income, and revenues from the Collateral. Lender may at any time in its discretion transfer any Collateral into its own name or that of its nominee and receive the payments, rents, income, and revenues therefrom and hold the same as security for the Indebtedness or apply it to payment of the Indebtedness in such order of preference as Lender may determine. Insofar as the Collateral consists of accounts, health care insurance receivables, general intangibles, insurance policies, instruments, chattel paper, choses in action, or similar property, Lender may demand, collect, receipt for, settle, compromise, adjust, sue for, foreclose, or realize on the Collateral as Lender may determine, whether or not Indebtedness or Collateral is then due. For these purposes, Lender may, on behalf of and in the name of Grantor, receive, open and dispose of mail addressed to Grantor; change any address to which mail and payments are to be sent; and endorse notes, checks, drafts, money orders, documents of title, instruments and items pertaining to payment, shipment, or storage of any Collateral. To facilitate collection, Lender may notify account debtors and obligors on any Collateral to make payments directly to Lender. The rights and remedies granted to Lender in this paragraph are in addition to and in no way limit the rights and duties of the parties set forth in the paragraphs above titled "Right to Possession" and "Collection of Accounts."

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

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

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

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

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

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

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

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

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

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

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

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

**Waiver.** Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by

Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

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

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

[Remainder of Page Intentionally Blank]

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

GRANTOR:

WHITMER WATER ASSOCIATION INC.

By: Paula J. Lete  
Its: President

LENDER:

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

By: [Signature]  
Its: Executive Director

STATE OF WEST VIRGINIA

COUNTY OF Randolph, TO-WIT:

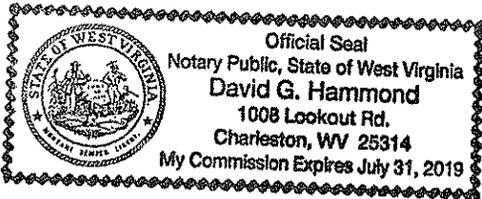
I, Paula J. Teter, David G Hammond a notary public of said county, do certify that the President of WHITMER WATER ASSOCIATION INC., a West Virginia nonprofit corporation, who signed the writing hereto annexed, has this day in my said county, before me, acknowledged the same to be the act of said corporation.

Given under my hand this 12<sup>th</sup> day of January, 2010.

My commission expires: July 31, 2019

(NOTARIAL SEAL)

David G Hammond  
Notary Public



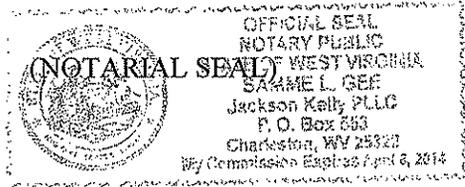
STATE OF WEST VIRGINIA

COUNTY OF KANAWHA, TO-WIT:

I, Samme L. Gee, a notary public of said county, do certify that Chris Jarrett, the Executive Director of WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, who signed the writing hereto annexed, has this day in my said county, before me, acknowledged the same to be the act of said authority.

Given under my hand this 19<sup>th</sup> day of January, 2010

My commission expires: April 6, 2014



[Signature]  
Notary Public

WEST VIRGINIA, RANDOLPH COUNTY CLERK'S OFFICE  
This instrument was this day presented to me in my office, and thereupon, together with the Certificate thereto annexed, is admitted to record.

01/21/10  
Teste: Brenda Wiseman Clerk

201038242204

01 21 2010 04:33PM

WV SECRETARY OF STATE

### UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

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

---

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

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

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

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

1a. ORGANIZATION'S NAME  
**WHITMER WATER ASSOCIATION INC.**

OR

1b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

1c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY  
 Box 23 Whitmer WV 26296 USA

1d. TAX ID #: SSN OR EIN ADD'L INFO RE ORGANIZATION DEBTOR 1e. TYPE OF ORGANIZATION 1f. JURISDICTION OF ORGANIZATION 1g. ORGANIZATIONAL ID #, if any  
 Public Corp. West Virginia  NONE

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

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

2c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY  
 USA

2d. TAX ID #: SSN OR EIN ADD'L INFO RE ORGANIZATION DEBTOR 2e. TYPE OF ORGANIZATION 2f. JURISDICTION OF ORGANIZATION 2g. ORGANIZATIONAL ID #, if any  
 NONE

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

3a. ORGANIZATION'S NAME  
**West Virginia Water Development Authority**

OR

3b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

3c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY  
 180 Association Drive Charleston WV 25311 USA

4. This FINANCING STATEMENT covers the following collateral:

All real and personal property, now owned or hereafter acquired, as set forth and described in a Credit Line Deed of Trust, Security Agreement and Fixture Filing, dated January 21, 2010, by and between the Debtor and the Secured Party, of record in the Office of the Clerk of The County Commission of Randolph County, and Security Agreement, dated January 21, 2010, by and between the Debtor and Secured Party, and both attached hereto as a part hereof, to which reference is hereby made.

This financing statement is in connection with a public bond issue of a county of the State of West Virginia and filing therefore shall be effective for the life of such bond issue without the need for filing continuation statements. (W. Va. Code Section 46-9-403(8)).

5. ALTERNATIVE DESIGNATION [if applicable]:  LESSEE/LESSOR  CONSIGNEE/CONSIGNOR  BAILEE/BAILOR  SELLER/BUYER  AG. LIEN  NON-UCC FILING

6.  This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable] 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional]  All Debtors  Debtor 1  Debtor 2

8. OPTIONAL FILER REFERENCE DATA

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

**THIS CREDIT LINE DEED OF TRUST, SECURITY AGREEMENT  
AND FIXTURE FILING**, effective as of the 21st day of January, 2010, by and among the **WHITMER WATER ASSOCIATION, INC.**, a West Virginia nonprofit corporation, hereinafter called "Grantor," to **CHRIS JARRETT**, a resident of Kanawha County, West Virginia, as Trustee, hereinafter called "Trustee," and the **WEST VIRGINIA WATER DEVELOPMENT AUTHORITY**, hereinafter called "Authority" or "Lender," on behalf of the **WEST VIRGINIA BUREAU FOR PUBLIC HEALTH**, hereinafter called "BPH."

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

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

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

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

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

(e) All rentals and other income and revenues from the aforesaid land and improvements or any part thereof. All property described above, together with the real estate described above, shall secure the indebtedness herein described

and covered by this deed of trust; and all the foregoing property, interests in property and other rights and interests are herein sometimes referred to collectively as the "Property."

**TO HAVE AND TO HOLD** the Property unto Trustee and his successor in the trust forever; and Grantor hereby covenants to and with Trustee and Lender that Grantor will warrant generally the Property; that Grantor has the right to convey the Property to Trustee; that the same is free from any and all liens and encumbrances, other than real estate taxes assessed but not yet due and payable; that Trustee shall have quiet possession thereof and that Grantor will execute such further assurances of the Property as may be requisite, including, but not limited to, the execution and delivery of financing statements and such other instruments as Lender may require to impose the lien hereof more specifically upon any of the Property.

**IN TRUST NEVERTHELESS** to secure the payment of (i) that certain Water Revenue Bond, Series 2010 A (West Virginia DWTRF Program), dated January 21, 2010, in the principal sum of \$370,000, executed by Grantor and payable to the order of Lender, the beneficial owner and holder of said bond, at its principal office at 180 Association Drive, Charleston, West Virginia 25311, and to secure also any and all extensions, modifications and renewals of said bond, or any part thereof, however changed in form, manner or amount (the "Series 2010 A Bond"); (ii) that certain Water Revenue Bond, Series 2010 B (West Virginia DWTRF Program/ARRA), dated January 21, 2010, in the principal sum of \$2,117,573, executed by Grantor and payable to the order of Lender, the beneficial owner and holder of said bond, at its principal office at 180 Association Drive, Charleston, West Virginia 25311, and to secure also any and all extensions, modifications and renewals of said bond, or any part thereof, however changed in form, manner or amount (the "Series 2010 B Bond" and together with the Series 2010 A Bond, collectively referred to herein sometimes as the "Bonds"); and (iii) all other indebtedness of Grantor to Lender or Trustee, at any time and from time to time arising hereunder or under any commitment letter issued by Lender or any loan agreement with Lender pertaining to the loans evidenced by the Bonds, including interest thereon, if any, (any such commitment letter or loan agreement being hereinafter referred to as the "Loan Agreement") (all of which indebtedness, together with the interest thereon, is sometimes hereinafter collectively referred to as the "Secured Debt"). A copy of the Bonds are attached to and incorporated in

this deed of trust as Exhibit A and Exhibit B. THIS IS A CREDIT LINE DEED OF TRUST FOR THE PURPOSES OF WEST VIRGINIA CODE SECTION 38-1-14. THIS CREDIT LINE DEED OF TRUST SECURES A MAXIMUM PRINCIPAL AMOUNT OF \$370,000, exclusive of interest, taxes, insurance premiums and other obligations undertaken by Lender or Trustee. This Credit Line Deed of Trust secures future advances which Lender has agreed to make in accordance with the terms and provisions of the aforementioned Loan Agreement, which FUTURE ADVANCES are intended to be OBLIGATORY within the meaning of West Virginia Code Section 38-1-14.

Grantor covenants, warrants and agrees as follows:

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

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

3. (a) In this deed of trust (i) "hazardous materials" means petroleum products, flammable explosives, radioactive materials, asbestos or any material containing asbestos, polychlorinated biphenyls or any hazardous, toxic or dangerous waste, substance or material defined as such or defined as a hazardous substance or other similar term by, in or for the purposes of any environmental laws, and (ii) "environmental laws" means any "superfund" or "superlien" law or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree, regulating, relating to or imposing liability

or standards of conduct concerning any hazardous materials as may now or at any time hereafter be in effect.

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

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

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

(e) Grantor shall indemnify and hold Lender harmless from and against all loss, damage and expense, including without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims, that Lender may incur as the result of or in connection with the assertion against Lender of any claim directly or indirectly, related to the presence or removal of any hazardous materials whether prior to, during or after the term of the loan secured by this deed of trust, and whether such activity was carried on by Grantor or any other person. Grantor shall promptly notify Lender in writing of any order or pending or threatened action by any governmental body, or any claims made by any third party relating to environmental laws or hazardous materials on or

emanations from the Property and shall promptly furnish Lender with copies of any correspondence or legal pleadings in connection therewith. Lender shall have the right, but absolutely no duty, to take any action it deems necessary or desirable, including without limitation appearing in or defending any such claims or actions, all at the cost of Grantor.

4. The occurrence of any of the following events shall constitute an event of default hereunder (hereinafter called an "Event of Default"), upon the occurrence of which the Secured Debt shall at the option of Lender, upon the expiration of any grace period allowed in the Bonds or the Loan Agreement, become due and payable without further notice to or demand on Grantor, or any other person: (a) if default is made in the payment as and when due of any installment or other payment required in the Bonds, or of any sum due under the provisions of this deed of trust; (b) if Grantor shall fail to pay as and when due any installment of principal or interest due on, or shall otherwise be in default under, any indebtedness or other obligation owed to any creditor of Grantor (other than the Lender) relating to the Project; (c) if default is made in the payment, as and when due and payable, of any tax, assessment or other governmental charge or fee or any insurance premium, or if the required insurance is not effected by Grantor or the policies delivered to Lender as herein required; (d) if there is a breach of or default in the performance of any covenant, condition, agreement, warranty or provisions contained in this deed of trust or the Loan Agreement; (e) if Grantor or any obligor on the Bonds becomes insolvent or makes an assignment for the benefit of creditors, or if any petition for bankruptcy or arrangement pursuant to the Federal Bankruptcy Code, or any similar federal or state law, is filed by or against Grantor or any obligor on the Bonds; (f) if any representation or warranty made to Lender by Grantor or any obligor on the Bonds herein or in the application for the loan evidenced by the Bonds or to induce Lender to extend credit is incorrect or untrue; (g) if there now or hereafter exists upon the Property, any claim or encumbrance other than real estate taxes assessed but not yet due and payable or other liens and encumbrances, if any, mentioned above, which might be superior to the lien of this deed of trust; (h) if the Property

or any part thereof or interest therein is conveyed or transferred (or if Grantor is dissolved, merged or reorganized) without Lender's prior written consent; or (i) if Grantor does or allows to be done any act or thing which would impair the security for the Secured Debt.

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

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

take charge of the Property or to collect said rents, issues or profit or to have a receiver appointed for such purposes; or (iii) exercise any or all of the rights and remedies provided for in paragraph 2 of this deed of trust.

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

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

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

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

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

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

postage prepaid, addressed to the party or parties who receive such notice at the following addresses or at such other addresses any such party may give to the other parties in writing:

| To Grantor:   | To Lender:  | To Trustee:  |
|---|---|--|
| Whitmer Water Association, Inc.<br>P.O. Box 23<br>Whitmer, WV 26296<br>Attention: President | West Virginia Water Development Authority, on behalf of West Virginia Bureau for Public Health<br>1 Davis Square, Suite 200<br>Charleston, WV 25301<br>Attention: Robert DeCrease | Chris Jarrett<br>180 Association Drive<br>Charleston, WV 25311 |

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

10. Lender may from time to time, for any reason or for no reason, substitute another Trustee or Trustees, corporations or persons, in place of any Trustee herein named. Upon each such appointment, the substituted Trustee or Trustees shall be vested with all the rights, titles, interests, powers, duties and trusts conferred upon the Trustees herein named. Each appointment and substitution shall be evidenced by an instrument in writing, executed and acknowledged by Lender, which when recorded in the office of the Clerk of the County Commission of Randolph County, West Virginia, shall be conclusive proof of the proper substitution and appointment and notice to all parties in interest.

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

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

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

WITNESS the following signature:

WHITMER WATER ASSOCIATION, INC.

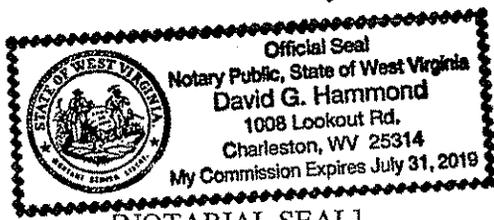
By:   
Name: Paula J. Teter  
Title: President

STATE OF WEST VIRGINIA,

COUNTY OF RANDOLPH, TO-WIT:

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of January, 2010, by Paula J. Teter the President of WHITMER WATER ASSOCIATION, INC., a West Virginia nonprofit corporation, on behalf of said corporation.

My commission expires July 31, 2019



[NOTARIAL SEAL]

*David G. Hammond*  
Notary Public

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

12.17.09  
972490.00001

**SCHEDULE I**

PROPERTY DESCRIPTION

(Attached)

---

Beginning at a ¾" x 30" rebar set at the southeast corner of Lot 129, owned by Willis and Patricia Nelson; thence running through a tract or parcel owned by Betty Reed for thirteen (13) calls and distances as surveyed:

N 85° 36' 39" E for 23.90 feet to a point;

thence S 55° 06' 17" E for 50.02 feet to a ¾" x 30" rebar set;

thence S 20° 51' 57" E for 36.52 feet to a point;

thence S 06° 29' 43" E for 52.61 feet to a point;

thence S 12° 52' 38" E for 75.29 feet to a ¾" x 30" rebar set;

thence S 69° 42' 35" E for 29.03 feet to a point;

thence S 85° 55' 14" E for 95.31 feet to a point;

thence N 84° 05' 21" E for 223.50 feet to a ¾" x 30" rebar set;

thence N 28° 32' 02" E for 79.97 feet to a ¾" x 30" rebar set;

thence N 67° 03' 48" E for 39.94 feet to a ¾" x 30" rebar set;

thence S 85° 48' 50" E for 139.49 feet to a ¾" x 30" rebar set;

thence S 01° 01' 18" E for 71.75 feet to a ¾" x 30" rebar set;

thence S 63° 28' 49" W for 361.63 feet to a point located on the northerly right-of-way of the old county road; thence running with said northerly right-of-way for four (4) calls and distances as surveyed:

N 76° 00' 33" W for 140.01 feet to a point;

thence N 73° 01' 14" W for 109.46 feet to a point;

thence N 85° 26' 06" W for 60.33 feet to a point;

thence N 64° 36' 56" W for 47.72 feet to a point located at the southernmost corner of a tract or parcel owned by Alonzo Tingler; thence leaving the old county road and running with the easterly line of Tingler N 06° 56' 39" E for 210.84 feet to a ¾" x 30" rebar set at the northeast

corner of Tingler; thence running with the northerly line of Tingler S 85° 26' 39" W for 16.00 feet to a point; thence crossing an unnamed alley N 04° 03' 21" W for 39.13 feet to the place of

beginning, containing 2.00 acres as shown on the attached plat, and being a part of those certain tracts owned by Betty Reed, as recorded in the office of the County Clerk of Randolph County,

West Virginia in Deed Book 236 at page 340.

EXHIBIT A

WATER REVENUE BOND, SERIES 2010 A  
(WEST VIRGINIA DWTRF PROGRAM)

(Attached)

# SPECIMEN

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
WHITMER WATER ASSOCIATION, INC.  
WATER REVENUE BOND, SERIES 2010 A  
(WEST VIRGINIA DWTRF PROGRAM)

No. AR-1

\$370,000

KNOW ALL MEN BY THESE PRESENTS: That on this day 21st of January, 2010, WHITMER WATER ASSOCIATION, INC., a West Virginia non-profit corporation in Randolph County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of THREE HUNDRED SEVENTY THOUSAND DOLLARS (\$370,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2011 to and including September 1, 2041 as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The Series 2010 A Bonds are not subject to the Administrative Fee.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated January 21, 2010.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing waterworks system of the Issuer (the "Project"); and (ii) to pay costs of issuance for the Bonds of this Series (the "Bonds") and related costs. The existing public waterworks system of the Issuer, the Project and any further extensions, additions, betterments and improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 31E, Article 1 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Resolution

duly adopted by the Issuer on January 12, 2010, and a Supplemental Resolution duly adopted by the Issuer on January 12, 2010 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA DWTRF PROGRAM/ARRA), DATED JANUARY 21, 2010, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,117,573 (THE "SERIES 2010 B BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues to be derived from the operation of the System, the Deed of Trust and the Security Agreement (all as defined in the Bond Legislation) on a parity with the pledge of Net Revenues in favor of the holders of the Series 2010 B Bonds and from monies in the reserve account created under the Bond Legislation for the Bonds (the "Series 2010 A Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2010 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, and the Series 2010 B Bonds; provided however, that so long as there exists in the Series 2010 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, and the Series 2010 B Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of The Huntington

National Bank, Charleston, West Virginia (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

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

{Remainder of Page Intentionally Blank}

IN WITNESS WHEREOF, WHITMER WATER ASSOCIATION, INC.  
has caused this Bond to be signed by its President and its corporate seal to be hereunto  
affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first  
written above.

[SEAL]

*Paula Whitmer*  
\_\_\_\_\_  
President

SPECIMEN

ATTEST:

*Susan Lynn Pennington*  
\_\_\_\_\_  
Secretary

SPECIMEN

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2010 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: January 21, 2010.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

  
Authorized Officer

SP-1  
SPECIMEN

EXHIBIT A  
RECORD OF ADVANCES

| AMOUNT       | DATE             | AMOUNT | DATE |
|--------------|------------------|--------|------|
| (1) \$62,200 | January 21, 2010 | (19)   |      |
| (2)          |                  | (20)   |      |
| (3)          |                  | (21)   |      |
| (4)          |                  | (22)   |      |
| (5)          |                  | (23)   |      |
| (6)          |                  | (24)   |      |
| (7)          |                  | (25)   |      |
| (8)          |                  | (26)   |      |
| (9)          |                  | (27)   |      |
| (10)         |                  | (28)   |      |
| (11)         |                  | (29)   |      |
| (12)         |                  | (30)   |      |
| (13)         |                  | (31)   |      |
| (14)         |                  | (32)   |      |
| (15)         |                  | (33)   |      |
| (16)         |                  | (34)   |      |
| (17)         |                  | (35)   |      |
| (18)         |                  | (36)   |      |

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

EXHIBIT B

DEBT SERVICE SCHEDULE

**BOND DEBT SERVICE**  
 Whitmer Water Association, Inc.  
 0% Interest Rate  
 30 Years

Dated Date 1/21/2010  
 Delivery  
 Date 1/21/2010

| Period<br>Ending | Principal | Interest | Debt Service |
|------------------|-----------|----------|--------------|
| 1/21/2010        |           |          |              |
| 12/1/2011        | 3,084     |          | 3,084        |
| 3/1/2012         | 3,084     |          | 3,084        |
| 6/1/2012         | 3,084     |          | 3,084        |
| 9/1/2012         | 3,084     |          | 3,084        |
| 12/1/2012        | 3,084     |          | 3,084        |
| 3/1/2013         | 3,084     |          | 3,084        |
| 6/1/2013         | 3,084     |          | 3,084        |
| 9/1/2013         | 3,084     |          | 3,084        |
| 12/1/2013        | 3,084     |          | 3,084        |
| 3/1/2014         | 3,084     |          | 3,084        |
| 6/1/2014         | 3,084     |          | 3,084        |
| 9/1/2014         | 3,084     |          | 3,084        |
| 12/1/2014        | 3,084     |          | 3,084        |
| 3/1/2015         | 3,084     |          | 3,084        |
| 6/1/2015         | 3,084     |          | 3,084        |
| 9/1/2015         | 3,084     |          | 3,084        |
| 12/1/2015        | 3,084     |          | 3,084        |
| 3/1/2016         | 3,084     |          | 3,084        |
| 6/1/2016         | 3,084     |          | 3,084        |
| 9/1/2016         | 3,084     |          | 3,084        |
| 12/1/2016        | 3,084     |          | 3,084        |
| 3/1/2017         | 3,084     |          | 3,084        |
| 6/1/2017         | 3,084     |          | 3,084        |
| 9/1/2017         | 3,084     |          | 3,084        |
| 12/1/2017        | 3,084     |          | 3,084        |
| 3/1/2018         | 3,084     |          | 3,084        |
| 6/1/2018         | 3,084     |          | 3,084        |
| 9/1/2018         | 3,084     |          | 3,084        |
| 12/1/2018        | 3,084     |          | 3,084        |
| 3/1/2019         | 3,084     |          | 3,084        |
| 6/1/2019         | 3,084     |          | 3,084        |
| 9/1/2019         | 3,084     |          | 3,084        |
| 12/1/2019        | 3,084     |          | 3,084        |
| 3/1/2020         | 3,084     |          | 3,084        |
| 6/1/2020         | 3,084     |          | 3,084        |
| 9/1/2020         | 3,084     |          | 3,084        |
| 12/1/2020        | 3,084     |          | 3,084        |
| 3/1/2021         | 3,084     |          | 3,084        |
| 6/1/2021         | 3,084     |          | 3,084        |
| 9/1/2021         | 3,083     |          | 3,083        |
| 12/1/2021        | 3,083     |          | 3,083        |
| 3/1/2022         | 3,083     |          | 3,083        |
| 6/1/2022         | 3,083     |          | 3,083        |
| 9/1/2022         | 3,083     |          | 3,083        |

**BOND DEBT SERVICE**  
Whitmer Water Association, Inc.  
0% Interest Rate  
30 Years

| Period<br>Ending | Principal | Interest | Debt Service |
|------------------|-----------|----------|--------------|
| 12/1/2022        | 3,083     |          | 3,083        |
| 3/1/2023         | 3,083     |          | 3,083        |
| 6/1/2023         | 3,083     |          | 3,083        |
| 9/1/2023         | 3,083     |          | 3,083        |
| 12/1/2023        | 3,083     |          | 3,083        |
| 3/1/2024         | 3,083     |          | 3,083        |
| 6/1/2024         | 3,083     |          | 3,083        |
| 9/1/2024         | 3,083     |          | 3,083        |
| 12/1/2024        | 3,083     |          | 3,083        |
| 3/1/2025         | 3,083     |          | 3,083        |
| 6/1/2025         | 3,083     |          | 3,083        |
| 9/1/2025         | 3,083     |          | 3,083        |
| 12/1/2025        | 3,083     |          | 3,083        |
| 3/1/2026         | 3,083     |          | 3,083        |
| 6/1/2026         | 3,083     |          | 3,083        |
| 9/1/2026         | 3,083     |          | 3,083        |
| 12/1/2026        | 3,083     |          | 3,083        |
| 3/1/2027         | 3,083     |          | 3,083        |
| 6/1/2027         | 3,083     |          | 3,083        |
| 9/1/2027         | 3,083     |          | 3,083        |
| 12/1/2027        | 3,083     |          | 3,083        |
| 3/1/2028         | 3,083     |          | 3,083        |
| 6/1/2028         | 3,083     |          | 3,083        |
| 9/1/2028         | 3,083     |          | 3,083        |
| 12/1/2028        | 3,083     |          | 3,083        |
| 3/1/2029         | 3,083     |          | 3,083        |
| 6/1/2029         | 3,083     |          | 3,083        |
| 9/1/2029         | 3,083     |          | 3,083        |
| 12/1/2029        | 3,083     |          | 3,083        |
| 3/1/2030         | 3,083     |          | 3,083        |
| 6/1/2030         | 3,083     |          | 3,083        |
| 9/1/2030         | 3,083     |          | 3,083        |
| 12/1/2030        | 3,083     |          | 3,083        |
| 3/1/2031         | 3,083     |          | 3,083        |
| 6/1/2031         | 3,083     |          | 3,083        |
| 9/1/2031         | 3,083     |          | 3,083        |
| 12/1/2031        | 3,083     |          | 3,083        |
| 3/1/2032         | 3,083     |          | 3,083        |
| 6/1/2032         | 3,083     |          | 3,083        |
| 9/1/2032         | 3,083     |          | 3,083        |
| 12/1/2032        | 3,083     |          | 3,083        |
| 3/1/2033         | 3,083     |          | 3,083        |
| 6/1/2033         | 3,083     |          | 3,083        |
| 9/1/2033         | 3,083     |          | 3,083        |
| 12/1/2033        | 3,083     |          | 3,083        |
| 3/1/2034         | 3,083     |          | 3,083        |
| 6/1/2034         | 3,083     |          | 3,083        |
| 9/1/2034         | 3,083     |          | 3,083        |
| 12/1/2034        | 3,083     |          | 3,083        |

**BOND DEBT SERVICE**  
Whitmer Water Association, Inc.  
0% Interest Rate  
30 Years

| Period<br>Ending | Principal      | Interest | Debt Service   |
|------------------|----------------|----------|----------------|
| 3/1/2035         | 3,083          |          | 3,083          |
| 6/1/2035         | 3,083          |          | 3,083          |
| 9/1/2035         | 3,083          |          | 3,083          |
| 12/1/2035        | 3,083          |          | 3,083          |
| 3/1/2036         | 3,083          |          | 3,083          |
| 6/1/2036         | 3,083          |          | 3,083          |
| 9/1/2036         | 3,083          |          | 3,083          |
| 12/1/2036        | 3,083          |          | 3,083          |
| 3/1/2037         | 3,083          |          | 3,083          |
| 6/1/2037         | 3,083          |          | 3,083          |
| 9/1/2037         | 3,083          |          | 3,083          |
| 12/1/2037        | 3,083          |          | 3,083          |
| 3/1/2038         | 3,083          |          | 3,083          |
| 6/1/2038         | 3,083          |          | 3,083          |
| 9/1/2038         | 3,083          |          | 3,083          |
| 12/1/2038        | 3,083          |          | 3,083          |
| 3/1/2039         | 3,083          |          | 3,083          |
| 6/1/2039         | 3,083          |          | 3,083          |
| 9/1/2039         | 3,083          |          | 3,083          |
| 12/1/2039        | 3,083          |          | 3,083          |
| 3/1/2040         | 3,083          |          | 3,083          |
| 6/1/2040         | 3,083          |          | 3,083          |
| 9/1/2040         | 3,083          |          | 3,083          |
| 12/1/2040        | 3,083          |          | 3,083          |
| 3/1/2041         | 3,083          |          | 3,083          |
| 6/1/2041         | 3,083          |          | 3,083          |
| 9/1/2041         | 3,084          |          | 3,084          |
|                  | <b>370,000</b> |          | <b>370,000</b> |

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

\_\_\_\_\_ the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

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

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

\_\_\_\_\_

**EXHIBIT B**

WATER REVENUE BOND, SERIES 2010 B  
(WEST VIRGINIA DWTRF PROGRAM/ARRA)

(Attached)

# SPECIMEN

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
WHITMER WATER ASSOCIATION, INC.  
WATER REVENUE BONDS, SERIES 2010 B  
(WEST VIRGINIA DWTRF PROGRAM/ARRA)

No. BR-1

\$2,117,573

KNOW ALL MEN BY THESE PRESENTS: That on this 21st day of January, 2010, WHITMER WATER ASSOCIATION, INC., a West Virginia non-profit corporation in Randolph County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of TWO MILLION ONE HUNDRED SEVENTEEN THOUSAND FIVE HUNDRED SEVENTY THREE DOLLARS (\$2,117,573), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year commencing December 1, 2011 to and including September 1, 2021 as set forth in the Debt Service Schedule attached as EXHIBIT B hereto and incorporated herein by reference. The Series 2010 B Bonds are not subject to the Administrative Fee (as defined in the hereinafter described Bond Legislation).

This Bond shall bear no interest. Principal installments of this Bond are forgivable quarterly as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated January 21, 2010.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance for the Bonds of this Series (the "Bonds") and related costs. The existing public waterworks system of the Issuer, the Project and any further extensions, additions, betterments and improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 31E, Article 1 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Resolution

duly adopted by the Issuer on January 12, 2010, and a Supplemental Resolution duly adopted by the Issuer on January 12, 2010 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA DWTRF PROGRAM), DATED JANUARY 21, 2010, ISSUED SIMULTANEOUSLY HERewith IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$370,000 (THE "SERIES 2010 A BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues to be derived from the operation of the System, the Deed of Trust and the Security Agreement (all as defined in the Bond Legislation), on a parity with the pledge of Net Revenues in favor of the holders of the Series 2010 A Bonds, and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2010 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, and the Series 2010 A Bonds; provided however, that so long as there exists in the Series 2010 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, and the Series 2010 A Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of The Huntington National Bank, Charleston, West Virginia (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written

instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

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

IN WITNESS WHEREOF, WHITMER WATER ASSOCIATION, INC. has caused this Bond to be signed by its President and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first written above.

[SEAL]

*Paula J. Leto*  
\_\_\_\_\_  
President

ATTEST:

*Susan J. Pennington*  
\_\_\_\_\_  
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2010 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: January 21, 2010.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

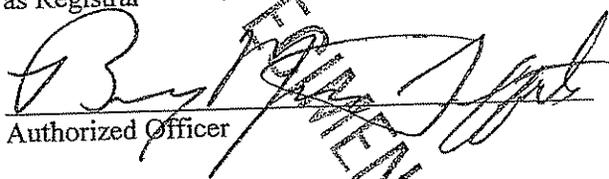
  
Authorized Officer

EXHIBIT A  
RECORD OF ADVANCES

| AMOUNT    | DATE             | AMOUNT | DATE |
|-----------|------------------|--------|------|
| (1) \$-0- | January 21, 2010 | (19)   |      |
| (2)       |                  | (20)   |      |
| (3)       |                  | (21)   |      |
| (4)       |                  | (22)   |      |
| (5)       |                  | (23)   |      |
| (6)       |                  | (24)   |      |
| (7)       |                  | (25)   |      |
| (8)       |                  | (26)   |      |
| (9)       |                  | (27)   |      |
| (10)      |                  | (28)   |      |
| (11)      |                  | (29)   |      |
| (12)      |                  | (30)   |      |
| (13)      |                  | (31)   |      |
| (14)      |                  | (32)   |      |
| (15)      |                  | (33)   |      |
| (16)      |                  | (34)   |      |
| (17)      |                  | (35)   |      |
| (18)      |                  | (36)   |      |

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

EXHIBIT B

DEBT SERVICE SCHEDULE

**BOND DEBT SERVICE**  
Whitmer Water Association, Inc.  
10 Years

Dated Date 1/21/2010  
Delivery  
Date 1/21/2010

| Period<br>Ending | Debt Service     | Principal<br>Forgiveness |
|------------------|------------------|--------------------------|
| 1/21/2010        |                  |                          |
| 12/1/2011        | -52,940          | -52,940                  |
| 3/1/2012         | -52,940          | -52,940                  |
| 6/1/2012         | -52,940          | -52,940                  |
| 9/1/2012         | -52,940          | -52,940                  |
| 12/1/2012        | -52,940          | -52,940                  |
| 3/1/2013         | -52,940          | -52,940                  |
| 6/1/2013         | -52,940          | -52,940                  |
| 9/1/2013         | -52,940          | -52,940                  |
| 12/1/2013        | -52,940          | -52,940                  |
| 3/1/2014         | -52,940          | -52,940                  |
| 6/1/2014         | -52,940          | -52,940                  |
| 9/1/2014         | -52,940          | -52,940                  |
| 12/1/2014        | -52,939          | -52,939                  |
| 3/1/2015         | -52,939          | -52,939                  |
| 6/1/2015         | -52,939          | -52,939                  |
| 9/1/2015         | -52,939          | -52,939                  |
| 12/1/2015        | -52,939          | -52,939                  |
| 3/1/2016         | -52,939          | -52,939                  |
| 6/1/2016         | -52,939          | -52,939                  |
| 9/1/2016         | -52,939          | -52,939                  |
| 12/1/2016        | -52,939          | -52,939                  |
| 3/1/2017         | -52,939          | -52,939                  |
| 6/1/2017         | -52,939          | -52,939                  |
| 9/1/2017         | -52,939          | -52,939                  |
| 12/1/2017        | -52,939          | -52,939                  |
| 3/1/2018         | -52,939          | -52,939                  |
| 6/1/2018         | -52,939          | -52,939                  |
| 9/1/2018         | -52,939          | -52,939                  |
| 12/1/2018        | -52,939          | -52,939                  |
| 3/1/2019         | -52,939          | -52,939                  |
| 6/1/2019         | -52,939          | -52,939                  |
| 9/1/2019         | -52,939          | -52,939                  |
| 12/1/2019        | -52,939          | -52,939                  |
| 3/1/2020         | -52,939          | -52,939                  |
| 6/1/2020         | -52,939          | -52,939                  |
| 9/1/2020         | -52,939          | -52,939                  |
| 12/1/2020        | -52,939          | -52,939                  |
| 3/1/2021         | -52,939          | -52,939                  |
| 6/1/2021         | -52,939          | -52,939                  |
| 9/1/2021         | -52,940          | -52,940                  |
|                  | <b>2,117,573</b> | <b>2,117,573</b>         |

(Form of)

ASSIGNMENT

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

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

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

**SECURITY AGREEMENT**

**BORROWER:**

**WHITMER WATER ASSOCIATION, INC**  
P.O. Box 23  
Whitmer, WV 26296

**SECURED PARTY:**

**WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY**  
On behalf of West Virginia Bureau for Public  
Health  
1 Davis Square, Suite 200  
Charleston, WV 25301

**THIS SECURITY AGREEMENT** is effective as of this 21st day of January, 2010, between **WHITMER WATER ASSOCIATION INC.**, a West Virginia nonprofit corporation (referred to below as "Grantor"), and **WEST VIRGINIA WATER DEVELOPMENT AUTHORITY**, on behalf of West Virginia Bureau for Public Health (referred to below as "Lender"). For valuable consideration, Grantor grants to Lender a security interest in the Collateral to secure the Indebtedness, and agrees that Lender shall have the rights stated in this Agreement with respect to the Collateral, in addition to all other rights which Lender may have by law.

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

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

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

**Bonds.** The word "Bonds" means, collectively, the Series 2010 A Bonds and the Series 2010 B Bonds.

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

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

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

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

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

**Grantor.** The word "Grantor" means the Whitmer Water Association Inc., its successors and assigns.

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

**Lender.** The word "Lender" means West Virginia Water Development Authority, on behalf of West Virginia Bureau for Public Health.

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

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

**Series 2010 A Bonds.** The words "Series 2010 A Bonds" mean the Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), dated January 21, 2010, and issued by the Grantor in the original aggregate principal amount of \$370,000.

**Series 2010 B Bonds.** The words "Series 2010 B Bonds" mean the Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ ARRA), dated January 21, 2010, and issued by the Grantor in the original aggregate principal amount of \$2,117,573.

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

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

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

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

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

**Location of the Collateral.** Grantor, upon request of Lender, will deliver to Lender in form satisfactory to Lender a schedule of Collateral locations relating to Grantor's operations, including without limitation the following: (a) all storage facilities owned, rented, leased, or being used by Grantor; and (b) all other properties where Collateral is or may be located. Except in the ordinary

course of its business, Grantor shall not remove the Collateral from its existing locations without the prior written consent of Lender.

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

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

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

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

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

**Taxes, Assessments and Liens.** Grantor will pay when due all taxes, assessments and liens upon the Collateral, its use or operation, upon this Agreement, upon any promissory note or notes evidencing the Indebtedness, or upon any of the other Related Documents. Grantor may withhold any such payment or may elect to contest any lien if Grantor is in good faith conducting an appropriate proceeding to contest the obligation to pay and so long as Lender's interest in the Collateral is not jeopardized in Lender's sole opinion. If the Collateral is subjected to a lien which is not discharged within fifteen (15) days, Grantor shall deposit with Lender cash, a sufficient corporate surety bond or other security satisfactory to Lender in an amount adequate to

provide for the discharge of the lien plus any interest, costs, attorneys' fees or other charges that could accrue as a result of foreclosure or sale of the Collateral. In any contest Grantor shall defend itself and Lender and shall satisfy any final adverse judgment before enforcement against the Collateral. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

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

**Principal Place of Business.** The principal place of business and chief executive office of the Whitmer Water Association Inc. is P.O. Box 2448, County Road 29, Whitmer, West Virginia 26296. Grantor is a West Virginia nonprofit corporation, duly organized and validly existing pursuant to the laws of the State of West Virginia. The Grantor shall advise the Lender, within thirty (30) days, of any new facts which, under applicable provisions of the law, would affect the priority of the security interest granted to the Lender by this instrument. Upon default, the Lender may at any time in its discretion notify all obligees on accounts to make payments thereon directly to the Lender.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Collect Revenues, Apply Accounts.** Lender, either itself or through a receiver, may collect the payments, rents, income, and revenues from the Collateral. Lender may at any time in its discretion transfer any Collateral into its own name or that of its nominee and receive the payments, rents, income, and revenues therefrom and hold the same as security for the Indebtedness or apply it to payment of the Indebtedness in such order of preference as Lender may determine. Insofar as the Collateral consists of accounts, health care insurance receivables, general intangibles, insurance policies, instruments, chattel paper, choses in action, or similar property, Lender may demand, collect, receipt for, settle, compromise, adjust, sue for, foreclose, or realize on the Collateral as Lender may determine, whether or not Indebtedness or Collateral is then due. For these purposes, Lender may, on behalf of and in the name of Grantor, receive, open and dispose of mail addressed to Grantor; change any address to which mail and payments are to be sent; and endorse notes, checks, drafts, money orders, documents of title, instruments and items pertaining to payment, shipment, or storage of any Collateral. To facilitate collection, Lender may notify account debtors and obligors on any Collateral to make payments directly to Lender. The rights and remedies granted to Lender in this paragraph are in addition to and in no way limit the rights and duties of the parties set forth in the paragraphs above titled "Right to Possession" and "Collection of Accounts."

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

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

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

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

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

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

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

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

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

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

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

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

**Waiver.** Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by

Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

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

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

[Remainder of Page Intentionally Blank]

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

GRANTOR:

WHITMER WATER ASSOCIATION INC.

By: Paula J. Letu  
Its: President

LENDER:

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

By: [Signature]  
Its: Executive Director

STATE OF WEST VIRGINIA

COUNTY OF Randolph, TO-WIT:

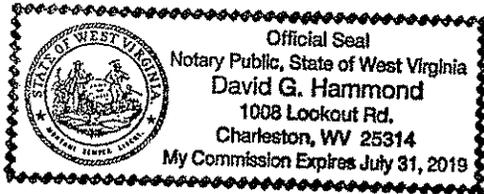
I, David G Hammond a notary public of said county, do certify that Paula J. Teter, the President of WHITMER WATER ASSOCIATION INC., a West Virginia nonprofit corporation, who signed the writing hereto annexed, has this day in my said county, before me, acknowledged the same to be the act of said corporation.

Given under my hand this 12<sup>th</sup> day of January, 2010.

My commission expires: July 31, 2019

(NOTARIAL SEAL)

David G Hammond  
Notary Public



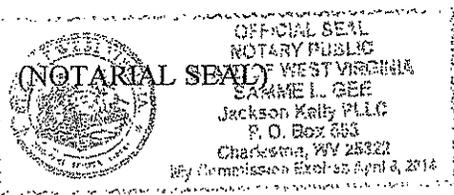
STATE OF WEST VIRGINIA

COUNTY OF KANAWHA, TO-WIT:

I, Sammie L. Gee, a notary public of said county, do certify that Chris Jarrett, the Executive Director of WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, who signed the writing hereto annexed, has this day in my said county, before me, acknowledged the same to be the act of said authority.

Given under my hand this 19<sup>th</sup> day of January, 2010

My commission expires: Apr 4, 2014



  
\_\_\_\_\_  
Notary Public

DWTRF – ARRA  
(12/09)

ARRA ASSISTANCE AGREEMENT

THIS DRINKING WATER TREATMENT REVOLVING FUND ARRA ASSISTANCE AGREEMENT (the “ARRA Assistance Agreement”), made and entered into in several counterparts, by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the “Authority”), acting under the direction of the WEST VIRGINIA BUREAU FOR PUBLIC HEALTH, a division of the West Virginia Department of Health and Human Resources (the “BPH”), and the local entity designated below (the “Local Entity”).

WHITMER WATER ASSOCIATION  
(2004W-785/09DWTRFA001)

W I T N E S S E T H:

WHEREAS, the United States Congress under Section 1452 of the Safe Drinking Water Act, as amended (the “Safe Drinking Water Act”), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining drinking water treatment revolving funds for the construction, acquisition and improvement of drinking water systems;

WHEREAS, the United States Congress has provided additional capitalization grant funding under the Clean Water Act through the American Recovery and Reinvestment Act of 2009 (the “ARRA”);

WHEREAS, pursuant to the provisions of Chapter 16, Article 13C of the Code of West Virginia, 1931, as amended (the “Act”), the State of West Virginia (the “State”) has established a drinking water treatment revolving fund program (the “Program”) to direct the distribution of loans and funding assistance to eligible Local Entities pursuant to the Safe Drinking Water Act and the ARRA;

WHEREAS, under the Act the BPH is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency (“EPA”) to accept capitalization grant awards (U.S. General Services

Administration; Catalog of Federal Domestic Assistance, 32nd Edition §66.458 (1998)) and BPH has been awarded capitalization grants to partially fund the Program;

WHEREAS, the ARRA provides that at least fifty percent (50%) of the funds provided through the capitalization grant be provided as negative interest loans or principal forgiveness (the "ARRA Assistance");

WHEREAS, the Act establishes a permanent perpetual fund known as the "West Virginia Drinking Water Treatment Revolving Fund" (hereinafter the "Fund"), which fund is to be administered and managed by the Authority under the direction of the BPH;

WHEREAS, pursuant to the Act, the Authority and BPH are empowered to make loans from the Fund to Local Entities for the acquisition or construction of drinking water projects by such Local Entities, all subject to such provisions and limitations as are contained in the Safe Drinking Water Act, the ARRA and the Act;

WHEREAS, the Local Entity constitutes a local entity as defined by the Act;

WHEREAS, the Local Entity is included on the BPH State Project Priority List and the Intended Use Plan and has met BPH's pre-application requirements for the Program;

WHEREAS, the Local Entity is authorized and empowered by the statutes of the State to acquire, construct, improve, operate and maintain a drinking water project and to finance the cost of acquisition and construction of the same by borrowing money to be evidenced by revenue bonds issued by the Local Entity;

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

WHEREAS, the Local Entity has completed and filed with the Authority and BPH an Application for a Construction Loan with attachments and exhibits and an Amended Application for a Construction Loan also with attachments and exhibits (together, as further revised and supplemented, the "Application"), which Application is incorporated herein by this reference; and

WHEREAS, having reviewed the Application and the Fund having available sufficient funds therefor, the Authority and BPH are willing to lend the Local Entity the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Local Entity with moneys held in

the Fund, subject to the Local Entity's satisfaction of certain legal and other requirements of the Program.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Local Entity, BPH and the Authority hereby agree as follows:

## ARTICLE I

### Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "cost," "fund," "local entity," and "project" have the definitions and meanings ascribed to them in the Act, the ARRA, or in the DWTRF Regulations.

1.2 "Consulting Engineers" means the professional engineer, licensed by the State, designated in the Application and any successor thereto.

1.3 "Loan" means the loan to be made by the Authority and BPH to the Local Entity through the purchase of Local Bonds, as hereinafter defined, pursuant to this ARRA Assistance Agreement.

1.4 "Local Act" means the official action of the Local Entity required by Section 4.1 hereof, authorizing the Local Bonds.

1.5 "Local Bonds" means the revenue bonds to be issued by the Local Entity pursuant to the provisions of the Local Statute, as hereinafter defined, to evidence the Loan and to be purchased by the Authority with money held in the Fund, all in accordance with the provisions of this ARRA Assistance Agreement.

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

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

1.8 "Program" means the drinking water facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Safe Drinking Water Act and administered by BPH.

1.9 "Project" means the drinking water project hereinabove referred to, to be constructed or being constructed by the Local Entity in whole or in part with the net proceeds of the Local Bonds or being or having been constructed by the Local Entity in whole or in part with the proceeds of bond anticipation notes or other interim financing, which is to be paid in whole or in part with the net proceeds of the Local Bonds.

1.10 "DWTRF Regulations" means the regulations set forth in the West Virginia Code of State Regulations.

1.11 "System" means the drinking water system owned by the Local Entity, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

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

## ARTICLE II

### The Project and the System

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

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

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

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

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

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

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

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

2.8 The Local Entity shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and BPH

and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Local Entity, the Local Entity or (at the option of the Local Entity) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Local Entity, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Local Entity on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding.

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

2.10 The Local Entity shall at all times provide operation and maintenance of the System in compliance with any and all State and federal standards. The Local Entity shall employ qualified operating personnel properly certified by the State and shall retain such a certified operator(s) to operate the System during the entire term of this ARRA Assistance Agreement.

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

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

2.13 The Local Entity, during construction of the Project, shall complete Payment Requisition Forms, the form of which is attached hereto as Exhibit B and incorporated herein by reference, and forward such forms to BPH in compliance with the Local Entity's construction schedule.

2.14 The Local Entity shall serve the additional customers, if any, at the location(s) as set forth in Schedule X. The Local Entity shall not reduce the number of additional customers served by the project without the prior written approval of the Authority Board. Following completion of the Project the Local Entity shall certify to the Authority the number of customers added to the System.

2.15 The Local Entity shall perform an annual maintenance audit which maintenance audit shall be submitted to the Authority and the Public Service Commission of West Virginia (the "PSC").

### ARTICLE III

#### Conditions to Loan; Issuance of Local Bonds

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

(a) The Local Entity shall have delivered to BPH and the Authority a report listing the specific purposes for which the proceeds of the Loan will be expended and the procedures as to the disbursement of loan proceeds, including an estimated monthly draw schedule;

(b) The Local Entity shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this ARRA Assistance Agreement;

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

(d) The Local Entity shall either have received bids or entered into contracts for the construction of the Project, which are in an amount and otherwise compatible with the plan of financing described in the Application; provided, that, if the

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Loan will refund an interim construction financing, the Local Entity must either be constructing or have constructed its Project for a cost and as otherwise compatible with the plan of financing described in the Application; and, in either case, the Authority and BPH shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit C;

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

(f) The Local Entity shall have obtained all requisite orders of and approvals from the PSC and the West Virginia Infrastructure and Jobs Development Council (the "IJDC") necessary for the construction of the Project and operation of the System, with all requisite appeal periods having expired without successful appeal, and the Authority and BPH shall have received an opinion of counsel to the Local Entity, which may be local counsel to the Local Entity, bond counsel or special PSC counsel but must be satisfactory to the Authority and BPH, to such effect;

(g) The Local Entity shall have obtained any and all approvals for the issuance of the Local Bonds required by State law, and the Authority and BPH shall have received an opinion of counsel to the Local Entity, which may be local counsel to the Local Entity, bond counsel or special PSC counsel but must be satisfactory to the Authority and BPH, to such effect;

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

(i) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof, and the Authority and BPH shall have received a certificate of the accountant for the Local Entity, or such other person or firm experienced in the finances of local entities and satisfactory to the Authority and BPH, to such effect; and

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

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

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

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Local Entity by written notice to the Authority, which written notice shall be given not less than ten (10) business days prior to the date designated.

3.5 The Local Entity understands and acknowledges that it is one of several local entities which have applied to the Authority and BPH for loans from the Fund to finance drinking water projects and that the obligation of the Authority to make any such loan is subject to the Local Entity's fulfilling all of the terms and conditions of this ARRA Assistance Agreement on or prior to the Date of Loan Closing and to the requirements of the Program. The Local Entity specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Fund to purchase all the Local Bonds and that, prior to execution of this ARRA Assistance Agreement, the Authority may purchase the bonds of other local entities set out in the State Project Priority List, as defined in the DWTRF Regulations. The Local

Entity further specifically recognizes that all loans will be originated in conjunction with the DWTRF Regulations and with the prior approval of BPH or such later date as is agreed to in writing by the BPH.

3.6 The Local Entity shall provide BPH with the appropriate documentation to comply with the special conditions regarding the public release requirements established by federal and State regulations as set forth in Exhibit D attached hereto at such times as are set forth therein.

#### ARTICLE IV

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

4.1 The Local Entity shall, as one of the conditions of the Authority and BPH to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official action of the Local Entity in accordance with the Local Statute, which shall, as adopted or enacted, contain provisions and covenants in substantially the form as follows:

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

(i) to pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document and beginning on the date set forth in Schedule X, to provide debt service on the Local Bonds by depositing in a sinking fund one-third (1/3) of the interest payment next coming due on the Local Bonds and one-third (1/3) of the principal payment next coming due on the Local Bonds and, beginning three (3) months prior to the first date of payment of principal of the Local Bonds, if the reserve account for the Local Bonds (the "Reserve Account") was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof in an amount equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

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

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by a pledge of either the gross or net revenues, as applicable, of the System as provided in the Local Act;

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

(iii) That the Local Entity will complete the Project and operate and maintain the System in good condition;

(iv) That, except as otherwise required by State law or the DWTRF Regulations, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized from such sale, mortgage, lease or other disposition shall be sufficient to fully pay all of the Local Bonds outstanding and further provided that portions of the System

when no longer required for the ongoing operation of the System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

(v) That the Local Entity shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by a lien on or payable from the revenues of the System prior to the Local Bonds and with the prior written consent of the Authority and BPH;

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

(vii) That the Local Entity will not render any free services of the System;

(viii) That the Authority may, by proper legal action, compel the performance of the duties of the Local Entity under the Local Act, including the making and collection of sufficient rates or charges for services rendered by the System, and shall also have, in the event of a default in payment of principal of or interest on the Local Bonds, the right to obtain the appointment of a receiver to administer the System or construction of the Project, or both, as provided by law and all rights as set forth in Section 5 of the Act;

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

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

(xi) That the Local Entity shall annually, within six months of the end of the fiscal year, cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall

submit the report of said audit to the Authority and BPH. If the Local Entity receives \$500,000 or more (in federal funds) in a fiscal year, the audit shall be obtained in accordance with the Single Audit Act (as amended from time to time) and the applicable OMB Circular (or any successor thereto). Financial statement audits are required once all funds have been received by the Local Entity. The audit shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Local Entity's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

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

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

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

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Local Entity may authorize redemption of the Local Bonds with 30 days written notice to BPH and the Authority;

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

(xvii) That the Local Entity shall on the first day of each month (if the first day is not a business day, then the first business day of each month)

deposit with the Commission the required interest, principal and reserve account payment. The Local Entity shall complete the Monthly Payment Form, attached hereto as Exhibit E and incorporated herein by reference, and submit a copy of said form along with a copy of the check or electronic transfer to the Authority by the 5th day of such calendar month. When required by the Authority, the Local Entity shall make monthly payments to the Commission by electronic transfer;

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

(xix) That the Local Entity shall have obtained the certificate of the Consulting Engineers to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority and BPH, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and BPH is sufficient to pay the costs of acquisition and construction of the Project and all permits required by federal and State laws for construction of the Project have been obtained;

(xx) That the Local Entity shall, to the full extent permitted by applicable law and the rules and regulations of the PSC, terminate its services to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore such services until all delinquent charges for the services of the System have been fully paid; and

(xxi) That the Local Entity shall submit all proposed change orders to the BPH for written approval. The Local Entity shall obtain the written approval of the BPH before expending any proceeds of the Local Bonds held in "contingency" as set forth in the final Schedule A attached to the certificate of the Consulting Engineer. The Local Entity shall obtain the written approval of the BPH before expending any proceeds of the Local Bonds available due to bid/construction/project underruns.

The Local Entity hereby represents and warrants that the Local Act has been or shall be duly adopted or enacted in compliance with all necessary corporate and other action and in accordance with applicable provisions of law. All legal matters incident to the authorization, issuance, validity, sale and delivery of the Local Bonds shall

be approved without qualification by nationally recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit F.

4.2 The Loan shall be secured by the pledge and assignment by the Local Entity, as effected by the Local Act, of the fees, charges and other revenues of the Local Entity from the System.

4.3 At least two and one half percent (2.5%) of the proceeds of the Local Bonds will be advanced on the Date of Loan Closing. The remaining proceeds of the Local Bonds shall be advanced by the Authority monthly as required by the Local Entity to pay Costs of the Project, provided, however, if the proceeds of the Local Bonds will be used to repay an interim financing, the proceeds will be advanced on a schedule mutually agreeable to the Local Entity, the BPH and the Authority. The Local Bonds shall not bear interest during the construction period but interest shall commence accruing on the completion date as defined in the DWTRF Regulations, provided that the annual repayment of principal and payment of interest shall begin not later than one (1) year after the completion date. The repayment of principal and interest on the Local Bonds shall be as set forth on Schedule Y hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

4.4 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Local Entity. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series.

4.5 As provided by the DWTRF Regulations, the Local Entity agrees to pay from time to time, if required by the Authority and BPH, the Local Entity's allocable share of the reasonable administrative expenses of the BPH and the Authority relating to the Program. Such administrative expenses shall be determined by the BPH and the Authority and shall include, without limitation, Program expenses, legal fees paid by the BPH and the Authority and fees paid for any bonds or notes to be issued by the Authority for contribution to the Fund.

4.6 The obligation of the Authority to make any loans shall be conditioned upon the availability of moneys in the Fund in such amount and on such terms and conditions as, in the sole judgment of the Authority, will enable it to make the Loan.

## ARTICLE V

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

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

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

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

5.4 The Local Entity hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Local Entity, the Authority may exercise any or all of the rights and powers granted under Section 5 of the Act, including, without limitation, the right to impose, enforce and collect charges of the System.

ARTICLE VI

Other Agreements of the  
Local Entity

6.1 The Local Entity hereby acknowledges to the Authority and BPH its understanding of the provisions of the Act, vesting in the Authority and BPH certain

powers, rights and privileges with respect to drinking water projects in the event of default by local entities in the terms and covenants of this ARRA Assistance Agreement, and the Local Entity hereby covenants and agrees that, if the Authority should hereafter have recourse to said rights and powers, the Local Entity shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this ARRA Assistance Agreement.

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

6.3 The Local Entity hereby agrees to repay on or prior to the Date of Loan Closing any moneys due and owing by it to the Authority or any other lender for the planning or design of the Project, provided that such repayment shall not be made from the proceeds of the Loan.

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

6.5 Notwithstanding Section 6.4, the Authority and BPH may at any time, in their sole discretion, cause the rebate calculations prepared by or on behalf of the Local Entity to be monitored or cause the rebate calculations for the Local Entity to be prepared, in either case at the expense of the Local Entity.

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

6.7 The Local Entity hereby agrees to file with the Authority and BPH upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule B to the Application, setting forth the actual costs of the Project and sources of funds therefore.

## ARTICLE VII

### Miscellaneous

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

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

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

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

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

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

7.7 This ARRA Assistance Agreement shall terminate upon the EARLIER of:

(i) written notice of termination to the Local Entity from either the Authority or BPH and the Project contracts were not executed by January 28, 2010;

(ii) the end of ninety (90) days after the date of execution hereof by the Authority or such later date as is agreed to in writing by the BPH if the Local Entity has failed to deliver the Local Bonds to the Authority;

(iii) termination by the Authority and BPH pursuant to Section 6.2 hereof; or

(iv) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Local Entity to the Authority or BPH;

(v) but further provided that the Authority and BPH reserve the right to terminate this ARRA Assistance Agreement upon five days written notice if the Local Bonds are not issued and the Project is not under written contract by January 28, 2010.

In the event funds are not available to make all of the Loan, the responsibility of the Authority and BPH to make all the Loan is terminated; provided further that the obligation of the Local Entity to repay the outstanding amount of the Loan made by the Authority and BPH is not terminated due to such non-funding on any balance of the Loan. The BPH agrees to use its best efforts to have the amount contemplated under this ARRA Assistance Agreement included in its budget. Non-funding of the Loan shall not be considered an event of default under this ARRA Assistance Agreement.

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

WHITMER WATER ASSOCIATION

(SEAL)

By: Paula J. Leter  
Its: President  
Date: January 21, 2010

Attest:

Susan Lynn Bernigh  
Its: Secretary

WEST VIRGINIA WATER  
DEVELOPMENT AUTHORITY

(SEAL)

By: [Signature]  
Its: Executive Director  
Date: January 21, 2010

Attest:

Carol A. Cummings  
Its: Secretary-Treasurer

EXHIBIT A

MONTHLY FINANCIAL REPORT

Name of Local Entity \_\_\_\_\_  
 Name of Bond Issue(s) \_\_\_\_\_  
 Type of Project \_\_\_\_\_ Water \_\_\_\_\_ Wastewater \_\_\_\_\_  
 Fiscal Year \_\_\_\_\_ Report Month \_\_\_\_\_

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

\_\_\_\_\_  
 Name of Person Completing Form

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Telephone

## INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

Item 1 You will need a copy of the current fiscal year budget adopted by the Local Entity to complete Items 1 and 2. In Item 1, provide the amount of actual **Gross Revenues** for the current month and the total amount year-to-date in the respective columns. Divide the budgeted annual Gross Revenues by 12. For example, if Gross Revenues of \$1,200 are anticipated to be received for the year, each month the base would be increased by \$100 ( $\$1,200/12$ ). This is the incremental amount for the Budget Year-to-Date column.

Item 2 Provide the amount of actual **Operating Expenses** for the current month and the total amount year-to-date in the respective columns. Any administrative fee should be included in the Operating Expenses. Divide the budgeted annual Operating Expenses by 12. For example, if Operating Expenses of \$900 are anticipated to be incurred for the year, each month the base would be increased by \$75 ( $\$900/12$ ). This is the incremental amount for the Budget Year-to-Date column.

Item 3 Provide the **Bond Payments (principal, interest and reserve account)** for all the outstanding bonds of the Local Entity according to the source of funding. For example, Clean Water State Revolving Fund loan from Department of Environmental Protection, Drinking Water Treatment Revolving Fund loan from Bureau for Public Health, Infrastructure Fund loan from Infrastructure and Jobs Development Council, or a loan from the Water Development Authority, etc.

Item 4 Provide the amount deposited into the **Renewal and Replacement Fund** each month. This amount is equal to 2.5% of Gross Revenues minus the total reserve account payments included in Item 3. If Gross Revenues are \$1,200, then \$30 (2.5% of \$1,200), LESS the amount of all reserve account payments in Item 3 should be deposited into the Renewal and Replacement Fund. The money in the Renewal and Replacement Fund should be kept separate and apart from all other funds of the Local Entity.

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

**EXHIBIT B**

**PAYMENT REQUISITION FORM**

| <b>- WATER TREATMENT UPGRADE PROJECT</b> |                                 |          |             |         |                    |              |              |                   |
|--|---------------------------------|----------|-------------|---------|--------------------|--------------|--------------|-------------------|
| <b>DWTRF FUNDING</b>                     |                                 |          |             |         |                    |              |              |                   |
|  |                                 | APPROVED |             | REVISED | PAID               | REQUESTED    |              |                   |
|  | CLASSIFICATION                  | BUDGET   | ADJUSTMENTS | BUDGET  | PRIOR TO THIS DRAW | THIS REQUEST | PAID TO DATE | BALANCE REMAINING |
| 1  | Construction & Cons. Cont.      |          |             |         |                    |              |              |                   |
|  | a. Contract 1 - Contractor Name | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
|  | b. Contract 2 - Contractor Name | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
|  | c. Contract 3 - Contractor Name | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
|  | g. Construction contingency     | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
| 2  | Technical Services              |          |             |         |                    |              |              |                   |
|  | a. Basic Engineering Design     | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
|  | b. Inspection                   | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
|  | c. Special Services             | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
| 3  | Legal/Fiscal                    |          |             |         |                    |              |              |                   |
|  | a. Legal                        | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
|  | b. Accounting                   | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
| 4  | Administrative                  |          |             |         |                    |              |              |                   |
|  | a. Administrative Expenses      | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
|  | b. Tap Fees                     | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
|  | c. Accounting                   | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
|  | d. Registrar Fee                | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
| 5  | Sites & Other Lands             | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
| 6  | WV DOH Fees                     | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
| 7  | Interest                        | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
| 8  | Contingency                     | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
| 9  | Miscellaneous (Equipment)       | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
| 10                                       | TOTAL of Lines 1 through 9      | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |

| <b>OTHER FUNDING</b> |                                 |          |             |         |                    |              |              |                   |
|----------------------|---------------------------------|----------|-------------|---------|--------------------|--------------|--------------|-------------------|
|                      |                                 | APPROVED |             | REVISED | PAID               | REQUESTED    |              |                   |
|                      | CLASSIFICATION                  | BUDGET   | ADJUSTMENTS | BUDGET  | PRIOR TO THIS DRAW | THIS REQUEST | PAID TO DATE | BALANCE REMAINING |
| 1                    | Construction & Cons. Cont.      |          |             |         |                    |              |              |                   |
|                      | a. Contract 1 - Contractor Name | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
|                      | b. Contract 2 - Contractor Name | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
|                      | c. Contract 3 - Contractor Name | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
|                      | g. Construction contingency     | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
| 2                    | Technical Services              |          |             |         |                    |              |              |                   |
|                      | a. Basic Engineering Design     | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
|                      | b. Inspection                   | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
|                      | c. Special Services             | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
| 3                    | Legal/Fiscal                    |          |             |         |                    |              |              |                   |
|                      | a. Legal                        | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
|                      | b. Accounting                   | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
| 4                    | Administrative                  |          |             |         |                    |              |              |                   |
|                      | a. Administrative Expenses      | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
|                      | b. Tap Fees                     | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
|                      | c. Accounting                   | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
|                      | d. Registrar Fee                | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
| 5                    | Sites & Other Lands             | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
| 6                    | WV DOH Fees                     | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
| 7                    | Interest                        | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
| 8                    | Contingency                     | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
| 9                    | Miscellaneous (Equipment)       | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |
| 10                   | TOTAL of Lines 1 through 9      | 0        | 0           | 0       | 0                  | 0            | 0            | 0                 |

| TOTAL FUNDING |                                 |          |             |         |           |           |         |           |
|---------------|---------------------------------|----------|-------------|---------|-----------|-----------|---------|-----------|
|               |                                 | APPROVED |             | REVISED | PAID      | REQUESTED |         |           |
|               | CLASSIFICATION                  | BUDGET   | ADJUSTMENTS | BUDGET  | PRIOR TO  | THIS      | PAID TO | BALANCE   |
|               |                                 |          |             |         | THIS DRAW | REQUEST   | DATE    | REMAINING |
| 1             | Construction & Cons. Cont.      |          |             |         |           |           |         |           |
|               | a. Contract 1 - Contractor Name | 0        | 0           | 0       | 0         | 0         | 0       | 0         |
|               | b. Contract 2 - Contractor Name | 0        | 0           | 0       | 0         | 0         | 0       | 0         |
|               | c. Contract 3 - Contractor Name | 0        | 0           | 0       | 0         | 0         | 0       | 0         |
|               | g. Construction contingency     | 0        | 0           | 0       | 0         | 0         | 0       | 0         |
| 2             | Technical Services              |          |             |         |           |           |         |           |
|               | a. Basic Engineering Design     | 0        | 0           | 0       | 0         | 0         | 0       | 0         |
|               | b. Inspection                   | 0        | 0           | 0       | 0         | 0         | 0       | 0         |
|               | c. Special Services             | 0        | 0           | 0       | 0         | 0         | 0       | 0         |
| 3             | Legal/Fiscal                    |          |             |         |           |           |         |           |
|               | a. Legal                        | 0        | 0           | 0       | 0         | 0         | 0       | 0         |
|               | b. Accounting                   | 0        | 0           | 0       | 0         | 0         | 0       | 0         |
| 4             | Administrative                  |          |             |         |           |           |         |           |
|               | a. Administrative Expenses      | 0        | 0           | 0       | 0         | 0         | 0       | 0         |
|               | b. Tap Fees                     | 0        | 0           | 0       | 0         | 0         | 0       | 0         |
|               | c. Accounting                   | 0        | 0           | 0       | 0         | 0         | 0       | 0         |
|               | d. Registrar Fee                | 0        | 0           | 0       | 0         | 0         | 0       | 0         |
| 5             | Sites & Other Lands             | 0        | 0           | 0       | 0         | 0         | 0       | 0         |
| 6             | WV DOH Fees                     | 0        | 0           | 0       | 0         | 0         | 0       | 0         |
| 7             | Interest                        | 0        | 0           | 0       | 0         | 0         | 0       | 0         |
| 8             | Contingency                     | 0        | 0           | 0       | 0         | 0         | 0       | 0         |
| 9             | Miscellaneous (Equipment)       | 0        | 0           | 0       | 0         | 0         | 0       | 0         |
| 10            | TOTAL of Lines 1 through 9      | 0        | 0           | 0       | 0         | 0         | 0       | 0         |

EXHIBIT C

FORM OF CERTIFICATE OF CONSULTING ENGINEER

\_\_\_\_\_  
(Issuer)

(Name of Bonds)

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

1. My firm is engineer for the acquisition and construction of \_\_\_\_\_ to the \_\_\_\_\_ system (the "Project") of \_\_\_\_\_ (the "Issuer"), to be constructed primarily in \_\_\_\_\_ County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words used herein and not defined herein shall have the same meaning set forth in the bond \_\_\_\_\_ adopted or enacted by the Issuer on \_\_\_\_\_, and the ARRA Assistance Agreement by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), dated \_\_\_\_\_.

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

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by BPH and any change orders approved by the Issuer, BPH and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least \_\_\_\_\_ years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in Schedule B attached hereto as Exhibit A, and my firm<sup>1</sup> has ascertained that all successful bidders have made required provisions

<sup>1</sup>If another responsible party, such as the Issuer's attorney, reviews the insurance and payment bonds, then

for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the BPH and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) as of the effective date thereof<sup>2</sup>, the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the ARRA Assistance Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by BPH; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this \_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_.

[SEAL]

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

West Virginia License No. \_\_\_\_\_

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insert the following: [and in reliance upon the opinion of \_\_\_\_\_, Esq.] and delete "my firm has ascertained that".

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

EXHIBIT D

SPECIAL CONDITIONS – BASE PROGRAM

The Local Entity agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations, groundbreaking or project dedication program documents and other documents describing projects or programs funded in whole or in part with federal money, (1) the percentage of the total costs of the program or project which will be financed with federal money, (2) the dollar amount of federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

The Local Entity shall complete the form attached as Exhibit D-1 and submit to the BPH prior to the Closing.

SPECIAL CONDITIONS – ARRA FUNDED PROJECTS

The Local Entity shall include the following covenants in its bond authorizing documents:

A. PUBLIC RELEASE REQUIREMENT – The Local Entity agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations, groundbreaking or project dedication program documents and other documents describing projects or programs funded in whole or in part with Federal money, (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. AUDIT REQUIREMENT (Supplement to Article IV 4.1 (b) (xi)) – Effective October 1, 2003, the Local Entity that receives \$500,000 or more (in federal funds) in a fiscal year must obtain audits in accordance with the Single Audit Act and the applicable OMB Circular or any successor thereto. Financial statement audits are required once all funds have been received by the Local Entity.

C. BUY AMERICAN CERTIFICATION – The Local Entity shall cause the contractor(s) to comply with, and provide certification of, the Buy American provisions of the ARRA in accordance with final guidance from the EPA.

D. ASSET MANAGEMENT – The Local Entity shall develop and implement an asset management plan in accordance with guidelines issued by BPH and as approved by BPH.

E. CONTRACTS – The Local Entity shall enter into contracts or commence construction by January 28, 2010.

F. LOGO – The Local Entity must display the ARRA logo in a manner that informs the public that the project is an ARRA investment.

G. LOBBYING - The Local Entity shall comply with Title 40 CFR Part 34, New Restrictions on Lobbying and shall submit certification and disclosure forms as required by BPH.

H. PURCHASING REQUIREMENTS – The Local Entity shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

I. SUSPENSION AND DEBARMENT – The Local Entity shall comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled “Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons). To the extent required by BPH, the Local Entity shall provide certifications as to compliance.

J. REPORTING – The Local Entity shall comply with all requests for data related to the use of the funds provided under this agreement, including the information required in section 1512 of ARRA when requested by BPH.

K. INSPECTOR GENERAL REVIEWS – The Local Entity shall allow any appropriate representative of the Office of US Inspector General to (1) examine its records relating to the Project and this ARRA Assistance Agreement and (2) interview any officer or employee of the Local Entity.

L. FALSE CLAIMS – The Local Entity must promptly refer to EPA’s Inspector General any credible evidence that a principal, employee, agent, sub-grantee contractor, subcontractor, loan recipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws

pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this ARRA Assistance Agreement.

M. **LIMIT ON FUNDS** – The Local Entity shall not use funds for particular activities for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

N. **WAGE RATES** – The Local Entity shall require that all laborers and mechanics employed by its contractors and subcontractors be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 32 of title 40, United States Code. The Local Entity must require that contractors and subcontractors obtain wage determinations from DOL and comply with DOL guidance and regulations implementing wage rate requirements applicable to ARRA funds.

O. **OFFICE OF MANAGEMENT AND BUDGET (OMB) GUIDANCE** – The Local Entity acknowledges and agrees that this ARRA Assistance is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on [www.recovery.gov](http://www.recovery.gov), and any subsequent guidance documents issued by OMB.

P. **DISADVANTAGED BUSINESS ENTERPRISE** – Pursuant to 40 CFR, Section 33.301, the Local Entity agrees to make good faith efforts whenever procuring construction, equipment, services and supplies, and to require that prime contractors also comply. The Local Entity shall provide BPH with MBE/WBE participation reports semi-annually.

Q. **CIVIL RIGHTS** – The Local Entity shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific statutes with nondiscrimination requirements. The Local Entity shall also comply with Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and Local Entities, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

R. **BOND DESIGNATION** – Each Local Bond contain “(WVDWTRF Program/ARRA)” in the bond name.

S. USER RATES – The Local Entity shall covenant that it will not reduce its approved customer rates for at least eighteen months after completion of the Project or (a) until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses or (b) new rates have been established by order of the Public Service Commission. The Local Entity shall notify the Authority and the BPH of any action to reduce rates during the eighteen months following completion of construction of the Project.

# EXHIBIT D-1

**For OMB Use Only:**  
**Grant Number:** \_\_\_\_\_

**West Virginia Department of Health and Human Resources**  
**Subrecipient (Grantee) Information Form**  
 Please see the Instructions for Completion of the Subrecipient (Grantee) Information Form

**1. Subrecipient (Grantee) Name**

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**2. Subrecipient (Grantee) Location (Street Address, City State and Zip Code)**

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**3. Subrecipient (Grantee) 9-Digit DUNS Number**

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**4. Subrecipient (Grantee) Type (Please check one box only)**

|  |  |
|--|--|
| <input type="checkbox"/> State Government<br><input type="checkbox"/> County Government<br><input type="checkbox"/> City or Township Government<br><input type="checkbox"/> Special District Government<br><input type="checkbox"/> Regional Organization<br><input type="checkbox"/> U.S. Territory or Possession<br><input type="checkbox"/> Independent School District<br><input type="checkbox"/> Public/State Controlled Institution of Higher Learning<br><input type="checkbox"/> Indian/Native American Tribal Government (Federally Recognized)<br><input type="checkbox"/> Indian/Native American Tribal Government (Other than Federally Recognized)<br><input type="checkbox"/> Indian/Native American Tribally Designated Organization<br><input type="checkbox"/> Public/Indian Housing Authority | <input type="checkbox"/> Nonprofit with 501(c)(3) IRS Status (Other than Institution of Higher Education)<br><input type="checkbox"/> Nonprofit without 501(c)(3) IRS Status (Other than Institution of Higher Education)<br><input type="checkbox"/> Private Institution of Higher Education<br><input type="checkbox"/> Individual<br><input type="checkbox"/> For-Profit Business (Other than Small Business)<br><input type="checkbox"/> Small Business<br><input type="checkbox"/> Hispanic-serving Institution<br><input type="checkbox"/> Historically Black Colleges and Universities (HBCUs)<br><input type="checkbox"/> Tribally Controlled Colleges and Universities (TCCUs)<br><input type="checkbox"/> Alaska Native and Native Hawaiian Serving Institutions<br><input type="checkbox"/> Non-Domestic (non-US) entity<br><input type="checkbox"/> Other (Please explain) _____ |
|--|--|

**5. Primary Performance Location (Street Address, City State and Zip Code)**

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**6. Names, Titles and Total Compensation for the 5 Most Highly Compensated Officers**

| Officer Name | Title | Total Compensation |
|--------------|-------|--------------------|
|              |       |                    |
|              |       |                    |
|              |       |                    |
|              |       |                    |
|              |       |                    |

NOTE: This form must be signed by an individual no lower than the Executive Director or Chief Financial Officer.

Printed Name \_\_\_\_\_ Title \_\_\_\_\_  
 Signature \_\_\_\_\_ Date \_\_\_\_\_ Phone # \_\_\_\_\_

DHHR Finance A-1009

## EXHIBIT D-2

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ADDENDUM  
FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT  
AMERICAN RECOVERY AND REINVESTMENT ACT

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### A. Purpose and Summary

The purpose of this Addendum is to ensure that recipients of grant awards from the West Virginia Department of Health and Human Resources understand their responsibilities under the Federal Funding Accountability and Transparency Act of 2006 and the American Recovery and Reinvestment Act of 2009, as may be applicable.

As part of these responsibilities, and as condition for execution of this Grant Agreement, Grantees must remain current in the Central Contractor Registration (CCR) database (<http://www.ccr.gov>) at all times during which they have active DHHR grant awards. The CCR database is the repository for standard information about Federal financial assistance applicants, recipients and subrecipients. Grantees must update or renew their CCR registration at least once per year to maintain an active status.

In order to register in the Central Contractor Registration database, Grantees must first obtain a valid Data Universal Numbering System (DUNS) Number from Dun and Bradstreet at <http://www.dnb.com>. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and for validating the address and point of contact information for Federal assistance applicants, recipients and subrecipients.

Additional information about obtaining a DUNS number and maintaining registration with the CCR are included on the websites referenced above and on the attached Instructions for Completion of the Subrecipient (Grantee) Information Form. As further explained within this Addendum, the attached Subrecipient (Grantee) Information Form must be completed by the Grantee and submitted to the DHHR during the negotiation (pre-award) stage of the grant cycle.

### B. Federal Funding Accountability and Transparency Act of 2006

The Federal Funding Accountability and Transparency Act of 2006, Public Law 109-282, hereinafter referred to as the Transparency Act, is an Act of Congress that requires full disclosure to the public of all entities or organizations receiving Federal funds. The Transparency Act directed the Office of Management and Budget (OMB), by January 1, 2008, to ensure the existence and operation of a single searchable website, accessible to the public at no cost, which includes for each Federal award:

1. The amount of the award;
2. Information including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source, and an award title descriptive of the purpose of each funding action;
3. The name and location of the recipient and the primary location of performance;
4. A unique identifier of the recipient and any parent agency (DUNS Number); and
5. Any other relevant information specified by the OMB.

The Transparency Act also required the OMB, by July 1, 2007, to commence a pilot program to test the collection of and access to data about subgrants and to determine how to implement a subaward-reporting program across the Federal Government. Thereafter, the Transparency Act required the OMB to terminate the pilot program by January 1, 2009 and, subject to extensions, replace it with a permanent system of ensuring that data regarding subawards is disclosed in the same manner as data regarding other Federal awards.

**ADDENDUM  
FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT  
AMERICAN RECOVERY AND REINVESTMENT ACT**

**C. American Recovery and Reinvestment Act of 2009**

The American Recovery and Reinvestment Act of 2009, Public Law 111-5, hereinafter referred to as the ARRA, is an economic stimulus package enacted by the 111<sup>th</sup> United States Congress and signed into law by President Barack Obama on February 17, 2009. The ARRA is intended to provide a stimulus to the U.S. economy in the wake of the economic downturn and includes Federal tax relief, expansion of unemployment benefits and other social welfare provisions; and domestic spending on education, health care, and infrastructure, including the energy sector. The ARRA provides for unprecedented levels of transparency and accountability so that the public will be able to know how, when and where their tax dollars are being spent. Specific information and requirements under the ARRA are as follows:

1. Funding provided from the Federal Government through the ARRA is "one-time only" funding and, to maximize the transparency and accountability of ARRA funds, organizations receiving funding under the ARRA must maintain records that identify adequately the source and application of those funds.
2. Section 1532(c) of the ARRA requires quarterly reporting on the use of funds. The data elements proposed for reporting the information described in Section 1532(c) were published in the Federal Register on April 1, 2009 (74 FR 14824). The reporting requirements under Section 1532(c) of the ARRA currently apply only to entities receiving ARRA funds directly from the Federal Government, sometimes referred to as primary recipients.
3. Section 1532(h) of the ARRA requires recipients of ARRA funds, and their first-tier recipients (subrecipients) to register in the Central Contractor Registration (CCR) database at <http://www.ccr.gov>. In order to register in the CCR, a valid Data Universal Numbering System (DUNS) Number is required, as further described within this Addendum and within the Instructions for Completion of the Subrecipient (Grantee) Information Form.
4. Section 1605 of the ARRA requires that projects funded by the ARRA for the construction, alteration, maintenance, or repair of a public building or public work use American iron, steel, and manufactured goods in the project unless one of the specified exemptions applies. The ARRA provides that this requirement be applied in a manner consistent with U.S. obligations under international agreements. Definitions of "manufactured good," "public building and public work," and other terms as they pertain to the Buy American guidance in 2 CFR part 176 are found in § 176.142 and § 176.150.
5. Section 1606 of the ARRA requires the payment of Davis-Bacon Act (40 U.S.C. 31) wage rates to "laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government" pursuant to the ARRA.
6. Grantees bound by the Single Audit Act Amendments of 1996 and OMB Circular A-133, *Audits of States, Local Governments and Nonprofit Organizations*, must separately identify the expenditures for Federal awards under the ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This requirement shall be accomplished by identifying expenditures for Federal awards made under the ARRA separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC. Additional information regarding the Federal audit requirements of OMB Circular A-133 is located within Exhibit F of the DHEH Grant Agreement and the Source of Funds Schedule, attached to this Grant Agreement as Exhibit B, identifies whether the funds awarded under this grant are being made available through appropriations under the ARRA.

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**ADDENDUM  
FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT  
AMERICAN RECOVERY AND REINVESTMENT ACT**

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**D. DHHR Reporting to the Federal Government**

At present time, direct reporting to the Federal Government lies solely at the primary recipient level. Therefore, while subrecipients of grant awards from the DHHR do not have to report data directly to the Federal Government, the DHHR, as a primary recipient and pass-through entity of Federal awards, does have a responsibility to report on certain data elements regarding its subgrant activities. As such, the DHHR is required to report the following information to the Federal Government with respect to its subawards:

1. Subrecipient OIGNS number
2. Award number or other identifying number
3. Subrecipient name
4. Subrecipient location
5. Subrecipient type
6. Amount of subaward disbursed
7. Total amount of subaward
8. Subaward date
9. Subaward project/grant period
10. Primary performance location
11. Names and total compensation of the five most highly compensated officers of the entity

**E. Subrecipient (Grantee) Information Form**

Both the Transparency Act and the ARRA address the primary recipient's requirements to report information on the subawards it makes to subrecipient (Grantee) organizations. To ensure completeness and consistency in accounting for the funds received and subawarded by the West Virginia Department of Health and Human Resources (DHHR) to DHHR Grantees, the DHHR has developed a standardized form in which Grantees shall be required to complete and submit to the DHHR during the negotiation (pre-award) stage of the grant cycle. The DHHR will not process the Grant Agreement or commit any of the funds related thereto until the Grantee submits a signed copy of the Subrecipient (Grantee) Information Form.

**F. Future Informational Updates and Regulatory Requirements**

Currently, the rules, regulations and guidance issued by the Federal Government with respect to the oversight, accountability and reporting requirements associated with the Transparency Act and the ARRA are a work-in-progress. As referenced in the aforementioned sections of this Addendum, there are a number of reporting requirements (data elements) for which the DHHR, as a primary recipient of Federal funds, must report directly to the Federal Government. While the Federal Government has not currently placed specific reporting obligations on all subrecipients (Grantees), by all indications, these requirements are forthcoming from the Executive Office of the President or through the release of individual Federal agency regulations. Therefore, as additional information becomes available and the Federal Government provides more details on managing Federal funds, the DHHR will transmit the information or requirements to its grant community through an update to this memorandum or by other determinable means to ensure overall compliance with the Transparency Act and the ARRA.

**G. Source of Information / Websites**

Federal Funding Accountability and Transparency Act of 2005  
<http://www.usaspending.gov>

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**ADDENDUM**  
**FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT**  
**AMERICAN RECOVERY AND REINVESTMENT ACT**

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[http://trwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109\\_cong\\_bills&docid=f:s2590enr.bt.pdf](http://trwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:s2590enr.bt.pdf)

American Recovery and Reinvestment Act of 2009

<http://www.recovery.gov/>

[http://trwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111\\_cong\\_bills&docid=f:h1enr.pdf](http://trwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.pdf)

[http://www.whitehouse.gov/omb/assets/memoranda\\_fy2009/m09-10.pdf](http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-10.pdf)

[http://www.whitehouse.gov/omb/assets/memoranda\\_fy2009/m09-15.pdf](http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-15.pdf)

<http://www.recovery.gov/>

Interim Final Guidance from the OMB – Requirements for Implementing Sections 1542, 1603, and 1606 of the American Recovery and Reinvestment Act of 2009 for Financial Assistance Awards – published in the Federal Register, Volume 74, Number 77, April 23, 2009, pages 12445-53

<http://www.gpoaccess.gov/fr>



EXHIBIT F

OPINION OF BOND COUNSEL FOR LOCAL ENTITY

[To Be Dated as of Date of Loan Closing]

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

West Virginia Bureau for Public Health  
815 Quarrier Street, Suite 418  
Charleston, WV 25301-2616

Ladies and Gentlemen:

We are bond counsel to \_\_\_\_\_(the "Local Entity"), a  
\_\_\_\_\_.

We have examined a certified copy of proceedings and other papers relating to the authorization of a (i) ARRA Assistance Agreement dated \_\_\_\_\_, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), between the Local Entity and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and (ii) the issue of a series of revenue bonds of the Local Entity, dated \_\_\_\_\_(the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Local Bonds are issued in the principal amount of \$\_\_\_\_\_, in the form of one bond, registered as to principal and interest to the Authority, with principal and interest payable quarterly on March 1, June 1, September 1, and December 1 of each year, beginning \_\_\_\_\_1, \_\_\_\_, and ending \_\_\_\_\_1, \_\_\_\_, all as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Local Bonds.

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

We have also examined the applicable provisions of \_\_\_\_\_of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond \_\_\_\_\_duly adopted or enacted by the Local Entity on \_\_\_\_\_, as supplemented by the supplemental resolution duly adopted by the Local Entity on \_\_\_\_\_(collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the ARRA

Assistance Agreement has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the ARRA Assistance Agreement.

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

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

2. The ARRA Assistance Agreement inures to the benefit of the Authority and the BPH and cannot be amended so as to affect adversely the rights of the Authority or the BPH or diminish the obligations of the Local Entity without the consent of the Authority and the BPH.

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

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

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

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

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

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

Very truly yours,

SCHEDULE X

DESCRIPTION OF LOCAL BONDS

A. Series A Bonds (Base Program)

|                                 |           |
|---------------------------------|-----------|
| Principal Amount of Local Bonds | \$370,000 |
| Purchase Price of Local Bonds   | \$370,000 |

The Local Bonds shall bear no interest. Commencing December 1, 2011, principal of and interest on the Local Bonds is payable quarterly, with no administrative fee. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

The Local Entity shall submit its payments monthly to the Commission with instructions that the Commission will make quarterly payments to the Authority at such address as is given to the Commission in writing by the Authority. If the Reserve Account is not fully funded at closing, the Local Entity shall commence the payment of the 1/120 of the maximum annual debt service on the first day of the month it makes its first monthly payment to the Commission. The Local Entity shall instruct the Commission to notify the Authority of any monthly payments which are not received by the 20th day of the month in which the payment was due.

The Local Bonds are fully registered in the name of the Authority as to principal and interest, if any, and the Local Bonds shall grant the Authority a first lien on the gross or net revenues of the Local Entity's system as provided in the Local Act.

The Local Entity may prepay the Local Bonds in full at any time at the price of par upon 30 days' written notice to the Authority and BPH. The Local Entity shall request approval from the Authority and BPH in writing of any proposed debt which will be issued by the Local Entity on a parity with the Local Bonds which request must be filed at least 60 days prior to the intended date of issuance.

As of the date of the ARRA Assistance Agreement, the Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Local Entity: Series B Bonds issued in the aggregate principal amount of \$927,000 issued simultaneously with the Series 2009 A Bonds.

B. Series B Bonds (ARRA)

Principal Amount of Local Bonds \$2,117,573  
Purchase Price of Local Bonds \$2,117,573

The Local Bonds shall bear no interest. Commencing December 1, 2011, principal of and interest on the Local Bonds is payable quarterly, with no administrative fee. The Authority at the direction of the BPH shall forgive the principal amount of the Local Bonds. Principal forgiveness shall begin on September 1, 2011, and shall be made quarterly thereafter (March 1, June 1, September 1 and December 1 of each year) as set forth on Schedule Y attached hereto and incorporated herein by reference.

The Local Entity shall submit its payments monthly to the Commission with instructions that the Commission will make quarterly payments to the Authority at such address as is given to the Commission in writing by the Authority. If the Reserve Account is not fully funded at closing, the Local Entity shall commence the payment of the 1/120 of the maximum annual debt service on the first day of the month it makes its first monthly payment to the Commission. The Local Entity shall instruct the Commission to notify the Authority of any monthly payments which are not received by the 20th day of the month in which the payment was due.

The Local Bonds are fully registered in the name of the Authority as to principal and interest, if any, and the Local Bonds shall grant the Authority a first lien on the gross or net revenues of the Local Entity's system as provided in the Local Act.

The Local Entity may prepay the Local Bonds in full at any time at the price of par upon 30 days' written notice to the Authority and BPH. The Local Entity shall request approval from the Authority and BPH in writing of any proposed debt which will be issued by the Local Entity on a parity with the Local Bonds which request must be filed at least 60 days prior to the intended date of issuance.

As of the date of the ARRA Assistance Agreement, the Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Local Entity: Series B Bonds issued in the aggregate principal amount of \$927,000 issued simultaneously with the Series 2009 A Bonds.

Number of New Customers To Be Served: 84  
Location: Whitmer area.

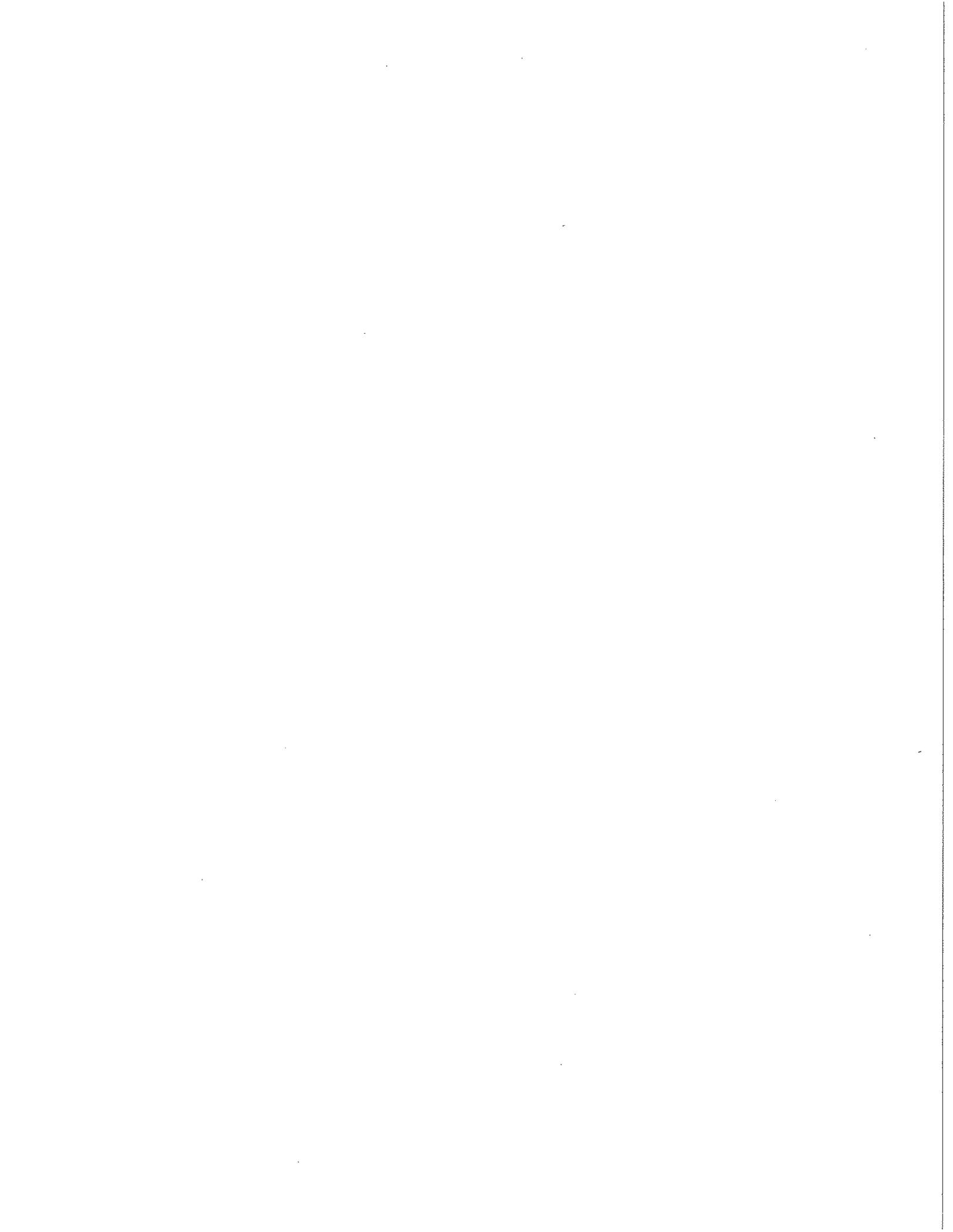
**SCHEDULE Y  
DEBT SERVICE SCHEDULES**

| Whitmer Water Association, Inc. |           |                  |                 |       |
|---------------------------------|-----------|------------------|-----------------|-------|
| 0% Interest Rate                |           |                  |                 |       |
| 30 Years                        |           |                  |                 |       |
|                                 |           | Dated<br>Date    | 1/21/10         |       |
|                                 |           | Delivery<br>Date | 1/21/10         |       |
| Period<br>Ending                | Principal | Interest         | Debt<br>Service |       |
| 1/21/10                         |           |                  |                 |       |
| 12/1/11                         | 3,084     |                  |                 | 3,084 |
| 3/1/12                          | 3,084     |                  |                 | 3,084 |
| 6/1/12                          | 3,084     |                  |                 | 3,084 |
| 9/1/12                          | 3,084     |                  |                 | 3,084 |
| 12/1/12                         | 3,084     |                  |                 | 3,084 |
| 3/1/13                          | 3,084     |                  |                 | 3,084 |
| 6/1/13                          | 3,084     |                  |                 | 3,084 |
| 9/1/13                          | 3,084     |                  |                 | 3,084 |
| 12/1/13                         | 3,084     |                  |                 | 3,084 |
| 3/1/14                          | 3,084     |                  |                 | 3,084 |
| 6/1/14                          | 3,084     |                  |                 | 3,084 |
| 9/1/14                          | 3,084     |                  |                 | 3,084 |
| 12/1/14                         | 3,084     |                  |                 | 3,084 |
| 3/1/15                          | 3,084     |                  |                 | 3,084 |
| 6/1/15                          | 3,084     |                  |                 | 3,084 |
| 9/1/15                          | 3,084     |                  |                 | 3,084 |
| 12/1/15                         | 3,084     |                  |                 | 3,084 |
| 3/1/16                          | 3,084     |                  |                 | 3,084 |
| 6/1/16                          | 3,084     |                  |                 | 3,084 |
| 9/1/16                          | 3,084     |                  |                 | 3,084 |
| 12/1/16                         | 3,084     |                  |                 | 3,084 |
| 3/1/17                          | 3,084     |                  |                 | 3,084 |
| 6/1/17                          | 3,084     |                  |                 | 3,084 |
| 9/1/17                          | 3,084     |                  |                 | 3,084 |
| 12/1/17                         | 3,084     |                  |                 | 3,084 |
| 3/1/18                          | 3,084     |                  |                 | 3,084 |
| 6/1/18                          | 3,084     |                  |                 | 3,084 |
| 9/1/18                          | 3,084     |                  |                 | 3,084 |
| 12/1/18                         | 3,084     |                  |                 | 3,084 |
| 3/1/19                          | 3,084     |                  |                 | 3,084 |
| 6/1/19                          | 3,084     |                  |                 | 3,084 |
| 9/1/19                          | 3,084     |                  |                 | 3,084 |
| 12/1/19                         | 3,084     |                  |                 | 3,084 |
| 3/1/20                          | 3,084     |                  |                 | 3,084 |
| 6/1/20                          | 3,084     |                  |                 | 3,084 |
| 9/1/20                          | 3,084     |                  |                 | 3,084 |
| 12/1/20                         | 3,084     |                  |                 | 3,084 |
| 3/1/21                          | 3,084     |                  |                 | 3,084 |
| 6/1/21                          | 3,084     |                  |                 | 3,084 |
| 9/1/21                          | 3,083     |                  |                 | 3,083 |
| 12/1/21                         | 3,083     |                  |                 | 3,083 |
| 3/1/22                          | 3,083     |                  |                 | 3,083 |
| 6/1/22                          | 3,083     |                  |                 | 3,083 |
| 9/1/22                          | 3,083     |                  |                 | 3,083 |

| Whitmer Water Association, Inc. |           |          |                 |
|---------------------------------|-----------|----------|-----------------|
| 0% Interest Rate                |           |          |                 |
| 30 Years                        |           |          |                 |
| Period<br>Ending                | Principal | Interest | Debt<br>Service |
| 12/1/22                         | 3,083     |          | 3,083           |
| 3/1/23                          | 3,083     |          | 3,083           |
| 6/1/23                          | 3,083     |          | 3,083           |
| 9/1/23                          | 3,083     |          | 3,083           |
| 12/1/23                         | 3,083     |          | 3,083           |
| 3/1/24                          | 3,083     |          | 3,083           |
| 6/1/24                          | 3,083     |          | 3,083           |
| 9/1/24                          | 3,083     |          | 3,083           |
| 12/1/24                         | 3,083     |          | 3,083           |
| 3/1/25                          | 3,083     |          | 3,083           |
| 6/1/25                          | 3,083     |          | 3,083           |
| 9/1/25                          | 3,083     |          | 3,083           |
| 12/1/25                         | 3,083     |          | 3,083           |
| 3/1/26                          | 3,083     |          | 3,083           |
| 6/1/26                          | 3,083     |          | 3,083           |
| 9/1/26                          | 3,083     |          | 3,083           |
| 12/1/26                         | 3,083     |          | 3,083           |
| 3/1/27                          | 3,083     |          | 3,083           |
| 6/1/27                          | 3,083     |          | 3,083           |
| 9/1/27                          | 3,083     |          | 3,083           |
| 12/1/27                         | 3,083     |          | 3,083           |
| 3/1/28                          | 3,083     |          | 3,083           |
| 6/1/28                          | 3,083     |          | 3,083           |
| 9/1/28                          | 3,083     |          | 3,083           |
| 12/1/28                         | 3,083     |          | 3,083           |
| 3/1/29                          | 3,083     |          | 3,083           |
| 6/1/29                          | 3,083     |          | 3,083           |
| 9/1/29                          | 3,083     |          | 3,083           |
| 12/1/29                         | 3,083     |          | 3,083           |
| 3/1/30                          | 3,083     |          | 3,083           |
| 6/1/30                          | 3,083     |          | 3,083           |
| 9/1/30                          | 3,083     |          | 3,083           |
| 12/1/30                         | 3,083     |          | 3,083           |
| 3/1/31                          | 3,083     |          | 3,083           |
| 6/1/31                          | 3,083     |          | 3,083           |
| 9/1/31                          | 3,083     |          | 3,083           |
| 12/1/31                         | 3,083     |          | 3,083           |
| 3/1/32                          | 3,083     |          | 3,083           |
| 6/1/32                          | 3,083     |          | 3,083           |
| 9/1/32                          | 3,083     |          | 3,083           |
| 12/1/32                         | 3,083     |          | 3,083           |
| 3/1/33                          | 3,083     |          | 3,083           |
| 6/1/33                          | 3,083     |          | 3,083           |
| 9/1/33                          | 3,083     |          | 3,083           |
| 12/1/33                         | 3,083     |          | 3,083           |
| 3/1/34                          | 3,083     |          | 3,083           |
| 6/1/34                          | 3,083     |          | 3,083           |
| 9/1/34                          | 3,083     |          | 3,083           |
| 12/1/34                         | 3,083     |          | 3,083           |

| Whitmer Water Association, Inc. |                |          |                |
|---------------------------------|----------------|----------|----------------|
| 0% Interest Rate                |                |          |                |
| 30 Years                        |                |          |                |
| Period Ending                   | Principal      | Interest | Debt Service   |
| 3/1/35                          | 3,083          |          | 3,083          |
| 6/1/35                          | 3,083          |          | 3,083          |
| 9/1/35                          | 3,083          |          | 3,083          |
| 12/1/35                         | 3,083          |          | 3,083          |
| 3/1/36                          | 3,083          |          | 3,083          |
| 6/1/36                          | 3,083          |          | 3,083          |
| 9/1/36                          | 3,083          |          | 3,083          |
| 12/1/36                         | 3,083          |          | 3,083          |
| 3/1/37                          | 3,083          |          | 3,083          |
| 6/1/37                          | 3,083          |          | 3,083          |
| 9/1/37                          | 3,083          |          | 3,083          |
| 12/1/37                         | 3,083          |          | 3,083          |
| 3/1/38                          | 3,083          |          | 3,083          |
| 6/1/38                          | 3,083          |          | 3,083          |
| 9/1/38                          | 3,083          |          | 3,083          |
| 12/1/38                         | 3,083          |          | 3,083          |
| 3/1/39                          | 3,083          |          | 3,083          |
| 6/1/39                          | 3,083          |          | 3,083          |
| 9/1/39                          | 3,083          |          | 3,083          |
| 12/1/39                         | 3,083          |          | 3,083          |
| 3/1/40                          | 3,083          |          | 3,083          |
| 6/1/40                          | 3,083          |          | 3,083          |
| 9/1/40                          | 3,083          |          | 3,083          |
| 12/1/40                         | 3,083          |          | 3,083          |
| 3/1/41                          | 3,083          |          | 3,083          |
| 6/1/41                          | 3,083          |          | 3,083          |
| 9/1/41                          | 3,084          |          | 3,084          |
|                                 | <b>370,000</b> |          | <b>370,000</b> |

| Whitmer Water Association, Inc. |                  |         |                       |
|---------------------------------|------------------|---------|-----------------------|
| 10 Years                        |                  |         |                       |
|                                 | Dated Date       | 1/21/10 |                       |
|                                 | Delivery Date    | 1/21/10 |                       |
| Period Ending                   | Debt Service     |         | Principal Forgiveness |
| 1/21/10                         |                  |         |                       |
| 12/1/11                         | -52,940          |         | -52,940               |
| 3/1/12                          | -52,940          |         | -52,940               |
| 6/1/12                          | -52,940          |         | -52,940               |
| 9/1/12                          | -52,940          |         | -52,940               |
| 12/1/12                         | -52,940          |         | -52,940               |
| 3/1/13                          | -52,940          |         | -52,940               |
| 6/1/13                          | -52,940          |         | -52,940               |
| 9/1/13                          | -52,940          |         | -52,940               |
| 12/1/13                         | -52,940          |         | -52,940               |
| 3/1/14                          | -52,940          |         | -52,940               |
| 6/1/14                          | -52,940          |         | -52,940               |
| 9/1/14                          | -52,940          |         | -52,940               |
| 12/1/14                         | -52,939          |         | -52,939               |
| 3/1/15                          | -52,939          |         | -52,939               |
| 6/1/15                          | -52,939          |         | -52,939               |
| 9/1/15                          | -52,939          |         | -52,939               |
| 12/1/15                         | -52,939          |         | -52,939               |
| 3/1/16                          | -52,939          |         | -52,939               |
| 6/1/16                          | -52,939          |         | -52,939               |
| 9/1/16                          | -52,939          |         | -52,939               |
| 12/1/16                         | -52,939          |         | -52,939               |
| 3/1/17                          | -52,939          |         | -52,939               |
| 6/1/17                          | -52,939          |         | -52,939               |
| 9/1/17                          | -52,939          |         | -52,939               |
| 12/1/17                         | -52,939          |         | -52,939               |
| 3/1/18                          | -52,939          |         | -52,939               |
| 6/1/18                          | -52,939          |         | -52,939               |
| 9/1/18                          | -52,939          |         | -52,939               |
| 12/1/18                         | -52,939          |         | -52,939               |
| 3/1/19                          | -52,939          |         | -52,939               |
| 6/1/19                          | -52,939          |         | -52,939               |
| 9/1/19                          | -52,939          |         | -52,939               |
| 12/1/19                         | -52,939          |         | -52,939               |
| 3/1/20                          | -52,939          |         | -52,939               |
| 6/1/20                          | -52,939          |         | -52,939               |
| 9/1/20                          | -52,939          |         | -52,939               |
| 12/1/20                         | -52,939          |         | -52,939               |
| 3/1/21                          | -52,939          |         | -52,939               |
| 6/1/21                          | -52,939          |         | -52,939               |
| 9/1/21                          | -52,940          |         | -52,940               |
|                                 | <b>2,117,573</b> |         | <b>2,117,573</b>      |





Chase Tower, Eighth Floor  
P.O. Box 1588  
Charleston, WV 25326-1588  
(304) 353-8000 (304) 353-8180 Fax  
www.stepToe-johnson.com

Writer's Contact Information  
(304) 353-8196 - Telephone  
(304) 353-8180 - Facsimile  
John.stump@stepToe-johnson.com

December 28, 2009

Via Hand Delivery

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

Re: Case No.: 09-1099-W-SCN  
**WHITMER WATER ASSOCIATION, INC.**

Application for a certificate of convenience and necessity to construct a new water treatment plant and approximately 49,000 linear feet of 8-inch, 6-inch, 4-inch and 2-inch waterline, a 105,000 gallon water storage tank, a pressure reducing station and radio telemetry to serve approximately 125 existing and new customers.

RECEIVED  
09 DEC 28 PM 2:40  
W VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

Dear Ms. Squire:

Enclosed herein for filing on behalf of Whitmer Water Association, Inc., please find an affidavit by the Association's certified public accountant.

Please file the enclosed affidavit and distribute the additional copies to the appropriate parties at the Commission. Additionally, I ask that you date stamp the file copy provided and return it with our messenger. Thank you in advance for your attention to this matter, and should you have any questions please contact me at (304) 353-8196.

Best Regards,

John C. Stump  
(W. V. State Bar No. 6385)

Enclosures

972490.00001

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

Case No.: 09-1099-W-SCN

WHITMER WATER ASSOCIATION, INC.

Application for a certificate of convenience and necessity to construct a new water treatment plant and approximately 49,000 linear feet of 8-inch, 6-inch, 4-inch and 2-inch waterline, a 105,000 gallon water storage tank, a pressure reducing station and radio telemetry to serve approximately 125 existing and new customers.

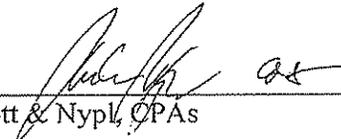
RECEIVED  
09 DEC 28 PM 2:40  
W VA PUBLIC SERVICE COMMISSION SECRETARY'S OFFICE

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

AFFIDAVIT

We, Scott & Nypl, CPAs, after making an oath of affirmation to tell the truth, say that, we have reviewed the Recommended Decision of the Public Service Commission of West Virginia in Case No. 09-1099-PWD-SCN entered October 5, 2009, approving a loan from the Bureau for Public Health Drinking Water Treatment Revolving Fund (the "BPH") in the amount of \$1,895,000 with 100% debt forgiveness and no administrative fee, a BPH loan of \$370,000 at 0% interest for a term of 30 years, and a \$1,070,710 Small Cities Block Grant, and based upon all the information that has been provided to me, to date, I am of the opinion that the rates and charges for the Association (i) are not affected by the revised funding consisting of a loan from the Bureau for Public Health Drinking Water Treatment Revolving Fund (the "BPH") in the amount of \$2,117,573 with 100% debt forgiveness and no administrative fee, a BPH loan of \$370,000 at 0% interest for a term of 30 years, and a \$1,070,710 Small Cities Block Grant; and (ii) will be sufficient to provide revenues which, together with other revenues of the System, will allow me to provide the CPA certification required for the issuance of the Bonds.

This Affidavit is executed on the 23<sup>rd</sup> day of December, 2009.

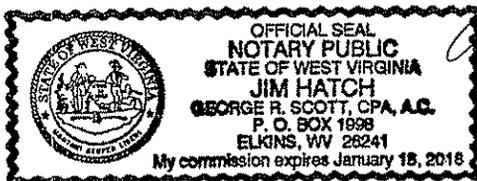
  
\_\_\_\_\_  
Scott & Nypl, CPAs

Taken, subscribed and sworn to before me this 23rd day of December, 2009.

My commission expires January 18, 2018.

  
\_\_\_\_\_  
Notary Public

[SEAL]



PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**FINAL**

10/25/2009

Entered: October 5, 2009

CASE NO. 09-1099-W-SCN

WHITMER WATER ASSOCIATION, INC.

Application for a certificate of convenience and necessity to construct a new water treatment plant and approximately 49,000 linear feet of 8-inch, 6-inch, 4-inch and 2-inch waterline, a 105,000-gallon water storage tank, a pressure-reducing station and radio telemetry to serve approximately 125 existing and new customers.

RECOMMENDED DECISIONPROCEDURE

On July 6, 2009, the Whitmer Water Association, Inc. (Utility), filed an application for a certificate of public convenience and necessity with the Public Service Commission, pursuant to W. Va. Code §24-2-11, for approval of a proposed Project to construct a new water treatment plant and expand the existing water distribution system. The Project consists of the construction of a 50-gpm water treatment plant; approximately 49,000 linear feet of 8-inch, 6-inch, 4-inch and 2-inch water line, one new water storage tank, one new pressure-reducing station and radio telemetry. The instant Project is Phase B of a total Project totaling \$3,765,000. In 2008, the Utility constructed Phase A of its Project, using \$429,290 of a \$1,500,000 Small Cities Block Grant (SCBG), for the replacement of all existing water lines. The funding for Phase B of the Project would consist of the remainder of the SCBG; a West Virginia Infrastructure and Jobs Development Council (IJDC) loan in the amount of \$740,000; and a Water Development Authority (WDA) grant anticipation note (GAN) in the amount of \$1,525,000. The Project will serve approximately 125 existing and new customers in Randolph County. The Utility stated that the certificate should be issued because improved water treatment by a new plant from a new and reliable ground water source will allow existing customers to not have to live under the current continuous "boil water advisory" and new public water service will be made available to outlying residents located near the community of Whitmer, who suffer from an insufficient supply and/or poor quality of water from existing private wells.

Along with the application and a draft Notice of Filing, the Utility submitted a projected Rule 42 Exhibit for the year ending December 31,

2010; a copy of Permit No. 17,426, issued by the Office of Environmental Health Services for the construction of the proposed Project; the Utility's annual report for the year ended December 31, 2008; the signature pages for the 119 existing and new customers who had signed user agreements as of June 24, 2009; the engineering report; and a copy of the construction plans and specifications.

On July 15, 2009, Staff Attorney Wendy Braswell filed the Initial Joint Staff Memorandum, attached to which was the Initial Staff Internal Memorandum prepared by Utilities Analysts Karen Buckley and Pamela Latocha of the Water and Wastewater Division and Jonathan Fowler, P.E., of the Engineering Division. Commission Staff indicated that its investigation was under way and that it needed certain additional information which was specified in the memoranda.

By Commission Referral Order entered on July 21, 2009, this matter was referred to the Division of Administrative Law Judges for a decision to be rendered on or before October 5, 2009.

On July 22, 2009, the Utility filed a revised draft Notice of Filing which reflected a revised funding package. The funding commitment letter for the revised funding was also submitted by the Utility. The revised funding consists of two loans from the West Virginia Bureau for Public Health (PBH) Drinking Water Treatment Revolving Fund, primarily using economic stimulus funds provided under The American Recovery and Reinvestment Act of 2009 (ARRA). Loan A, utilizing ARRA funds, is in the amount of \$1,895,000, with 0% interest and 100% principal forgiveness, resulting in no annual debt service payment for the loan. Loan B, utilizing funds provided by the Drinking Water Treatment Revolving Fund Base Program, is in the amount of \$370,000, again at 0% interest, for a term of 30 years, with an annual debt service payment estimated to be \$12,333, not counting the reserve requirement. The other funding source would still be the remainder of the Small Cities Block Grant.

On July 22, 2009, a Notice of Filing was issued in this matter, incorporating the revised funding package. The Notice of Filing required the Association to publish a copy of said Notice one time in a qualified newspaper, published and of general circulation in Randolph County, making due return to the Commission of proper certification of publication immediately thereafter. Anyone desiring to protest or intervene in the matter was given leave to do so within thirty (30) days of the date of publication. Finally, the Notice provided that, if no substantial protest to the application was filed within the thirty-day period, the Commission could waive formal hearing and grant the application based upon the evidence submitted with the application and the Commission's review thereof.

On September 11, 2009, the Utility filed an affidavit of publication from The Inter-Mountain, a qualified newspaper published and generally circulated in Randolph County, verifying that the Notice of Filing was published in that newspaper on August 13, 2009. The thirty-day protest period expired on September 14, 2009, with no protest having been filed either by that date or as of the date of this Order.

On September 14, 2009, Staff Attorney Braswell filed the Final Joint Staff Memorandum herein, attached to which was the Final Internal

Memorandum prepared by Ms. Buckley, Ms. Latocha and Mr. Fowler. The Whitmer Water Association presently owns and operates a small public water system originally constructed in 1907, serving 35 customers in the Randolph County community of Whitmer. The existing system, which was recently renovated in part, provides service to only the central, most densely populated portion of that community. The outlying rural areas are not served, and the proposed Project will extend service to those areas. The Project has been approved by the IJDC in Project No. 2004W785.

According to the engineering review, the present sources of water consist of two old, natural springs which have been in use for decades; two inadequate, unused wells; and the recently constructed successful well. Although the quantity of raw water available is adequate, after completion of the new well, the water source is high in objectionable contaminants, including iron, manganese and arsenic, and requires treatment if it is to provide potable water of good quality. Currently, the treatment being provided consists of only disinfection with chlorine bleach, without sufficient contact time, and is deemed by the BPH to be inadequate. Accordingly, this water system has been under a "boil water advisory" for over ten years. The BPH has assigned this Project that agency's highest priority for funding with ARRA money.

While the existing water system received some upgrades in 2008, it currently provides a quality of service which is inadequate under either the rules of the BPH or the rules of the Public Service Commission. The water is not properly disinfected and contains low levels of arsenic, and the system is continuously under a "boil water advisory." Further, the aesthetic quality of the water is poor due to secondary contamination from iron and manganese. The level of arsenic, although below the action level now, may require treatment in the future, if the ground water source degrades over time. All of these factors led Commission Staff to the opinion that service is inadequate and that the existing water is not potable, as that term is understood to mean water which is safe and palatable for human consumption. Staff is of the opinion that the Utility is operating in violation of the Commission's Water Rules and the BPH's water quality requirements, as a result of the poor quality of water.

These long-term water quality violations should be corrected by the proposed Project, which involves the construction of a new filtration plant to properly treat and disinfect the water and remove the objectionable secondary contaminants of iron and manganese. The new plant will also allow for removal of the low levels of arsenic present in the source water, if that becomes an issue in the future. The Project will extend water service and provide water for fire protection to approximately 135 new customers in the vicinity of Whitmer, and north and south of that community along the Harman to Whitmer Road, in the communities of Job, Horton and Little Italy. Commission Staff believes that public water service will improve the area's viability for future growth, increase opportunities for development, and improve the quality of life for the system's customers. Accordingly, Staff believes that the Project is necessary.

Phase A of the total improvement and expansion Project for the Utility's system involved the replacement of approximately 5,000 feet of

water mains in the community of Whitmer; installed fire hydrants on the new lines; and installed meters and services for the system's 37 existing customers. The current Project, Phase B, will construct the new water treatment plant, a new storage tank and install approximately 9.2 miles of water line and appurtenances to serve approximately 125 new customers residing in the rural areas outside of Whitmer. The new treatment plant has a design capacity of 50 gallons per minute and will provide for the removal of the iron and manganese present in the groundwater. The plant will contain all of the necessary systems needed for a fully functional treatment plant. The Project also includes the construction of approximately 48,700 feet of various sizes of new water line, including road crossings and stream crossings, as needed. In addition, there will be 32 new water main valves, 14 new fire hydrants, nine new blow-off fixtures, five air release assemblies, four sample taps, one pressure-reducing station and approximately 125 new services/meter settings, with associated utility service lines. The proposed water storage tank will have a nominal capacity of 105,000 gallons, complete with access roadway, concrete foundation, radio telemetry level control system and associated work. Finally, various items of surface and roadway restoration, reseeding, etc., are included.

The Project is presently estimated to cost \$3,765,000, including both phases, with a construction cost estimated at about \$2,963,000. Since Phase A was completed at a total cost of \$429,290, the Phase B cost totals \$3,335,710. However, Staff noted that this Project had not actually been bid, and that the Phase B Project cost is based entirely upon estimated construction costs. Once bids are actually received, it is likely that the Project cost will change. According to Commission Staff, the total cost of engineering services represents approximately 13.7% of the total Project cost, which Staff considered reasonable and within the customary range for recent comparable projects. The estimated construction cost is approximately \$23,704 per customer, which is high, but the cost includes the new long-life treatment facility which should serve the area for decades with little new capital investment. Further, the Project is largely funded by state and federal grants which do not have to be repaid and which is a large factor in favor of the Project. The loan amount per customer is only \$2,960, which is very good in today's project market. The customer density per mile of new water main is approximately 13.6 customers per mile, which is considered to be moderate but acceptable.

The Applicant and its engineer have determined that overall operation and maintenance (O&M) costs for the entire Utility operation, after the Project, will be approximately \$41,000 per year. Commission Staff believes this amount represents a sufficient, but not excessive, O&M cost estimate. However, Staff cautioned that actual O&M expenses could vary either up or down from those estimates, and it recommended that the Utility carefully track the actual costs to operate the Project and be prepared to adjust rates should O&M costs exceed the estimates by a significant margin.

Engineering Staff reviewed the plans and other technical documents provided by the Utility and found no apparent conflicts with the Commission's Rules for the Government of Water Utilities (Water Rules). Engineering Staff recommended contingent approval of the Project, without specifically approving the Project plans and specifications and

contingent upon the Utility's receipt of all necessary federal, state and local permits and approvals for the proposed construction. Copies of the permits and approvals which have not already been filed with the Commission should be filed immediately upon their receipt. Further, construction should not begin until such time as all lands and rights-of way have been obtained and all permits, approvals and clearances and a certificate of convenience and necessity have been issued.

Commission Financial Staff reviewed the proposed funding package for the Project and verified the receipt of the commitment letters. The Utility is proposing to increase rates as a result of the Project. In its filing, the Utility modified its rate structure but did not file a class cost of service study. Accordingly, Staff had no alternative but to recommend an across-the-board increase to rates and charges, using the current rate structure. Commission Staff determined that a 131% increase to rates and charges over current tariff rates would be sufficient to cover the O&M expenses and debt service related to the Project. The Staff-recommended rates result in a minimum bill of \$27.75 based on 3,000 gallons of usage per month, and an average bill of \$41.63 based on 4,500 gallons of usage per month. The Staff-recommended rates should generate annual operating revenues of \$56,203 and provide a surplus of approximately \$248, with debt service coverage of 123.40%. Based on the Staff-recommended rates and the current funding package, Commission Financial Staff concluded that the Project was financially feasible and should be approved. Commission Staff also recommended that the Utility be required to return to the Commission for a general rate review within 18 months of completion of the Project.

In summary, Commission Staff recommended that the proposed certificate be granted; that the proposed funding package be approved; that the Staff-recommended rates and charges, representing the 131% rate increase, be approved; and that various other conditions and requirements regarding the Project be approved.

#### DISCUSSION

The Project at issue herein, in and of itself, is not remarkable and appears to be well-justified. There is more than ample proof of need to support the conclusion that the public convenience and necessity require the Project and that the Project appears to be economically and financially viable, based upon the proposed ARRA funding and the Staff-recommended water rates and charges. This Project is remarkable because it is one of the SCN applications created by the Public Service Commission in General Order No. 182.09, issued on April 16, 2009. In that General Order, the Commission discussed the process to be followed for water and sewer certificate projects that are to be funded with stimulus funds under the ARRA.<sup>1</sup> The Commission noted that the State Bureau for Public Health will have approximately 19.5 million dollars in

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<sup>1</sup>While the availability of ARRA funding has generated a flurry of SCN certificate filings with accelerated timelines, there has been no statutory change in the West Virginia Code to accommodate the ARRA funding. For the purposes of W. Va. Code § 24-2-11, ARRA funding is no different from any other funding.

federal stimulus funds for water projects, while the DEP will have approximately 61 million dollars for sewer projects. Originally, those projects had to be bid by August 2009 and the contracts awarded by October 2009, although it now appears that the projects must be bid by October 2009. The economic stimulus projects are made more complicated by the fact that the funding agencies overseeing the distribution of economic stimulus funds will not be finally awarding those funds through a traditional commitment letter until approximately August or September of 2009. Economic stimulus money is awarded on a "first come, first served" basis and there is no guarantee that any project which received a letter from either DEP or the Bureau for Public Health, indicating that a project was eligible for certain level of ARRA funding, will actually receive the originally specified level of ARRA funding, or any ARRA funding at all.

Traditionally, orders granting certificates of convenience and necessity to public utilities have specifically approved the funding package proposed for the water or sewer project and have required that the public utility file a petition to reopen the proceeding to obtain Commission approval of any changes to project financing only in the event that project costs change and rates are affected, either requiring increases or decreases. That process is being retained in large part for projects using ARRA funds, since that process provides a reasonable, and streamlined, means of addressing the timing problems associated with ARRA projects, i.e., the financing would not be finally committed until sometime in August or September of 2009 and contracts must be awarded soon after. The biggest difference is the approval of project financing that has not been committed. To further accommodate the timing constraints of ARRA, essentially, the determination is being made in advance that any funding package that includes ARRA funds is reasonable, so that changes to an ARRA funding package do not require additional review, unless rates have to be increased.

Despite the ARRA constraints, the Public Service Commission has an obligation with regard to any certificate application, whether it is filed by a private utility, a public service district or a municipality, to insure that the project is economically feasible and financially viable, which includes guaranteeing that there is adequate financing to fund the proposed project. See, Town of Man and Man Water Works, Inc., Case No. 81-433-W-PC, Order Affirming Hearing Examiner's Decision, April 16, 1982, 69 ARPSCWV 1893; Ohio County Public Service District, Case No. 82-482-S-CN, Order Affirming Hearing Examiner's Decision Without Prejudice, April 8, 1983, 70 ARPSCWV 2049. See also, Sexton v. Public Service Commission, 188 W. Va. 305, 423 S.E.2d 914, (1992). Accordingly, the Utility must reopen this proceeding for Commission review and approval of project changes which generate rate changes, with the clarification that this requirement will apply only to rate increases. Further, it is reasonable to include an ordering paragraph prohibiting the Utility from commencing construction, unless it has secured adequate funding to cover all project costs, as those costs have been determined upon the conclusion of the bidding process and after bids have been awarded for all of the construction contracts associated with the project, and to file that information with the Commission. The Utility will be required to file with the Commission a letter detailing the final funding package for this Project upon that information being known, along with the bid tabulations for each construction contract to be awarded for

the Project. Those filings should be made as closed entries and should not be treated as petitions to reopen.

In the event that, after the filing of the letter by the Utility providing the details of the finalized funding package for the certificated Project, Commission Staff concludes, based upon its own independent analysis, that either the specified funding package or the rates are insufficient to cover all project costs, it will be the obligation of Commission Staff to petition the Public Service Commission to reopen the certificate proceeding for the purpose of reviewing the financial viability of the certificated Project.

As with all certificate applications filed with the Commission, in the event that the project scope changes, or changes in project cost and/or financing require a further rate increase, or if the Utility ultimately receives no ARRA funding, the Utility will be required to file a petition to reopen this matter, to allow the Commission to assess the nature of the project changes, both to determine if they are adequately funded and to determine if those changes are appropriate and not in conflict with any state laws or Commission rules, and to insure that funding package and associated rates support the economic feasibility and financial viability of the Project.

#### FINDINGS OF FACT

1. On June 26, 2009, the Whitmer Water Association, Inc., filed an application with the Public Service Commission for a certificate of public convenience and necessity for a project to construct a new water treatment facility, a storage tank and other appurtenances and to extend its lines approximately 9.2 miles to serve 125 new customers. The Project has been approved by the IJDC. (See, application filed July 6, 2009; Final Joint Staff Memorandum and attachment filed September 14, 2009).

2. By Notice of Filing Order entered on July 22, 2009, the Whitmer Water Association, Inc., was required to publish a Notice of Filing one time in a newspaper, published and generally circulated in Randolph County, providing anyone affected by the application thirty (30) days in which to file written protests with the Public Service Commission. No protests were filed within the thirty-day protest period or as of the date of this Order. (See, Notice of Filing Order entered July 22, 2009; affidavit of publication filed September 11, 2009; case file generally).

3. The Utility has received a letter from the West Virginia Department of Environmental Protection, informing it that the Project is eligible to be considered for an award of economic stimulus funds, under The American Recovery and Reinvestment Act of 2009, with said funding to be in the form of a \$1,895,000 loan, with 100% debt forgiveness and no annual administrative fee. There will also be a non-ARRA BPH loan in the amount of \$370,000 at 0% interest and a 30-year term. Additional funding consists of \$1,070,710 remaining from a Small Cities Block Grant in the amount of \$1,500,000. (See, DEP letter dated July 15, 2009, filed July 22, 2009).

4. The Project will require a significant rate increase of approximately 131%. Based upon the Staff-recommended rates, at project completion, the Utility should experience a cash flow surplus of \$248, with debt service coverage of 123.40%. (See, Final Joint Staff Memorandum and attachment filed September 14, 2009).

5. Commission Technical Staff has reviewed the original plans and specifications for the Project and has concluded that there are no conflicts with the Commission's Water Rules concerning engineering requirements. (See, Final Joint Staff Memorandum and attachment filed September 14, 2009).

6. The Utility's raw water source is high in objectionable contaminants such as iron, manganese and arsenic and requires treatment in order to provide potable water of good quality. Because of inadequate treatment (consisting of the addition of chlorine bleach), the system has been under a "boil water advisory" issued by the Bureau for Public Health for over ten (10) years. Commission Staff is of the opinion that the water is not potable, i.e., safe and palatable for human consumption. The proposed filtration plant will correct these deficiencies. The Project also will extend service and fire protection to approximately 135 new customers in the vicinity of Whitmer and along the Harman to Whitmer Road, north and south, to the communities of Job, Horton and Little Italy. (See, Final Joint Staff Memorandum and attachment filed September 14, 2009).

7. After concluding its review, Commission Staff recommended that a certificate of convenience and necessity be granted to the Whitmer Water Association, Inc., that the proposed ARRA financing be approved, that the Staff-recommended rates be approved and that various other conditions with regard to certification of the Project be adopted. (See, Final Joint Staff Memorandum and attachment filed September 14, 2009).

#### CONCLUSIONS OF LAW

1. The Public Service Commission is empowered to require all public utilities to demonstrate that a proposed water or sewer project is economically feasible and financially viable by demonstrating that they have secured adequate funding to cover all project costs, as those project costs are determined to be at the conclusion of the bidding process, and that the resulting rates are just, reasonable, applied without unjust discrimination or preference and based primarily on the cost of providing service. See, W. Va. Code §24-2-4b; State ex. rel. Public Service Commission v. Town of Fayetteville, 212 W. Va. 427, 573 S.E.2d 338 (2002); Town of Man and Man Water Works, Inc., Case No. 81-433-W-PC, Order Affirming Hearing Examiner's Decision, April 16, 1982, 69 ARPSCWV 1893; Ohio County Public Service Commission, Case No. 82-482-S-CN, Order Affirming Hearing Examiner's Decision Without Prejudice, April 8, 1983, 70 ARPSCWV 2049. See also, Sexton v. Public Service Commission, 188 W. Va. 305, 423 S.E.2d 914, (1992).

2. In order to accommodate the unique timing issues involving the economic stimulus funds provided under The American Recovery and Reinvestment Act of 2009, and recognizing that these funds are available for a short period on a one-time-only basis, it is reasonable to modify

some of the Commission's traditional requirements regarding certificate applications, as set forth in the ordering paragraphs of this decision.

3. The public convenience and necessity require the proposed project.

4. The Staff-recommended rates and charges appear to be sufficient to cover all project-related costs, as well as the Utility's going-level operation and maintenance expenses.

5. The proposed funding package for the project, consisting of the BPH loan of ARRA funds in the amount of \$1,895,000, with 100% debt forgiveness and no annual administrative fee, the regular BPH loan of \$370,000 at 0% for 30 years, and the SCBG funds in the amount of \$1,070,710, is reasonable and is sufficient to cover the cost of the project, at its current cost estimates.

6. Because ARRA funds represent an additional one-time infusion of capital for West Virginia water and sewer projects, with extremely favorable terms, it is reasonable to conclude that any funding package which includes ARRA funds is convenient to the public, without further review, as long as rates do not have to be increased to support funding revisions made after a certificate is granted.

7. A certificate of convenience and necessity should be granted to the Whitmer Water Association, Inc., for the project specified herein, without specifically approving the project's plans and specifications.

#### ORDER

IT IS, THEREFORE, ORDERED that the application filed by the Whitmer Water Association, Inc., on July 6, 2009, for a certificate of convenience and necessity to construct a new water treatment facility, a water storage tank and approximately 9.2 miles of new water line, all as more particularly described in the plans and specifications filed with the application, at a total cost of approximately \$3,335,710, be, and it hereby is, granted, without specifically approving the plans and specifications filed herein.

IT IS FURTHER ORDERED that the proposed project financing package, consisting of a loan from the Bureau for Public Health in the amount of \$1,895,000, with 100% debt forgiveness and no annual administrative fee, using funds provided by The American Recovery and Reinvestment Act of 2009, a BPH loan of \$370,000, at 0% interest for 30 years, and remaining Small Cities Block Grant funds of \$1,070,710, be, and it hereby is, approved. Upon finalization of the funding package, the Whitmer Water Association, Inc., shall file a letter with the Commission detailing the specifics of that funding package, including the terms and conditions of any loans awarded. If the funding package is revised, but still includes ARRA funds, the Utility is not required to petition the Commission for approval of that revised project financing, as long as the revised ARRA funding package does not require an additional rate increase. It will be sufficient for the Utility to file the revised funding commitment documentation, along with a certification from its certified public accountant or bond counsel that the revised funding package is adequate.

to cover all project costs and will not require any additional rate increase.

IT IS FURTHER ORDERED that the Staff-recommended rates and charges, attached hereto as Appendix A, be, and hereby are, approved, to become effective for all service rendered on and after the date the project is certified as substantially complete.

IT IS FURTHER ORDERED that, within thirty (30) days of the project being certified as substantially complete, Whitmer Water Association, Inc., file an original and at least five (5) copies of a proper tariff setting forth the rates and charges hereby approved.

IT IS FURTHER ORDERED that, if the project scope changes, if project costs or financing require a further rate increase, or if, ultimately, the Whitmer Water Association, Inc., does not receive any ARRA funding, the Whitmer Water Association, Inc., petition the Commission for approval of such change(s) prior to commencing construction.

IT IS FURTHER ORDERED that, if due to project cost or funding revisions, the rates approved herein are excessive and need to be decreased, Whitmer Water Association, Inc., must notify the Commission through the filing of a letter detailing the funding and/or cost revisions and estimating the rate decrease needed, upon the funding package being finalized, along with copies of the final funding commitment documentation. The Utility must petition the Commission for review and approval of those changes and obtain Commission approval of revised decreased rates prior to rates becoming effective upon substantial completion of the project.

IT IS FURTHER ORDERED that the Whitmer Water Association, Inc., cannot proceed to construction unless and until it has received and filed all required federal, state and local permits, and unless the finally-awarded ARRA funding package is adequate to cover all project costs, as determined at the conclusion of the bidding process with a bid awarded for each construction contract or vendor contract for the project.

IT IS FURTHER ORDERED that the Whitmer Water Association, Inc., provide a copy of the engineer's certified tabulation of bids, within ten (10) days of the bid opening date, for each construction contract or vendor contract to be awarded for this project.

IT IS FURTHER ORDERED that the Whitmer Water Association, Inc., provide a copy of the certification of substantial completion for each contract associated with this project, within ten (10) days of issuance.

IT IS FURTHER ORDERED that, if this Project requires the use of Division of Highways' rights-of-way, the Whitmer Water Association, Inc., comply with all rules and regulations of the Division of Highways regarding the use of those rights-of-way.

IT IS FURTHER ORDERED that the Whitmer Water Association, Inc., petition the Commission for a rate review eighteen months after operating the Project at the approved rates.

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

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

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

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

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's order by filing an appropriate petition in writing with the Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.



Melissa K. Marland  
Chief Administrative Law Judge

MKM:cdk  
091099a.wpd

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

CASE NO. 09-1099-W-SCN

WHITMER WATER ASSOCIATION, INC.

Application for a certificate of convenience and necessity to construct a new water treatment plant and approximately 49,000 linear feet of 8-inch, 6-inch, 4-inch and 2-inch waterline, a 105,000-gallon water storage tank, a pressure-reducing station and radio telemetry to serve approximately 125 existing and new customers.

APPROVED RATES

APPLICABILITY

Applicable within the entire territory served

AVAILABILITY

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

RATES (customers with metered water supply)

|                                    |                          |
|------------------------------------|--------------------------|
| First 3,000 gallons used per month | \$9.25 per 1,000 gallons |
| Over 3,000 gallons used per month  | \$9.25 per 1,000 gallons |

MINIMUM CHARGE

No bill will be rendered for less than \$27.75 per month.

TAP FEE

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

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

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

RECONNECTION

\$20.00

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

DELAYED PAYMENT PENALTY

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

RETURNED CHECK CHARGE

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

# West Virginia Infrastructure & Jobs Development Council

## Public Members:

Mark Prince, Chairman  
Hurricane  
Dwight Calhoun, Vice Chairman  
Petersburg  
C. R. "Rennie" Hill, III  
Beckley  
Tim Stranko  
Morgantown

300 Summers Street, Suite 9  
Charleston, West Virginia 25301  
Telephone: (304) 558-4600  
Facsimile: (304) 558-4600

Katy Mallory, P  
Executive Secretary

Katy.Mallory@verizon.net

February 2, 2005

Paula Teter, President  
Whitmer Water Association, Inc.  
P.O. Box 23  
Whitmer, West Virginia 26296

Re: Whitmer Water Association, Inc.  
Water Project 2004W-785

Dear Ms. Teter:

The West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") has reviewed the Whitmer Water Association's (the "Association") revised preliminary application to construct a new water treatment and distribution system to serve 207 customers (the "Project").

Based on the findings of the Water Technical Review Committee, the Infrastructure Council has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The Association should carefully review the enclosed comments of the Water Technical Review Committee as the Association may need to address certain issues raised in said comments as it proceeds with the Project.

Upon consideration of the revised preliminary application, the Infrastructure Council recommends that the Association pursue a \$1,500,000 Small Cities Block Grant to fund this project. Please contact the WV Development Office at 558-4010 for specific information on the steps the District needs to follow to apply for these funds. Please note that this letter does not constitute funding approval from this agency.

The Infrastructure Council also determined the Association may be eligible for a \$1,000,000 Infrastructure Fund loan and a \$742,000 Infrastructure Fund grant pending the District's readiness to proceed and availability of funds. This letter is not a commitment letter of Infrastructure Funds. The Project will be placed on the Infrastructure Council's pending list of projects.

If you have any questions regarding this matter, please contact Katy Mallory at 558-4607.

Sincerely,



Mark Prince

## Enclosure

cc: Walt Ivey, BPH (w/o enclosure)  
Debbie Legg, WVDO (w/o enclosure)  
Region VII Planning & Development Council  
Trey Hornor, P.E., Hornor Brothers Engineers

Copy True

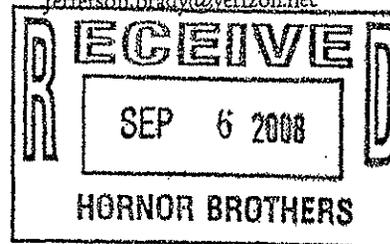
# West Virginia Infrastructure & Jobs Development Council

Public Members:  
Kenneth Lowe, Jr.  
Shepherdstown  
Dwight Calhoun  
Petersburg  
Dave McComas  
Prichard  
Ron Justice  
Morgantown

300 Summers Street, Suite 980  
Charleston, West Virginia 25301  
Telephonic: (304) 558-4607  
Facsimile: (304) 558-4609

Jefferson E. Brady, PE  
Executive Director

Jefferson.Brady@verizon.net



September 4, 2008

Paula Teter, President  
Whitmer Water Association, Inc.  
P.O. Box 23  
Whitmer, West Virginia 26296

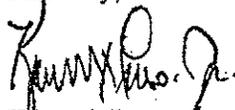
Re: Whitmer Water Association, Inc.  
Water Project 2004W-785

Dear Ms. Teter:

The West Virginia Infrastructure and Jobs Development Council, at its September 3, 2008 meeting, determined that the Whitmer Water Association, Inc. (the "Association") should utilize a \$1,500,000 Small Cities Block Grant, pursue a \$1,525,000 Water Development Authority Grant Anticipation Note and voted to offer a binding commitment for an Infrastructure Fund loan (0%, 40 years) of \$740,000 to finance this \$3,765,000 project. This project consists of constructing a new water treatment and distribution system.

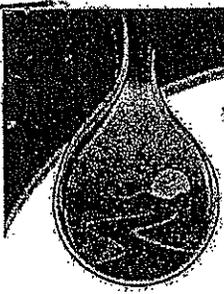
In order to receive the proposed binding commitment the Association must adhere to a certain project schedule. Please contact Jeff Brady at (304) 558-4607 by **October 31, 2008** to establish the necessary schedule and finalize the proposed binding commitment.

Sincerely,

  
Kenneth Lowe, Jr.

Enclosure

- cc: Bob DeCrease, P.E., DEP (w/o enclosure) (via e-mail)
- Debbie Legg, WVDO (w/o enclosure) (via e-mail)
- Chris Jarrett, WDA (w/o enclosure) (via e-mail)
- Region VII Planning & Development Council
- Trey Hornor, P.E., Hornor Brothers Engineers



# WEST VIRGINIA

Infrastructure & Jobs Development Council

Gov. Joe Manchin, III  
Chairman

October 17, 2008

Kenneth Lowe, Jr.  
Public Member

Paula Teter, President  
Whitmer Water Association, Inc.  
P.O. Box 23  
Whitmer, WV 26296

Dwight Calhoun  
Public Member

David "Bones" McComas  
Public Member

Re: 2004W-785 Binding Commitment  
(Action Required by November 31, 2008)

Ron Justice  
Public Member

Dear Ms. Teter:

Jefferson E. Brady, P.E.  
Executive Director

The West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") provides this binding offer of an Infrastructure Fund loan of approximately \$740,000 (the "Loan") to the Whitmer Water Association, Inc. (the "Association") for the above referenced water project (the "Project"). The Loan will be subject to the terms set forth on Schedule A attached hereto and incorporated herein by reference. The final Loan amount will be established after the Association has received acceptable bids for the Project. The Infrastructure Council will set aside a portion of the Infrastructure Fund to make the Loan upon the Association's compliance with the program requirements.

Barbara J. Pauley  
Administrative Secretary

This commitment is contingent upon the Project meeting the following schedule:

- A. File a Certificate Case with the Public Service Commission no later than December 30, 2008.
- B. Prepare and submit the title opinion no later than July 1, 2009.
- C. Advertise for bids no later than July 1, 2009.

~~(The Association must receive authority from the Infrastructure Council before bidding the project. A pre-bid check is attached.)~~

The Infrastructure Council reserves the right to withdraw this Loan commitment if any of the above schedule dates are not met. The Infrastructure Council may, when justifiable circumstances occur, offer to modify the schedule. Any decision to modify the schedule is at the sole discretion of the Infrastructure Council.

If the Association becomes aware that it will not meet one or more of the above schedule dates, the Association should immediately notify the Infrastructure Council of this fact and the circumstances which have caused or will cause the Association to be unable to meet the schedule. In addition, please immediately notify the Infrastructure Council if any of the other dates on the attached schedule have or will not be met.

The Infrastructure Council will enter into loan agreement with the Association following receipt of the completed Schedule B, a final, nonappealable order from the Public Service Commission authorizing construction of the Project, evidence of binding commitments for other funding, evidence of all permits, evidence of acceptable bids, and any other documents requested by the Infrastructure Council.

No statements or representations made before or after the issuance of this contingent commitment by any person, member of the Infrastructure Council, or agent or employee of the Authority shall be construed as approval to alter or amend this commitment, as all such amendments or alterations shall only be made in writing after approval of the Infrastructure Council.

If the Association has any questions regarding this commitment, please contact Jeff Brady at the above-referenced telephone number.

Sincerely,



Kenneth Lowe, Jr.

Attachments

cc: Trey Homer, P.E. (via e-mail)  
Robert Decrease, P.E., BPH (via e-mail)  
Rosemary Wagner, Region VII (via e-mail)

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

Whitmer Water Association Inc.

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

WEST VIRGINIA INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL

Whitmer Water Association Inc.  
Water Project 2004W-785  
October 17, 2008

SCHEDULE A

- A. Approximate Amount: \$ 740,000 Loan
- B. Loan: \$ 740,000
1. Maturity Date: 40 years from date of closing.
  2. Interest Rate: 0%
  3. Loan Advancement Date(s): Monthly, upon receipt of proper requisition
  4. Debt Service Commencement: The first quarter following completion of construction, which date must be identified prior to closing.
  5. Special Conditions: None
- NOTICE: The terms set forth above are subject to change following the receipt of construction bids.
- C. Other Funding Sources:
1. WDA Grant Anticipation Note \$1,525,000
  2. SCBG \$1,500,000
- D. Total Project Cost: \$ 3,765,000

WHITMER WATER ASSOCIATION, INC.

Water Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Water Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

On this 21st day of January, 2010, the undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, and the undersigned President of Whitmer Water Association, Inc. (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the 21<sup>st</sup> day of January, 2010, the Authority received the Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), of the Issuer, in the principal amount of \$370,000, numbered AR-1 (the "Series 2010 A Bonds"), and the Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), of the Issuer, in the principal amount of \$2,117,573, numbered BR-1 (the "Series 2010 B Bonds"), both issued as a single, fully registered Bond, and both dated January 21, 2010.

2. At the time of such receipt, all the Series 2010 A Bonds and the Series 2010 B Bonds had been executed by the President and the Secretary of the Issuer by their respective manual signatures, and the official seal of the Issuer had been affixed upon the Bonds.

3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series 2010 A Bonds, of the sum of \$62,200, being a portion of the principal amount of the Series 2010 A Bonds. The balance of the principal amount of the Series 2010 A Bonds will be advanced by the Authority and the West Virginia Bureau for Public Health to the Issuer as acquisition and construction of the Project progresses.

4. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series 2010 B Bonds, of the sum of \$-0-, being a portion of the principal amount of the Series 2010 B Bonds. The balance of the principal amount of the Series 2010 B Bonds will be advanced by the Authority and the West Virginia Bureau for Public Health to the Issuer as acquisition and construction of the Project progresses.

WITNESS our respective signatures as of the date first written above.

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

By: Carol A. Cummings  
Its: Authorized Representative

WHITMER WATER ASSOCIATION, INC.

By: Paula J. Lites  
Its: President

12.17.09  
972490.00001

WHITMER WATER ASSOCIATION, INC.

Water Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Water Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

The Huntington National Bank,  
as Bond Registrar  
Charleston, West Virginia

Ladies and Gentlemen:

On this 21st day of January, 2010, there are delivered to you herewith:

- (1) Bond No. AR-1, constituting the entire original issue of Whitmer Water Association, Inc. Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), in the principal amount of \$370,000 (the "Series 2010 A Bonds"), and Bond No. BR-1, constituting the entire original issue of Whitmer Water Association, Inc. Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), in the principal amount of \$2,117,573 (the "Series 2010 B Bonds"), both dated January 21, 2010 (collectively, the "Bonds"), executed by the President and the Secretary of Whitmer Water Association, Inc. (the "Issuer") and bearing the official seal of the Issuer, respectively authorized to be issued under and pursuant to a Bond Resolution duly enacted by the Issuer on January 12, 2010, and a Supplemental Resolution duly adopted by the Issuer on January 12, 2010 (collectively, the "Bond Legislation");
- (2) A copy of the Bond Legislation authorizing the above-described Bonds, duly certified by the Secretary of the Issuer;
- (3) Executed counterparts of the ARRA Assistance Agreement for the Series 2010 A Bonds and Series 2010 B Bonds, dated January 21, 2010, by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health, (the "ARRA Assistance Agreement");
- (4) A copy of the executed Credit Line Deed of Trust, Security Agreement and Fixture Filing;
- (5) A copy of the executed Security Agreement; and

(6) Executed opinions of nationally recognized bond counsel regarding the validity of the ARRA Assistance Agreement and the Bonds.

You are hereby requested and authorized to deliver the Series 2010 A Bonds to the Authority upon payment to the Issuer of the sum of \$62,200, representing a portion of the principal amount of the Series 2010 A Bonds. You are also hereby requested and authorized to deliver the Series 2010 B Bonds to the Authority upon payment to the Issuer of the sum of \$-0-, of the principal amount of the Series 2010 B Bonds. Prior to such delivery of the Bonds, you will please cause the Bonds to be authenticated and registered by an authorized officer, as Bond Registrar, in accordance with the form of Certificate of Authentication and Registration thereon.

[Remainder of Page Intentionally Blank]

Dated as of the day and year first stated above.

WHITMER WATER ASSOCIATION, INC.

By: Paula J. Leter  
Its: President

12.17.09  
972490.00001

CH5274185

# SPECIMEN

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
WHITMER WATER ASSOCIATION, INC.  
WATER REVENUE BOND, SERIES 2010 A  
(WEST VIRGINIA DWTRF PROGRAM)

No. AR-1

\$370,000

KNOW ALL MEN BY THESE PRESENTS: That on this day 21st of January, 2010, WHITMER WATER ASSOCIATION, INC., a West Virginia non-profit corporation in Randolph County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of THREE HUNDRED SEVENTY THOUSAND DOLLARS (\$370,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2011 to and including September 1, 2041 as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The Series 2010 A Bonds are not subject to the Administrative Fee.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated January 21, 2010.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing waterworks system of the Issuer (the "Project"); and (ii) to pay costs of issuance for the Bonds of this Series (the "Bonds") and related costs. The existing public waterworks system of the Issuer, the Project and any further extensions, additions, betterments and improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 31E, Article 1 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Resolution

duly adopted by the Issuer on January 12, 2010, and a Supplemental Resolution duly adopted by the Issuer on January 12, 2010 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA DWTRF PROGRAM/ARRA), DATED JANUARY 21, 2010, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,117,573 (THE "SERIES 2010 B BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues to be derived from the operation of the System, the Deed of Trust and the Security Agreement (all as defined in the Bond Legislation) on a parity with the pledge of Net Revenues in favor of the holders of the Series 2010 B Bonds and from monies in the reserve account created under the Bond Legislation for the Bonds (the "Series 2010 A Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2010 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, and the Series 2010 B Bonds; provided however, that so long as there exists in the Series 2010 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, and the Series 2010 B Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of The Huntington

National Bank, Charleston, West Virginia (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

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

{Remainder of Page Intentionally Blank}

IN WITNESS WHEREOF, WHITMER WATER ASSOCIATION, INC.  
has caused this Bond to be signed by its President and its corporate seal to be hereunto  
affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first  
written above.

[SEAL]

*Paula J. Leter*  
\_\_\_\_\_  
President

ATTEST:

*Susan Lynn Lemington*  
\_\_\_\_\_  
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2010 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: January 21, 2010.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

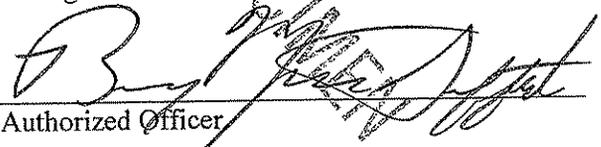
  
Authorized Officer

EXHIBIT A  
RECORD OF ADVANCES

| AMOUNT       | DATE             | AMOUNT | DATE |
|--------------|------------------|--------|------|
| (1) \$62,200 | January 21, 2010 | (19)   |      |
| (2)          |                  | (20)   |      |
| (3)          |                  | (21)   |      |
| (4)          |                  | (22)   |      |
| (5)          |                  | (23)   |      |
| (6)          |                  | (24)   |      |
| (7)          |                  | (25)   |      |
| (8)          |                  | (26)   |      |
| (9)          |                  | (27)   |      |
| (10)         |                  | (28)   |      |
| (11)         |                  | (29)   |      |
| (12)         |                  | (30)   |      |
| (13)         |                  | (31)   |      |
| (14)         |                  | (32)   |      |
| (15)         |                  | (33)   |      |
| (16)         |                  | (34)   |      |
| (17)         |                  | (35)   |      |
| (18)         |                  | (36)   |      |

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

EXHIBIT B

DEBT SERVICE SCHEDULE

**BOND DEBT SERVICE**  
 Whitmer Water Association, Inc.  
 0% Interest Rate  
 30 Years

Dated Date 1/21/2010  
 Delivery  
 Date 1/21/2010

| Period<br>Ending | Principal | Interest Debt Service |
|------------------|-----------|-----------------------|
| 1/21/2010        |           |                       |
| 12/1/2011        | 3,084     | 3,084                 |
| 3/1/2012         | 3,084     | 3,084                 |
| 6/1/2012         | 3,084     | 3,084                 |
| 9/1/2012         | 3,084     | 3,084                 |
| 12/1/2012        | 3,084     | 3,084                 |
| 3/1/2013         | 3,084     | 3,084                 |
| 6/1/2013         | 3,084     | 3,084                 |
| 9/1/2013         | 3,084     | 3,084                 |
| 12/1/2013        | 3,084     | 3,084                 |
| 3/1/2014         | 3,084     | 3,084                 |
| 6/1/2014         | 3,084     | 3,084                 |
| 9/1/2014         | 3,084     | 3,084                 |
| 12/1/2014        | 3,084     | 3,084                 |
| 3/1/2015         | 3,084     | 3,084                 |
| 6/1/2015         | 3,084     | 3,084                 |
| 9/1/2015         | 3,084     | 3,084                 |
| 12/1/2015        | 3,084     | 3,084                 |
| 3/1/2016         | 3,084     | 3,084                 |
| 6/1/2016         | 3,084     | 3,084                 |
| 9/1/2016         | 3,084     | 3,084                 |
| 12/1/2016        | 3,084     | 3,084                 |
| 3/1/2017         | 3,084     | 3,084                 |
| 6/1/2017         | 3,084     | 3,084                 |
| 9/1/2017         | 3,084     | 3,084                 |
| 12/1/2017        | 3,084     | 3,084                 |
| 3/1/2018         | 3,084     | 3,084                 |
| 6/1/2018         | 3,084     | 3,084                 |
| 9/1/2018         | 3,084     | 3,084                 |
| 12/1/2018        | 3,084     | 3,084                 |
| 3/1/2019         | 3,084     | 3,084                 |
| 6/1/2019         | 3,084     | 3,084                 |
| 9/1/2019         | 3,084     | 3,084                 |
| 12/1/2019        | 3,084     | 3,084                 |
| 3/1/2020         | 3,084     | 3,084                 |
| 6/1/2020         | 3,084     | 3,084                 |
| 9/1/2020         | 3,084     | 3,084                 |
| 12/1/2020        | 3,084     | 3,084                 |
| 3/1/2021         | 3,084     | 3,084                 |
| 6/1/2021         | 3,084     | 3,084                 |
| 9/1/2021         | 3,083     | 3,083                 |
| 12/1/2021        | 3,083     | 3,083                 |
| 3/1/2022         | 3,083     | 3,083                 |
| 6/1/2022         | 3,083     | 3,083                 |
| 9/1/2022         | 3,083     | 3,083                 |

**BOND DEBT SERVICE**  
Whitmer Water Association, Inc.  
0% Interest Rate  
30 Years

| Period<br>Ending | Principal | Interest | Debt Service |
|------------------|-----------|----------|--------------|
| 12/1/2022        | 3,083     |          | 3,083        |
| 3/1/2023         | 3,083     |          | 3,083        |
| 6/1/2023         | 3,083     |          | 3,083        |
| 9/1/2023         | 3,083     |          | 3,083        |
| 12/1/2023        | 3,083     |          | 3,083        |
| 3/1/2024         | 3,083     |          | 3,083        |
| 6/1/2024         | 3,083     |          | 3,083        |
| 9/1/2024         | 3,083     |          | 3,083        |
| 12/1/2024        | 3,083     |          | 3,083        |
| 3/1/2025         | 3,083     |          | 3,083        |
| 6/1/2025         | 3,083     |          | 3,083        |
| 9/1/2025         | 3,083     |          | 3,083        |
| 12/1/2025        | 3,083     |          | 3,083        |
| 3/1/2026         | 3,083     |          | 3,083        |
| 6/1/2026         | 3,083     |          | 3,083        |
| 9/1/2026         | 3,083     |          | 3,083        |
| 12/1/2026        | 3,083     |          | 3,083        |
| 3/1/2027         | 3,083     |          | 3,083        |
| 6/1/2027         | 3,083     |          | 3,083        |
| 9/1/2027         | 3,083     |          | 3,083        |
| 12/1/2027        | 3,083     |          | 3,083        |
| 3/1/2028         | 3,083     |          | 3,083        |
| 6/1/2028         | 3,083     |          | 3,083        |
| 9/1/2028         | 3,083     |          | 3,083        |
| 12/1/2028        | 3,083     |          | 3,083        |
| 3/1/2029         | 3,083     |          | 3,083        |
| 6/1/2029         | 3,083     |          | 3,083        |
| 9/1/2029         | 3,083     |          | 3,083        |
| 12/1/2029        | 3,083     |          | 3,083        |
| 3/1/2030         | 3,083     |          | 3,083        |
| 6/1/2030         | 3,083     |          | 3,083        |
| 9/1/2030         | 3,083     |          | 3,083        |
| 12/1/2030        | 3,083     |          | 3,083        |
| 3/1/2031         | 3,083     |          | 3,083        |
| 6/1/2031         | 3,083     |          | 3,083        |
| 9/1/2031         | 3,083     |          | 3,083        |
| 12/1/2031        | 3,083     |          | 3,083        |
| 3/1/2032         | 3,083     |          | 3,083        |
| 6/1/2032         | 3,083     |          | 3,083        |
| 9/1/2032         | 3,083     |          | 3,083        |
| 12/1/2032        | 3,083     |          | 3,083        |
| 3/1/2033         | 3,083     |          | 3,083        |
| 6/1/2033         | 3,083     |          | 3,083        |
| 9/1/2033         | 3,083     |          | 3,083        |
| 12/1/2033        | 3,083     |          | 3,083        |
| 3/1/2034         | 3,083     |          | 3,083        |
| 6/1/2034         | 3,083     |          | 3,083        |
| 9/1/2034         | 3,083     |          | 3,083        |
| 12/1/2034        | 3,083     |          | 3,083        |

**BOND DEBT SERVICE**  
Whitmer Water Association, Inc.  
0% Interest Rate  
30 Years

| Period<br>Ending | Principal      | Interest | Debt Service   |
|------------------|----------------|----------|----------------|
| 3/1/2035         | 3,083          |          | 3,083          |
| 6/1/2035         | 3,083          |          | 3,083          |
| 9/1/2035         | 3,083          |          | 3,083          |
| 12/1/2035        | 3,083          |          | 3,083          |
| 3/1/2036         | 3,083          |          | 3,083          |
| 6/1/2036         | 3,083          |          | 3,083          |
| 9/1/2036         | 3,083          |          | 3,083          |
| 12/1/2036        | 3,083          |          | 3,083          |
| 3/1/2037         | 3,083          |          | 3,083          |
| 6/1/2037         | 3,083          |          | 3,083          |
| 9/1/2037         | 3,083          |          | 3,083          |
| 12/1/2037        | 3,083          |          | 3,083          |
| 3/1/2038         | 3,083          |          | 3,083          |
| 6/1/2038         | 3,083          |          | 3,083          |
| 9/1/2038         | 3,083          |          | 3,083          |
| 12/1/2038        | 3,083          |          | 3,083          |
| 3/1/2039         | 3,083          |          | 3,083          |
| 6/1/2039         | 3,083          |          | 3,083          |
| 9/1/2039         | 3,083          |          | 3,083          |
| 12/1/2039        | 3,083          |          | 3,083          |
| 3/1/2040         | 3,083          |          | 3,083          |
| 6/1/2040         | 3,083          |          | 3,083          |
| 9/1/2040         | 3,083          |          | 3,083          |
| 12/1/2040        | 3,083          |          | 3,083          |
| 3/1/2041         | 3,083          |          | 3,083          |
| 6/1/2041         | 3,083          |          | 3,083          |
| 9/1/2041         | 3,084          |          | 3,084          |
|                  | <b>370,000</b> |          | <b>370,000</b> |

(Form of)

ASSIGNMENT

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

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

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

# SPECIMEN

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
WHITMER WATER ASSOCIATION, INC.  
WATER REVENUE BONDS, SERIES 2010 B  
(WEST VIRGINIA DWTRF PROGRAM/ARRA)

No. BR-1

\$2,117,573

KNOW ALL MEN BY THESE PRESENTS: That on this 21st day of January, 2010, WHITMER WATER ASSOCIATION, INC., a West Virginia non-profit corporation in Randolph County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of TWO MILLION ONE HUNDRED SEVENTEEN THOUSAND FIVE HUNDRED SEVENTY THREE DOLLARS (\$2,117,573), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year commencing December 1, 2011 to and including September 1, 2021 as set forth in the Debt Service Schedule attached as EXHIBIT B hereto and incorporated herein by reference. The Series 2010 B Bonds are not subject to the Administrative Fee (as defined in the hereinafter described Bond Legislation).

This Bond shall bear no interest. Principal installments of this Bond are forgivable quarterly as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated January 21, 2010.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance for the Bonds of this Series (the "Bonds") and related costs. The existing public waterworks system of the Issuer, the Project and any further extensions, additions, betterments and improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 31E, Article 1 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Resolution

duly adopted by the Issuer on January 12, 2010, and a Supplemental Resolution duly adopted by the Issuer on January 12, 2010 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA DWTRF PROGRAM), DATED JANUARY 21, 2010, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$370,000 (THE "SERIES 2010 A BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues to be derived from the operation of the System, the Deed of Trust and the Security Agreement (all as defined in the Bond Legislation), on a parity with the pledge of Net Revenues in favor of the holders of the Series 2010 A Bonds, and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2010 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, and the Series 2010 A Bonds; provided however, that so long as there exists in the Series 2010 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, and the Series 2010 A Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of The Huntington National Bank, Charleston, West Virginia (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written

instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

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

IN WITNESS WHEREOF, WHITMER WATER ASSOCIATION, INC. has caused this Bond to be signed by its President and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first written above.

[SEAL]

*Paul J. Leto*  
\_\_\_\_\_  
President

ATTEST:

*Susan Iye Pennington*  
\_\_\_\_\_  
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2010 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: January 21, 2010.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

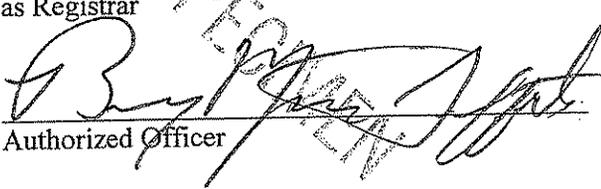
  
Authorized Officer

EXHIBIT A  
RECORD OF ADVANCES

| AMOUNT    | DATE             | AMOUNT | DATE |
|-----------|------------------|--------|------|
| (1) \$-0- | January 21, 2010 | (19)   |      |
| (2)       |                  | (20)   |      |
| (3)       |                  | (21)   |      |
| (4)       |                  | (22)   |      |
| (5)       |                  | (23)   |      |
| (6)       |                  | (24)   |      |
| (7)       |                  | (25)   |      |
| (8)       |                  | (26)   |      |
| (9)       |                  | (27)   |      |
| (10)      |                  | (28)   |      |
| (11)      |                  | (29)   |      |
| (12)      |                  | (30)   |      |
| (13)      |                  | (31)   |      |
| (14)      |                  | (32)   |      |
| (15)      |                  | (33)   |      |
| (16)      |                  | (34)   |      |
| (17)      |                  | (35)   |      |
| (18)      |                  | (36)   |      |

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

EXHIBIT B

DEBT SERVICE SCHEDULE

**BOND DEBT SERVICE**  
Whitmer Water Association, Inc.  
10 Years

Dated Date 1/21/2010  
Delivery  
Date 1/21/2010

| Period<br>Ending | Debt Service     | Principal<br>Forgiveness |
|------------------|------------------|--------------------------|
| 1/21/2010        |                  |                          |
| 12/1/2011        | -52,940          | -52,940                  |
| 3/1/2012         | -52,940          | -52,940                  |
| 6/1/2012         | -52,940          | -52,940                  |
| 9/1/2012         | -52,940          | -52,940                  |
| 12/1/2012        | -52,940          | -52,940                  |
| 3/1/2013         | -52,940          | -52,940                  |
| 6/1/2013         | -52,940          | -52,940                  |
| 9/1/2013         | -52,940          | -52,940                  |
| 12/1/2013        | -52,940          | -52,940                  |
| 3/1/2014         | -52,940          | -52,940                  |
| 6/1/2014         | -52,940          | -52,940                  |
| 9/1/2014         | -52,940          | -52,940                  |
| 12/1/2014        | -52,939          | -52,939                  |
| 3/1/2015         | -52,939          | -52,939                  |
| 6/1/2015         | -52,939          | -52,939                  |
| 9/1/2015         | -52,939          | -52,939                  |
| 12/1/2015        | -52,939          | -52,939                  |
| 3/1/2016         | -52,939          | -52,939                  |
| 6/1/2016         | -52,939          | -52,939                  |
| 9/1/2016         | -52,939          | -52,939                  |
| 12/1/2016        | -52,939          | -52,939                  |
| 3/1/2017         | -52,939          | -52,939                  |
| 6/1/2017         | -52,939          | -52,939                  |
| 9/1/2017         | -52,939          | -52,939                  |
| 12/1/2017        | -52,939          | -52,939                  |
| 3/1/2018         | -52,939          | -52,939                  |
| 6/1/2018         | -52,939          | -52,939                  |
| 9/1/2018         | -52,939          | -52,939                  |
| 12/1/2018        | -52,939          | -52,939                  |
| 3/1/2019         | -52,939          | -52,939                  |
| 6/1/2019         | -52,939          | -52,939                  |
| 9/1/2019         | -52,939          | -52,939                  |
| 12/1/2019        | -52,939          | -52,939                  |
| 3/1/2020         | -52,939          | -52,939                  |
| 6/1/2020         | -52,939          | -52,939                  |
| 9/1/2020         | -52,939          | -52,939                  |
| 12/1/2020        | -52,939          | -52,939                  |
| 3/1/2021         | -52,939          | -52,939                  |
| 6/1/2021         | -52,939          | -52,939                  |
| 9/1/2021         | -52,940          | -52,940                  |
|                  | <b>2,117,573</b> | <b>2,117,573</b>         |

(Form of)

ASSIGNMENT

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

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

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

January 21, 2010

Whitmer Water Association, Inc.  
Water Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program)

Whitmer Water Association, Inc.  
Whitmer, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by Whitmer Water Association, Inc. (the "Issuer"), a West Virginia non-profit corporation, of its \$370,000 Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings including the Deed of Trust and Security Agreement and other papers relating to the authorization of an ARRA Assistance Agreement, dated January 21, 2010, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal only to the Authority, bearing no interest, with principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2011, and to and including September 1, 2041, all as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds. The Bonds are not subject to the Administrative Fee.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 31E, Article 1 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act, the Bond Resolution duly adopted by the Issuer on January 12, 2010, as supplemented by a

Supplemental Resolution duly adopted by the Issuer on January 12, 2010 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, the ARRA Assistance Agreement, the Deed of Trust and the Security Agreement have been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation, the ARRA Assistance Agreement, the Deed of Trust and the Security Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein.

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

1. The Issuer is a duly created and validly existing non-profit corporation existing under the laws of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Bond Legislation and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The ARRA Assistance Agreement, the Deed of Trust and the Security Agreement have been duly authorized by and executed on behalf of the Issuer, is a valid and binding special obligation of the Issuer, enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the BPH and cannot be amended by the Issuer so as to affect adversely the rights of the Authority or the BPH or diminish the obligations of the Issuer without the written consent of the Authority and the BPH.

3. The Bond Legislation and all other necessary orders and resolutions have been duly and effectively adopted by the Issuer in connection with the issuance and sale of the Bonds and constitute valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their terms. The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge, and source of and security for payment with the Issuer's Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), dated January 21, 2010, issued in the original aggregate principal amount of \$2,117,573 (the "Series 2010 B Bonds"), issued concurrently herewith, all in accordance with the terms of the Bonds and the Bond Legislation.

5. The Bonds are, under the Act, exempt from taxation by the State of West Virginia and the other taxing bodies of the State and the interest on the Bonds, if any, is exempt from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

6. The Bonds have not been issued on the basis that the interest, if any, thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest from the gross

income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

7. The lien granted to the Authority pursuant to the Credit Line Deed of Trust, Security Agreement and Fixture Filing (the "Deed of Trust") and the Security Agreement constitutes a valid lien against property described therein under applicable law. The filing of the Deed of Trust as a fixture filing in the real estate records of the Office of the Clerk of the County Commission of Randolph County, West Virginia will perfect the security interest of the Authority in the future of the Issuer located at the real property described therein. The filing of the UCC-1 financing statements in the office of the Secretary of State of the State of West Virginia will create a perfected security interest in the personal property described therein. All such documents have been duly recorded and filed on the date hereof.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds, the ARRA Assistance Agreement and the Bond Legislation, and the liens and pledges set forth therein, may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion and the application of equitable remedies in appropriate cases.

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

Very truly yours,

  
STEPHENS & JOHNSON PLLC



Chase Tower, Eighth Floor  
P.O. Box 1588  
Charleston, WV 25326-1588  
(304) 353-8000 (304) 353-8180 Fax  
www.stepToe-johnson.com

Writer's Contact Information

January 21, 2010

Whitmer Water Association, Inc.  
Water Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

Whitmer Water Association, Inc.  
Whitmer, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by Whitmer Water Association, Inc. (the "Issuer"), a West Virginia non-profit corporation, of its \$2,117,573 Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings including the Deed of Trust and Security Agreement and other papers relating to the authorization of an ARRA Assistance Agreement, dated January 21, 2010, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal only to the Authority, bearing no interest, with principal forgivable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2011, and to and including September 1, 2021, all as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds. The Bonds are not subject to the Administrative Fee.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 31E, Article 1 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act, the Bond Resolution duly adopted by the Issuer on January 12, 2010, as supplemented by a

Supplemental Resolution duly adopted by the Issuer on January 12, 2010 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, the ARRA Assistance Agreement, the Deed of Trust and the Security Agreement have been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the ARRA Assistance Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation, the ARRA Assistance Agreement, the Deed of Trust and the Security Agreement when used herein.

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

1. The Issuer is a duly created and validly existing non-profit corporation existing under the laws of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Bond Legislation and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The ARRA Assistance Agreement, the Deed of Trust and the Security Agreement have been duly authorized by and executed on behalf of the Issuer, is a valid and binding special obligation of the Issuer, enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the BPH and cannot be amended by the Issuer so as to affect adversely the rights of the Authority or the BPH or diminish the obligations of the Issuer without the written consent of the Authority and the BPH.

3. The Bond Legislation and all other necessary orders and resolutions have been duly and effectively adopted by the Issuer in connection with the issuance and sale of the Bonds and constitute valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their terms. The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), dated January 21, 2010, issued in the original aggregate principal amount of \$370,000 (the "Series 2010 A Bonds"), issued concurrently herewith, all in accordance with the terms of the Bonds and the Bond Legislation.

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

6. The Bonds are, under the Act, exempt from taxation by the State of West Virginia and the other taxing bodies of the State, and the interest, if any, on the Bonds is exempt

from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

7. The lien granted to the Authority pursuant to the Credit Line Deed of Trust, Security Agreement and Fixture Filing (the "Deed of Trust") constitutes a valid lien against property described therein under applicable law. The filing of the Deed of Trust as a fixture filing in the real estate records of the Office of the Clerk of the County Commission of Randolph County, West Virginia will perfect the security interest of the Authority in the future of the Issuer located at the real property described therein. The filing of the UCC-1 financing statements in the office of the Secretary of State of the State of West Virginia will create a perfected security interest in the personal property described therein. All such documents have been duly recorded and filed on the date hereof.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds, the ARRA Assistance Agreement and the Bond Legislation, and the liens and pledges set forth therein, may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion and the application of equitable remedies in appropriate cases.

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

Very truly yours,



STEPHENS & JOHNSON PLLC

**THOMAS R. ROSS II**

**Attorney at Law  
209 Randolph Avenue  
P.O. Box 2448  
Elkins, WV 26241**

**Phone: (304) 637-0117  
email: trross@citynet.net**

**Facsimile: (304) 637-0119**

January 21, 2010

Whitmer Water Association, Inc.  
Water Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Water Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

Whitmer Water Association, Inc.  
Whitmer, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Stephoe & Johnson PLLC  
Charleston, West Virginia

Ladies and Gentlemen:

I am counsel to the Whitmer Water Association, Inc. a West Virginia non-profit corporation located in Randolph County, West Virginia (the "Issuer"). As such counsel, I have examined copies of the approving opinion of Steptoe & Johnson PLLC, as bond counsel, an ARRA Assistance Agreement for the Series 2010 A Bonds and Series 2010 B Bonds, dated January 21, 2010, including all schedules and exhibits attached thereto, by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), (the "ARRA Assistance Agreement"), a Bond Resolution duly adopted by the Issuer on January 12, 2010, as supplemented by a Supplemental Resolution duly adopted by the Issuer on January 12, 2010 (collectively, the "Bond Legislation"), a credit line deed of trust, security agreement and fixture filing dated January 21, 2010 (the "Deed of Trust") by and among the Issuer, the trustee named therein and the Authority on behalf of the Council, a security agreement dated January 21, 2010 (the "Security Agreement") by and between the Issuer and the Authority on behalf of the Council, UCC-1 financing statements securing the Bonds (the "Financing Statements") and other documents, papers, agreements, instruments and certificates relating to the above-captioned Bonds of the Issuer (the "Bonds"). All capitalized terms used herein and not otherwise defined

herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein.

I am of the opinion that:

1. The Issuer is a duly created and validly existing a non-profit corporation under the laws of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Bond Legislation, all under the Act and other applicable provisions of law. The officers of the Board of Directors of the Issuer have been duly elected and appointed and are authorized to act on behalf of the Issuer in their respective capabilities.

2. The ARRA Assistance Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority, constitutes a valid and binding agreement of the Issuer enforceable in accordance with its terms.

3. The Deed of Trust has been duly authorized, executed and delivered by the Issuer and the execution and delivery by the Authority, constitute valid and binding agreements of the Issuer enforceable in accordance with their terms.

4. The Security Agreement has been duly authorized, executed and delivered by the Issuer, assuming due authorization, execution and delivery by the authority, constitutes a valid and binding agreement of the Issuer enforceable in accordance with its terms.

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

6. The execution and delivery of the Bonds, the ARRA Assistance Agreement, the Deed of Trust, the Security Agreement and the Financing Statements and the consummation of the transactions contemplated by the Bonds, the ARRA Assistance Agreement, the Deed of Trust, the Security Agreement, the Financing Statements 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 the Articles of Incorporation, Bylaws, resolution, 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.

7. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations necessary for the creation and existence of the Issuer, issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, the receipt of all requisite orders and approvals from the BPH and the Public Service Commission of West Virginia, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the adoption of a resolution prescribing such rates and charges. The Issuer has received a Recommended Decision of the Public

Service Commission of West Virginia entered on October 5, 2009, which became Final Order on October 25, 2009, and an affidavit of CPA dated December 23, 2009, in Case No. 09-1099-W-SCN, among other things, granting the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project and the rates of the System. The time for appeal has expired prior to the date hereof without any appeal. The Order remains in full force and effect.

8. To the best of my knowledge, there is no litigation, action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the ARRA Assistance Agreement, the Deed of Trust, the Security Agreement, the Financing Statements, the Bonds and the Bond Legislation, the acquisition and construction of the Project, the operation of the System, the validity of the Bonds, the collection of Gross Revenues or the pledge of the Net Revenues for the payment of the Bonds.

9. I have ascertained that all successful bidders have provided the drug-free workplace affidavit, submitted their drug free workplace plan, and the contracts contain language that comply with the Drug Free Workplace Act, Article 1D, Chapter 21 of the West Virginia Code and made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy. Based upon my review of the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, I am of the opinion that such surety bonds and policies (i) are in compliance with the contracts; (ii) are adequate in form, substance and amount to protect the various interests of the Issuer; (iii) have been executed by duly authorized representatives of the proper parties; (iv) meet the requirements of the Act, the Bond Legislation and the Loan Agreement; and (v) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

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

Very truly yours,



Thomas R. Ross, II

**THOMAS R. ROSS II**

**Attorney at Law  
209 Randolph Avenue  
P.O. Box 2448  
Elkins, WV 26241**

**Jennifer L. Morgan, Associate  
Phone: (304) 637-0117**

**trross@citynet.net  
Facsimile: (304) 637-0119**

November 16, 2009

Whitmer Water Association  
P.O. Box 23  
Whitmer, WV 26296

WV Water Development Authority  
180 Association Drive  
Charleston, 25311

WV Infrastructure and Jobs Development Council  
300 Summers Street, Suite 980  
Charleston, WV 25301

Steptoe & Johnson  
P.O. Box 1588  
Charleston, WV 25326

Samme L. Gee, Esq.  
Jackson & Kelly, PLLC  
P.O. Box 553  
Charleston, WV 25322

WV Bureau for Public Health  
Room 702  
350 Capitol Street  
Charleston, WV 25301-3712

Re: Final Title Opinion for the Whitmer Water Association/DWTRT  
IJDC Project 2004W-785  
SCBG Project #04SCBG0040X

To Whom It May Concern:

I am counsel to the Whitmer Water Association (the "Issuer") in connection with a proposed project to construct the water line extension project (the "Project"). I am providing this final title opinion on behalf of the Issuer to satisfy the requirements of the West Virginia Bureau for Public Health (the "BPH") and the West Virginia Infrastructure and Jobs Development Council (the "Council") for the Project. Please be advised of the following:

1. I am of the opinion that the Issuer is a duly created and validly existing non-profit organization possessed with all the powers and authority granted under the laws of the State of West Virginia to construct, operate and maintain the Project as approved by the West Virginia Department of Environmental Protection (WV DEP) and BPH.
2. The Issuer has obtained all necessary permits and approvals for the construction of the Project.

Final Title Opinion  
Whitmer Water Association  
November 16, 2009

3. I have investigated and ascertained the location of, and am familiar with the legal description of, the necessary sites, including easements and/or rights of way, required for the Project as set forth in the plans for the Project prepared by Hornor Brothers Engineers, the consulting engineers for the Project.

4. I have examined the records on file in the Office of the Clerk of the County Commission of Randolph County, West Virginia, the county in which the Project is to be located, and, in my opinion, the Issuer has acquired legal title or such other estate or interest in all of the necessary site components for the Project, including all easements and/or rights of way sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the Project.

5. The Issuer has acquired all (100%) of the land and easements required for the Project.

6. All deeds, easements and rights of way which have been acquired by the Issuer have been duly recorded in the Office of the Clerk of the County Commission of Randolph County to protect the legal title to and interest of the Issuer.

Sincerely,

A handwritten signature in black ink that reads "Thomas R. Ross II". The signature is written in a cursive style with a double underline under the name.

Thomas R. Ross II

WHITMER WATER ASSOCIATION, INC.

Water Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Water Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. CERTIFICATION OF COPIES OF DOCUMENTS
6. INCUMBENCY AND OFFICIAL NAME
7. DUE INCORPORATION AND EXISTENCE OF ISSUER
8. LAND AND RIGHTS-OF-WAY
9. MEETINGS, ETC.
10. CONTRACTORS' INSURANCE, ETC.
11. ARRA ASSISTANCE AGREEMENT
12. INSURANCE
13. VERIFICATION OF SCHEDULE
14. RATES
15. PUBLIC SERVICE COMMISSION ORDER
16. SIGNATURES AND DELIVERY
17. BOND PROCEEDS
18. PUBLICATION OF NOTICE AND PSC FILING
19. SPECIMEN BONDS
20. CONFLICT OF INTEREST
21. PROCUREMENT OF ENGINEERING SERVICES
22. GRANT
23. SAFE DRINKING WATER ACT
24. EXECUTION OF COUNTERPARTS

On this 21st day of January, 2010, we, the undersigned PRESIDENT and the undersigned SECRETARY of the Board of Directors of Whitmer Water Association, Inc. in Randolph County, West Virginia (the "Issuer"), and the undersigned COUNSEL to the Issuer, hereby certify in connection with the Issuer's Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) and Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), both dated January 21, 2010, (collectively, the "Bonds" or individually, the "Series 2010 A Bonds" and the "Series 2010 B Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined shall have the same meaning set forth in the Bond Resolution of the Issuer duly

adopted January 12, 2010, and a Supplemental Resolution of the Issuer duly adopted January 12, 2010 (collectively, the "Bond Legislation"), when used herein.

2. NO LITIGATION: No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Bonds, the acquisition or construction of the Project, the operation of the System, the collection or use of the revenues of the System, or in any way contesting or affecting the validity of the Bonds, or any proceedings of the Issuer taken with respect to the issuance or sale of the Bonds, the pledge or application of the Net Revenues or any other monies 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 collection or use of the Gross Revenues of the System, or the pledge of the Net Revenues for the Bonds.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable and necessary approvals, permits, exemptions, consents, authorizations, registrations 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 Bonds have been duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the West Virginia Code of 1931, as amended, which bids remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval and execution and delivery by the Issuer of the ARRA Assistance Agreement, and the Issuer has met all conditions prescribed in the ARRA Assistance Agreement. The Issuer will provide the financial, institutional, legal and managerial capabilities necessary to complete the Project.

There are no outstanding bonds or obligations of the Issuer which will rank on a parity with the Series 2010 A Bonds and the Series 2010 B Bonds as to liens, pledge and source of and security for payment.

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

Bond Resolution

Supplemental Resolution

Credit Line Deed of Trust, Security Agreement and Fixture Filing

Security Agreement

UCC-1 Financing Statement

ARRA Assistance Agreement

Public Service Commission Orders

Infrastructure Council Approval

Articles of Incorporation

By-Laws

Certificate of Existence

Minutes of Current Year Organizational Meeting

Minutes on Adoption of Bond Resolution and Supplemental Resolution

Environmental Health Services Permit

Title Opinion

Evidence of Insurance

Evidence of Small Cities Block Grant

6. INCUMBENCY AND OFFICIAL NAME, ETC.: The proper corporate title of the Issuer is "Whitmer Water Association, Inc.". The Issuer is a West Virginia non-profit corporation in Randolph County, West Virginia. The governing body of the Issuer is its Board of Directors ("the Board"), consisting of 5 duly qualified and acting members, whose names are as follows:

Paula Teter  
Mike Dolly  
Susie Pennington  
Clarence Thomas  
John Pennington

The names of the duly elected, appointed, qualified and acting officers of said Board of the Issuer for calendar year 2010 are as follows:

|                |   |                  |
|----------------|---|------------------|
| President      | - | Paula Teter      |
| Vice President | - | Mike Dolly       |
| Secretary      | - | Susie Pennington |

The duly appointed and acting counsel to Issuer is T.R. Ross, Esquire, Elkins, West Virginia.

7. DUE INCORPORATION AND EXISTENCE OF ISSUER: The Issuer is a non-profit corporation organized and existing under the laws of the State of West Virginia, duly authorized to conduct its affairs and transact business in the State of West Virginia, and is not prohibited by an

provision of its Articles of Incorporation or By Laws from conducting its business described herein, or effectuating the transactions contemplated in the Bond Resolution and other bond documents. There are delivered herewith true, correct and complete copies of the Articles of Incorporation, By Laws and Certificate of Existence of the Issuer which are in full force and effect on the date hereof.

8. 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 operation and maintenance of the System have been acquired or can and will be acquired by purchase, or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

9. MEETINGS, ETC.: All actions, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds, the acquisition, construction, operation and financing of the Project and the System were authorized or adopted at regular or special meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the By Laws of the Governing Body and all applicable statutes, 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

10. CONTRACTORS' INSURANCE, ETC.: All contractors have been required to maintain Worker's Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Bond Legislation. The successful bidders have provided the Drug-Free Workplace Affidavit as evidence of compliance with the provisions of Article 1D, Chapter 21 of the West Virginia Code. All insurance for the System required by the Bond Legislation and ARRA Assistance Agreement is in full force and effect.

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

The Issuer will serve the additional customers at the location(s) as set forth in Certificate of Engineer. The Issuer will not reduce the amount of additional customers served by the project without the prior written approval of the Board of the Water Development Authority (the "Authority"). Following completion of the Project the Issuer will certify to the Authority the number of customers added to the System.

The Special Conditions of the ARRA Assistance Agreement are attached as Exhibit A and hereby incorporated herein.

12. **INSURANCE.** The Issuer will maintain or, as appropriate, will require all contractors to maintain worker's compensation, public liability, property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Resolution and the ARRA Assistance Agreement. All insurance for the System required by the Resolution and the ARRA Assistance Agreement are in full force and effect.

13. **VERIFICATION OF SCHEULE:** The final Schedule B attached to the Certificate of Consulting Engineer, accurately represents the estimated costs of the Project, the sources of funds available to pay the costs of the Project and the costs of financing of the Bonds.

14. **RATES:** The Issuer has received the Recommend Decision of the Public Service Commission of West Virginia entered on October 5, 2009, which became Final Order on October 25, 2009 in Case No. 09-1099-W-SCN, approving the rates and charges for the services of the System, and has adopted a resolution prescribing such rates and charges. The time for appeal of such Order has expired prior to the date hereof without any appeal.

15. **PUBLIC SERVICE COMMISSION ORDER:** The Issuer has received the Recommend Decision of the Public Service Commission of West Virginia entered on October 5, 2009, which became Final Order on October 25, 2009 and an affidavit of CPA dated December 23, 2009 in Case No. 09-1099-W-SCN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the Order has expired prior to the date hereof. The Order remains in full force and effect.

16. **SIGNATURES AND DELIVERY:** On the date hereof, the undersigned President did officially sign all of the Bonds of the aforesaid issue, consisting upon original issuance of a single Bond for each series of the Bonds, dated the date hereof, by his or her manual signature, and the undersigned Secretary did officially cause the official seal of the Issuer to be affixed upon the Bonds and to be attested by his or her manual signature, and the Registrar did officially authenticate, register and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the ARRA Assistance Agreement. Said official seal is also impressed above the signatures appearing on this certificate.

17. **BOND PROCEEDS:** On the date hereof, the Issuer received \$62,200 from the Authority and the BPH, being a portion of the principal amount of the Series 2010 A Bonds and \$-0- from the Authority and the BPH, being a portion of the principal amount of the Series 2010 B Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

18. **PUBLICATION OF NOTICE OF PSC FILING:** The Issuer has published any required notice with respect to, among other things, the acquisition and construction of the Project, anticipated user rates and charges, and filing of a formal application for a certificate of public convenience and necessity with the Public Service Commission of West Virginia, in accordance with Chapter 31, Article 1 of the Official West Virginia Code of 1931, as amended.

19. **SPECIMEN BONDS:** Delivered concurrently herewith are true and accurate specimens of the Bonds.

20. CONFLICT OF INTEREST: No member, officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bonds, the Bond Legislation and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

21. 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.

22. GRANTS: The Issuer has been awarded a Small Cities Block in the amount of \$1,070,710.68. The Grant is in full force and effect.

23. SAFE DRINKING WATER ACT: The Project as described in the Bond Legislation complies with the Safe Drinking Water Act.

24. 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.

[Remainder of Page Intentionally Blank]

WITNESS our signatures and the official seal of WHITMER WATER ASSOCIATION, INC. as of the date first written above.

[CORPORATE SEAL]

SIGNATURE

OFFICIAL TITLE

Paula J. Lites

President

Susan Jye Penning

Secretary

Thomas R. Ron II

Counsel to Issuer

12.17.09  
972490.00001

EXHIBIT A

SPECIAL CONDITIONS – ARRA FUNDED PROJECTS

The Local Entity shall include the following covenants in its bond authorizing documents:

A. PUBLIC RELEASE REQUIREMENT – The Local Entity agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations, groundbreaking or project dedication program documents and other documents describing projects or programs funded in whole or in part with Federal money, (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. AUDIT REQUIREMENT (Supplement to Article IV 4.1 (b) (xi)) – Effective October 1, 2003, the Local Entity that receives \$500,000 or more (in federal funds) in a fiscal year must obtain audits in accordance with the Single Audit Act and the applicable OMB Circular or any successor thereto. Financial statement audits are required once all funds have been received by the Local Entity.

C. BUY AMERICAN CERTIFICATION – The Local Entity shall cause the contractor(s) to comply with, and provide certification of, the Buy American provisions of the ARRA in accordance with final guidance from the EPA.

D. ASSET MANAGEMENT – The Local Entity shall develop and implement an asset management plan in accordance with guidelines issued by BPH and as approved by BPH.

E. CONTRACTS – The Local Entity shall enter into contracts or commence construction by January 28, 2010.

F. LOGO – The Local Entity must display the ARRA logo in a manner that informs the public that the project is an ARRA investment.

G. LOBBYING - The Local Entity shall comply with Title 40 CFR Part 34, New Restrictions on Lobbying and shall submit certification and disclosure forms as required by BPH.

H. PURCHASING REQUIREMENTS – The Local Entity shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

I. SUSPENSION AND DEBARMENT – The Local Entity shall comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled “Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons). To the extent required by BPH, the Local Entity shall provide certifications as to compliance.

J. REPORTING – The Local Entity shall comply with all requests for data related to the use of the funds provided under this agreement, including the information required in section 1512 of ARRA when requested by BPH.

K. INSPECTOR GENERAL REVIEWS – The Local Entity shall allow any appropriate representative of the Office of US Inspector General to (1) examine its records relating to the Project and this ARRA Assistance Agreement and (2) interview any officer or employee of the Local Entity.

L. FALSE CLAIMS – The Local Entity must promptly refer to EPA’s Inspector General any credible evidence that a principal, employee, agent, sub-grantee contractor, subcontractor, loan recipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this ARRA Assistance Agreement.

M. LIMIT ON FUNDS – The Local Entity shall not use funds for particular activities for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

N. WAGE RATES – The Local Entity shall require that all laborers and mechanics employed by its contractors and subcontractors be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 32 of title 40, United States Code. The Local Entity must require that contractors and subcontractors obtain wage determinations from DOL and comply with DOL guidance and regulations implementing wage rate requirements applicable to ARRA funds.

O. OFFICE OF MANAGEMENT AND BUDGET (OMB) GUIDANCE – The Local Entity acknowledges and agrees that this ARRA Assistance is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on [www.recovery.gov](http://www.recovery.gov), and any subsequent guidance documents issued by OMB.

P. DISADVANTAGED BUSINESS ENTERPRISE – Pursuant to 40 CFR, Section 33.301, the Local Entity agrees to make good faith efforts whenever procuring construction, equipment, services and supplies, and to require that prime contractors also comply. The Local Entity shall provide BPH with MBE/WBE participation reports semi-annually.

Q. CIVIL RIGHTS – The Local Entity shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific statutes with nondiscrimination requirements. The Local Entity shall also comply with Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and Local Entities, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

R. BOND DESIGNATION – Each Local Bond contain “(WVDWTRF Program/ARRA)” in the bond name.

S. USER RATES – The Local Entity shall covenant that it will not reduce its approved customer rates for at least eighteen months after completion of the Project or (a) until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses or (b) new rates have been established by order of the Public Service Commission. The Local Entity shall notify the Authority and the BPH of any action to reduce rates during the eighteen months following completion of construction of the Project.

WHITMER WATER ASSOCIATION, INC.

Water Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Water Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

CERTIFICATE OF ENGINEER

On this 21st day of January, 2010, I, Paul A. Hornor, Registered Professional Engineer, West Virginia License No. 10281 of Hornor Brothers Engineers, Clarksburg, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain additions, betterments, improvements and extensions (the "Project") to the existing public waterworks system (the "System) of Whitmer Water Association, Inc. (the "Issuer"), to be constructed primarily in Randolph County, West Virginia, which acquisition and construction are being financed in part by the proceeds of the above-captioned bonds (collectively, the "Bonds") of the Issuer. All capitalized terms used herein and not defined herein shall have the same meaning set forth in the Bond Resolution adopted by the Issuer on January 12, 2010, as supplemented by the Supplemental Resolution adopted by the Issuer on January 12, 2010, and the ARRA Assistance Agreement for the Series 2010 A Bonds and Series 2010 B Bonds dated January 21, 2010, by and between the Issuer and the Authority, on behalf of the BPH (the "ARRA Assistance Agreement").

2. The Bonds are being issued for the purposes of (i) paying a portion of the costs of acquisition and construction of the Project, and (ii) paying costs of issuance of the Bonds 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 BPH, and any change orders approved by the Issuer, the BPH, and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 32 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 which are in an amount and otherwise compatible with the plan of financing set forth in Schedule B attached hereto as Exhibit A and the Issuer's counsel, Thomas R. Ross, II, Esquire, will, prior to the Issuer executing the construction contracts for the Project, ascertain that all successful bidders have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the successful bidders have provided the Drug-Free Workplace Affidavit as evidence of compliance with the provisions of Article 1D, Chapter 21 of the West Virginia Code; (vi) the bid documents relating to the Project reflect the Project as approved by the BPH and the bid forms provided to the bidders

contain the critical operational components of the Project; (vii) the successful bids include prices for every item on such bid forms; (viii) the uniform bid procedures were followed; (ix) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and the operation of the System; (x) in reliance upon the certificate of the Issuer's certified public accountant, Scott & Nypl, CPAs, as of the effective date thereof, the rates and charges for the System as adopted by the Issuer and approved by the Public Service Commission of West Virginia will be sufficient to comply with the provisions of the ARRA Assistance Agreement and the Bond Resolution; (xi) the net proceeds of the Bonds, together with all other monies on deposit or to be simultaneously deposited and irrevocably committed therefor, and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the Authority and the BPH; and (xii) attached hereto as Exhibit A is the final amended "Schedule B - Final Total Cost of Project, Sources of Funds and Cost of Financing" for the Project.

4. I have received the Buy American Certification from each contractor.
5. The Project will service 84 new customers in the Whitmer area.

[Remainder of Page Intentionally Blank]

WITNESS my signature and seal as of the date first written above.

[SEAL]



HORNOR BROTHERS ENGINEERS

A handwritten signature in cursive script that reads "Paul A. Hornor III".

Paul A. Hornor, P.E.  
West Virginia License 10281

12.17.09  
972490.00001

CH5274198

**SCHEDULE B  
WHITMER WATER PROJECT**

| <b>A. Cost of Project</b>                            | <b>Total</b>    | <b>DWTRF BASE<br/>LOAN</b> | <b>DWTRF ARRA<br/>PRINCIPAL<br/>FORGIVENESS</b> | <b>SCBG</b>     |
|--|-----------------|----------------------------|---|-----------------|
| <b>1. Construction</b>                               |                 |                            |   |                 |
| Contract No. 1—Water Line Extension                  | \$ 1,311,078.23 | \$ 173,104.18              | \$ 1,137,974.07                                 |                 |
| Contract No. 2—Water Tank                            | \$ 204,200.00   |                            |   | \$ 204,200.00   |
| Contract No. 3—Water Treatment Plant                 | \$ 1,527,000.00 |                            | \$ 879,598.93                                   | \$ 547,401.07   |
| <b>2. Technical Services</b>                         |                 |                            |   |                 |
| a. Preliminary Engineering                           | \$ 10,000.00    |                            |   | \$ 10,000.00    |
| b. Basic Engineering                                 | \$ 66,000.00    |                            |   | \$ 66,000.00    |
| c. Inspection  | \$ 125,267.77   |                            |   | \$ 125,267.77   |
| d. Special Services                                  | \$ 26,486.85    |                            |   | \$ 26,486.85    |
| <b>3. Legal</b>                                      | \$ 15,000.00    |                            |   | \$ 15,000.00    |
| <b>4. Accounting</b>                                 | \$ 4,000.00     |                            |   | \$ 4,000.00     |
| <b>5. Sites and Other Lands</b>                      | \$ 9,600.00     |                            |   | \$ 9,600.00     |
| <b>6. Administration (Region VII)</b>                | \$ 32,358.19    |                            |   | \$ 32,358.19    |
| <b>7. Right-of-Way Agent (Morgan Haymond)</b>        | \$ 8,400.00     |                            |   | \$ 8,400.00     |
| <b>8. Permits/DOH Inspection Fees</b>                | \$ 22,000.00    |                            |   | \$ 22,000.00    |
| <b>9. Interim Financing</b>                          | \$ -            |                            |   | \$ -            |
| <b>10. Contingency (7%)</b>                          | \$ 181,895.84   | \$ 181,895.84              |   |                 |
| <b>11. Total of Lines 1 through 10</b>               | \$ 3,643,283.88 | \$ 355,000.00              | \$ 2,117,573.00                                 | \$ 1,070,710.88 |
| <b>B. Cost of Financing</b>                          |                 |                            |   |                 |
| <b>12. Capitalized Interest</b>                      | \$ -            |                            |   |                 |
| <b>13. Other Costs</b>                               | \$ -            |                            |   |                 |
| a. Bond Counsel                                      | \$ 14,000.00    | \$ 14,000.00               |   |                 |
| b. Bank Registrar Fee                                | \$ 1,000.00     | \$ 1,000.00                |   |                 |
| <b>14. Total Cost of Financing (line 12 plus 13)</b> | \$ 15,000.00    | \$ 15,000.00               | \$ -  | \$ -            |
| <b>15. TOTAL PROJECT COST (line 11 plus line 14)</b> | \$ 3,658,283.88 | \$ 370,000.00              | \$ 2,117,573.00                                 | \$ 1,070,710.88 |
| <b>C. Sources of Funds</b>                           |                 |                            |   |                 |
| <b>16. Federal Grants:</b>                           | \$ -            |                            |   | \$ -            |
| <b>17. State Grants</b>                              | \$ 1,070,710.88 |                            |   | \$ 1,070,710.88 |
| <b>18. Other Grants</b>                              | \$ -            |                            |   | \$ -            |
| <b>19. TOTAL GRANTS</b>                              | \$ 1,070,710.88 |                            |   | \$ 1,070,710.88 |
| <b>20. Size of Bond Issue</b>                        | \$ 2,487,573.00 | \$ 370,000.00              | \$ 2,117,573.00                                 | \$ -            |

*Paula J. Luter*  
WHITMER WATER

DATE: 1/18/2010

*Greg Horner, P.E.S.*  
Horner Brothers Engineers

DATE: Dec 23, 2009

WHITMER WATER ASSOCIATION, INC.

Water Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Water Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

CERTIFICATE AS TO USE OF PROCEEDS

The undersigned President of the Whitmer Water Association, Inc. in Whitmer, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of \$370,000 Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) (the "Series 2010 A Bonds") and \$2,117,573 Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA) (the "Series 2010 B Bonds"), of the Issuer, both dated January 21, 2010 (collectively, the "Bonds"), hereby certifies this 21st day of January, 2010 as follows:

1. I am one of the officers of the Issuer duly charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Bond Resolution duly adopted by the Issuer on January 12, 2010 and Supplemental Resolution duly adopted on January 12, 2010 (collectively the "Bond Resolution"), authorizing the Bonds.

2. This certificate may be relied upon as the certificate of the Issuer.

3. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on January 21, 2010, the date on which the Bonds are being physically delivered in exchange for an initial advance of the principal of the Bonds and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. In the Bond Resolution pursuant to which the Bonds are issued, the Issuer has covenanted that it shall not take, or permit or suffer to be taken, any action with respect to Issuer's use of the proceeds of the Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Internal Revenue Code of 1986, as amended, and the temporary and permanent regulations promulgated thereunder or under any predecessor thereto (collectively, the "Code"), issued by the West Virginia Water Development Authority (the "Authority") and the West Virginia Bureau for Public Health (the "BPH"), from which the proceeds of the Bonds are derived, to lose their status as tax-exempt bonds. The Issuer hereby covenants to take all actions necessary to comply with such covenant.

5. The Series 2010 A Bonds were sold on January 21, 2010, to the Authority, pursuant to an ARRA Assistance Agreement dated January 21, 2010, by and between the Issuer and the Authority, on behalf of the BPH, for an aggregate purchase price of \$370,000

(100% of par), at which time, the Issuer received \$62,200 from the Authority and the BPH, being the first advance of the principal amount of the Series 2010 A Bonds. No accrued interest has been or will be paid on the Series 2010 A Bonds. The balance of the principal amount of the Series 2010 A Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

6. The Series 2010 B Bonds were sold on January 21, 2010, to the Authority, pursuant to an ARRA Assistance Agreement dated January 21, 2010, by and between the Issuer and the Authority, on behalf of the BPH, for an aggregate purchase price of \$2,117,573 (100% of par), at which time, the Issuer received \$-0- from the Authority and the BPH, being the first advance of the principal amount of the Series 2010 B Bonds. No accrued interest has been or will be paid on the Series 2010 B Bonds. The balance of the principal amount of the Series 2010 B Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

7. The Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public waterworks system of the Issuer (the "Project"); and (ii) paying certain costs of issuance of the Bonds and related costs.

8. Within 30 days after the delivery of the Series 2010 Bonds, the Issuer shall enter into agreements which require the Issuer to expend in excess of 5% of the net sale proceeds of the Bonds on the Project, constituting a substantial binding commitment, or has already done so. The acquisition, construction and equipping of the Project and the allocation of the net sale proceeds of the Bonds to expenditures of the Project shall commence immediately and shall proceed with due diligence to completion, and with the exception of proceeds deposited in the respective Reserve Accounts for the Bonds, if any, all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before July 1, 2011. The acquisition and construction of the Project is expected to be completed by January 1, 2011.

9. The total cost of the Project is estimated at \$3,558,283.68. Sources and uses of funds for the Project are as follows:

SOURCES

|                                     |                       |
|-------------------------------------|-----------------------|
| Proceeds of the Series 2010 A Bonds | \$ 370,000.00         |
| Proceeds of the Series 2010 B Bonds | \$2,117,573.00        |
| Small Cities Block Grant            | <u>\$1,070,710.68</u> |
| Total Sources                       | <u>\$3,558,283.68</u> |

USES

|   |                       |
|---|-----------------------|
| Costs of Acquisition and<br>Construction of the Project | \$3,543,283.68        |
| Cost of Financing                                       | <u>\$ 15,000.00</u>   |
| Total Uses  | <u>\$3,558,283.68</u> |

10. Pursuant to Article V of the Bond Resolution, the following special funds or accounts have been created or continued relative to the Bonds:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Series 2010 A Bonds Sinking Fund;
- (4) Series 2010 A Bonds Reserve Account;
- (5) Series 2010 B Bonds Sinking Fund;
- (6) Series 2010 B Bonds Reserve Account; and
- (7) Series 2010 Bonds Construction Trust Fund.

11. Pursuant to Article VI of the Bond Resolution, the proceeds of the Bonds will be deposited as follows:

- (1) Series 2010 A Bond proceeds in the amount of \$-0- will be deposited in the Series 2010 A Bonds Sinking Fund to cover capitalized interest.
- (2) Series 2010 B Bond proceeds in the amount of \$-0- will be deposited in the Series 2010 B Bonds Sinking Fund to cover capitalized interest.
- (3) Series 2010 A Bond proceeds in the amount of \$-0- will be deposited in the Series 2010 A Bonds Reserve Account.
- (4) Series 2010 B Bond proceeds in the amount of \$-0- will be deposited in the Series 2010 B Bonds Reserve Account.
- (5) All proceeds of the Series 2010 A Bonds will be deposited in the Series 2010 Bonds Construction Trust Fund as received from time

to time and applied solely to payment of costs of the Project, including costs of issuance of the Series 2010 A Bonds and related costs.

(6) All proceeds of the Series 2010 B Bonds will be deposited in the Series 2010 Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of the Project, including costs of issuance of the Series 2010 B Bonds and related costs.

12. Monies held in the Series 2010 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 2010 A Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on monies in the Series 2010 A Bonds Sinking Fund and Series 2010 A Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Series 2010 Bonds Construction Trust Fund during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Resolution.

13. Monies held in the Series 2010 B Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 2010 B Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on monies in the Series 2010 B Bonds Sinking Fund and Series 2010 B Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Series 2010 Bonds Construction Trust Fund during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Resolution.

14. Work with respect to the acquisition and construction of the Project will proceed with due diligence to completion. The acquisition and construction of the Project is expected to be completed within 11 months of the date hereof.

15. The Issuer will take such steps as requested by the Authority to ensure that the Authority's bonds meet the requirements of the Code.

16. With the exception of the amount deposited in the Series 2010 A Bonds Reserve Account, if any, all of the proceeds of the Series 2010 A Bonds will be expended on the Project within 17 months from the date of issuance thereof.

17. With the exception of the amount deposited in the Series 2010 B Bonds Reserve Account, if any, all of the proceeds of the Series 2010 B Bonds will be expended on the Project within 17 months from the date of issuance thereof.

18. The Issuer does not expect to sell or otherwise dispose of the Project prior to the last maturity date of the Bonds.

19. The amount designated as cost of issuance of the Bonds consists only of costs which are directly related to and necessary for the issuance of the Bonds.

20. All property financed with the proceeds of the Bonds will be owned and held by (or on behalf of) a qualified governmental unit.

21. No proceeds of the Bonds will be used, directly or indirectly, in any trade or business carried on by any person who is not a governmental unit.

22. The Issuer covenants that it shall maintain thorough and accurate accounting records, in conformance with generally accepted accounting principles, relative to the proceeds of Bonds so that use of proceeds from each series of the Bonds can be accounted for.

23. The original proceeds of the Bonds will not exceed the amount necessary for the purposes of the issue.

24. The Issuer shall use the Bond proceeds solely for the costs of the Project and the Project will be operated solely for a public purpose as a local governmental activity of the Issuer.

25. The Bonds are not federally guaranteed.

26. The Issuer has retained the right to amend the Bond Resolution authorizing the issuance of the Bonds if such amendment is necessary to assure that the Bonds remain governmental bonds.

27. The Issuer has either (a) funded the Series 2010 A Bonds Reserve Account and Series 2010 B Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year with the proceeds of the Bonds; or (b) created the Series 2010 A Bonds Reserve Account and Series 2010 B Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2010 A Bonds Reserve Account and Series 2010 B Bonds Reserve Account hold an amount equal to the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year. Monies in the Series 2010 A Bonds Reserve Account and Series 2010 B Bonds Reserve Account, if any, and the Series 2010 A Bonds Sinking Fund and Series 2010 B Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

28. There are no other obligations of the Issuer which (a) are to be issued at substantially the same time as the Bonds, (b) are to be sold pursuant to a common plan of financing together with the Bonds and (c) will be paid out of substantially the same sources of funds or will have substantially the same claim to be paid out of substantially the same sources of funds as the Bonds.

29. To the best of my knowledge, information and belief, there are no other facts, estimates and circumstances which would materially change the expectations herein expressed.

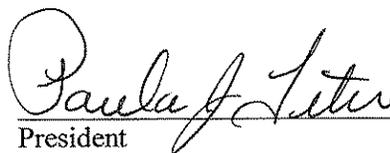
30. The Issuer will comply with instructions as may be provided by the Authority, at any time, regarding use and investment of proceeds of the Bonds, rebates and rebate calculations.

31. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

[Remainder of Page Intentionally Blank]

WITNESS my signature as of the date first written above.

WHITMER WATER ASSOCIATION, INC.

  
\_\_\_\_\_  
President

12.17.09  
972490.00001

**SCOTT and NYPL, CPAs, A.C.**

*Certified Public Accountants*

44 South Randolph Avenue  
P.O. Box 1998  
Elkins, WV 26241  
(304) 636-7420  
FAX (304) 636-7538

**GEORGE R. SCOTT, MBA, CPA**  
**MILAN NYPL, CPA, CVA**

January 21, 2010

Whitmer Water Association, Inc.  
Water Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Water Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

Whitmer Water Association, Inc.  
Whitmer, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

Based upon the water rates and charges set forth in the Recommended Decision of the Public Service Commission of West Virginia in Case 09-1099-W-SCN, dated October 5, 2009, which became Final Order on October 25, 2009 the projected operating expenses and the anticipated customer usage as furnished to us by Hornor Brothers, Inc., the Consulting Engineer to Whitmer Water Association, Inc. (the "Issuer"), it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the waterworks system (the "System") of the Issuer, will pay all operating expenses of the System and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) and Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA) (the "Bonds"), to be issued to the West Virginia Water Development Authority.

Very truly yours,

  
SCOTT & NYPL CPAS



## CERTIFICATE

*I, Ken Fleckler, Secretary of State of the State of West Virginia, hereby certify that*

by the provisions of Chapter 31, Article 1, Sections 27 and 28 of the West Virginia Code, the Articles of Incorporation of

WHITMER WATER ASSOCIATION INC.

conform to law and are filed in my office. I therefore declare the organization to be a Corporation for the purposes set forth in its Articles, with the right of perpetual existence, and I issue this

### CERTIFICATE OF INCORPORATION

to which I have attached a duplicate original of the Articles of Incorporation.

*Given under my hand and the Great Seal of the State of West Virginia, on this*

Twenty-Ninth day of

September 1995

*Ken Fleckler*

*Secretary of State.*



KEN HECHLER  
Secretary of State  
State Capitol, W-139  
Charleston, WV 25305  
(304) 342-8000



FILE IN DUPLICATE ORIGINALS  
FEE: AS PER SCHEDULE ON PAGE 4  
-- BUSINESS CORPORATION  
(stock, for profit):  
Complete all items except 3 A.  
-- NON-PROFIT CORPORATION  
(membership, non-stock):  
Complete all items except 3 B & 7

WEST VIRGINIA  
ARTICLES OF INCORPORATION

FILED  
SEP 29 1995  
IN THE OFFICE OF  
SECRETARY OF STATE  
WEST VIRGINIA

of

WHITMER WATER ASSOCIATION INC.

The undersigned, acting as incorporator(s) of a corporation under Chapter 31, Article 1, Section 27 of the West Virginia Code, adopt(s) the following Articles of Incorporation for such corporation:

1. The undersigned agree to become a West Virginia corporation by the name of

Whitmer Water Association Inc.

(The name of the corporation shall contain one of the words "corporation," "company," "incorporated," "limited" or shall contain an abbreviation of one of such words. (§31-1-11, W. Va. Code)

2. A. The address at the physical location of the principal office of the corporation will be Fire Dept.

Building, County Rt. 29 street, in the

city, town or village of Whitmer, county of Randolph

State of West Virginia, Zip Code 26296

The mailing address of the above location, if different, will be P. O. Box 23,

Whitmer, WV 26296

- B. The address at the physical location of the principal place of business in West Virginia of the corporation, if different

than the above address, will be \_\_\_\_\_ street, in the city, town or village

of \_\_\_\_\_ County, West Virginia, Zip Code \_\_\_\_\_

The mailing address of the above location, if different, will be \_\_\_\_\_

3. This corporation is organized as:

(A.) Non-stock, non-profit Non-Profit

or

B. Stock, for profit \_\_\_\_\_, and the aggregate value of the authorized capital stock of said profit corporation

will be \_\_\_\_\_ dollars, which shall be divided into \_\_\_\_\_ (no. of shares)

shares of the par value of \_\_\_\_\_ dollars each. (If the shares are to be divided  
(or state "without par value," if applicable)

into more than one class or if the corporation is to issue shares in any preferred or special class in series, additional statements are required within the articles of incorporation.) (As provided by law, for the purpose of assessment of the license tax, and for no other purpose, shares of stock having no par value shall be presumed to be of the par value of \$25 each; but, if such stock was originally issued for a consideration greater than \$25 per share, the annual license taxes as are required to be paid to the Tax Commissioner shall be computed upon the basis of the consideration for which such stock was issued. W. Va. Code §11-12-7B)

4. The period of duration of the corporation, which may be perpetual, is perpetual

7/14/95

137313

PLEASE DOUBLE SPACE; IF MORE SPACE IS NEEDED, USE ADDITIONAL SPACE ON PAGE 4 AND ADD PAGES:

5. The purpose(s) for which this corporation is formed (which may be stated to be, or to include, the transaction of any or all lawful business for which corporations may be incorporated in West Virginia), is(are) as follows:
  1. To operate and maintain the community water system.
  2. To seek assistance, financial or otherwise, as a legal entity when needed from County, State, Federal and other agencies.
  3. To plan and schedule meetings of the Community residents for the purpose of conducting Association business.
  4. To provide a fair and just means of establishing water rates and other fees to be assessed to community water system consumers.
  5. To develop and maintain close liaison with regulatory agencies.
  6. To raise funds by legal means for the benefit of the community and/or the water system.
  7. To transact any lawful business for which non-profit corporations may be incorporated.

6. The provisions for the regulation of the internal affairs of the corporation, which the incorporators elect to set forth in the articles of incorporation, are as follows:

As per the by-laws of the corporation.

7. The provisions granting, limiting or denying preemptive rights to shareholders, if any, are as follows:

--NA--

8. The full name(s) and address(es) of the incorporator(s), including street and street numbers, if any, and the city, town or village, including the zip code, and the number of shares subscribed for by each is(are) as follows:

| NAME          | ADDRESS                          | Number of Shares<br>(Optional) |
|---------------|----------------------------------|--------------------------------|
| John McFarlan | P. O. Box 184, Whitmer, WV 26296 |                                |
| Linda Dudley  | P.O. Box 149, Whitmer, WV 26296  |                                |
| Dorothy Sites | P.O. Box 69, Whitmer, WV 26296   |                                |

9. The number of directors constituting the initial board of directors of the corporation is SEVEN and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders/members, or until their successors are elected and shall qualify, are as follows:

| NAME               | ADDRESS                         |
|--------------------|---------------------------------|
| John Mc Farlan     | P.O. Box 184, Whitmer, WV 26296 |
| Linda Dudley       | P.O. Box 149, Whitmer, WV 26296 |
| Dorothy Sites      | P.O. Box 69, Whitmer, WV 26296  |
| Carolyn Cunningham | P.O. Box 82, Whitmer, WV 26296  |
| Ken Waybright      | P.O. Box 64, Whitmer, WV 26296  |
| Leon Cunningham    | P.O. Box 82, Whitmer, WV 26296  |
| Joyce Sites        | P.O. Box 14, Whitmer, WV 26296  |

10. The name and address of the appointed person to whom notice or process may be sent is \_\_\_\_\_

### ACKNOWLEDGEMENT

I(We), the undersigned, for the purpose of forming a corporation under the laws of the State of West Virginia, do make and file this "Articles of Incorporation."

In witness whereof, I(we) have accordingly hereunto set my(our) respective hands this 18 day

of August, 1995.

(All incorporators must sign below. Names and signatures must appear the same throughout the Articles of Incorporation.)  
PHOTOCOPIES OF THE SIGNATURES OF THE INCORPORATORS AND THE NOTARY PUBLIC CANNOT BE ACCEPTED.

John McFarlan  
Linda Dudley  
Dorothy Sites

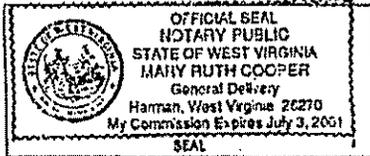
STATE OF WEST VIRGINIA

COUNTY OF RANDOLPH

I, MARY RUTH COOPER, a Notary Public, in and for the county and state aforesaid, hereby certify that (names of all incorporators as shown in Item 8 must be inserted in this space by official taking acknowledgment)

John McFarlan  
Linda Dudley  
Dorothy Sites

whose name(s) is(are) signed to the foregoing Articles of Incorporation, this day personally appeared before me in my said county and acknowledged his(her)(their) signature(s).



My commission expires July 3 - 2001

Mary Ruth Cooper  
(Notary Public)

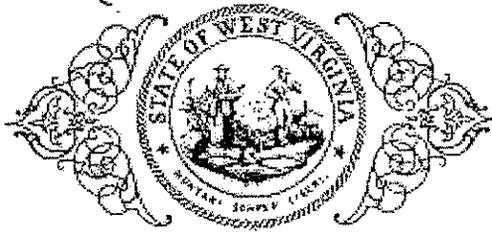
ARTICLES OF INCORPORATION PREPARED BY Lewis Dan Pauley

whose mailing address is 220 West Main St., Grafton, WV 26354

SECRETARY OF STATE LICENSE TAX SCHEDULE FOR DOMESTIC BUSINESS CORPORATIONS FISCAL YEAR

| TOTAL VALUE OF AUTHORIZED CAPITAL STOCK | JULY 100% | AUG. 100% | SEPT. 100% | OCT. 90% | NOV. 80% | DEC. 70% | JAN. 60% | FEB. 50% | MAR. 40% | APR. 30% | MAY*** 120% | JUNE*** 110% |
|---|-----------|-----------|------------|----------|----------|----------|----------|----------|----------|----------|-------------|--------------|
| 0 - 8,000                               | 20        | 20        | 20         | 18       | 16       | 14       | 12       | 10       | 10       | 10       | 30          | 30           |
| 8,001 - 10,000                          | 30        | 30        | 30         | 27       | 24       | 21       | 18       | 15       | 12       | 10       | 40          | 40           |
| 10,001 - 25,000                         | 40        | 40        | 40         | 36       | 32       | 28       | 24       | 20       | 16       | 12       | 50          | 50           |
| 25,001 - 50,000                         | 50        | 50        | 50         | 45       | 40       | 35       | 30       | 25       | 20       | 15       | 60          | 60           |
| 50,001 - 75,000                         | 60        | 60        | 60         | 54       | 48       | 42       | 36       | 30       | 24       | 18       | 70          | 70           |
| 75,001 - 100,000                        | 70        | 70        | 70         | 63       | 56       | 49       | 42       | 35       | 28       | 21       | 80          | 80           |
| 100,001 - 125,000                       | 80        | 80        | 80         | 72       | 64       | 56       | 48       | 40       | 32       | 24       | 90          | 90           |
| 125,001 - 150,000                       | 90        | 90        | 90         | 81       | 72       | 63       | 54       | 45       | 36       | 27       | 100         | 100          |
| 150,001 - 175,000                       | 100       | 100       | 100        | 90       | 80       | 70       | 60       | 50       | 40       | 30       | 110         | 110          |
| 175,001 - 200,000                       | 110       | 110       | 110        | 99       | 88       | 77       | 66       | 55       | 44       | 33       | 120         | 120          |
| 200,001 - 225,000                       | 120       | 120       | 120        | 108      | 96       | 84       | 72       | 60       | 48       | 36       | 130         | 130          |
| 225,001 - 250,000                       | 130       | 130       | 130        | 117      | 105      | 93       | 81       | 70       | 57       | 45       | 140         | 140          |
| 250,001 - 275,000                       | 140       | 140       | 140        | 126      | 113      | 100      | 88       | 76       | 64       | 51       | 150         | 150          |
| 275,001 - 300,000                       | 150       | 150       | 150        | 135      | 121      | 108      | 95       | 83       | 70       | 57       | 160         | 160          |
| 300,001 - 325,000                       | 160       | 160       | 160        | 144      | 129      | 115      | 101      | 88       | 75       | 62       | 170         | 170          |
| 325,001 - 350,000                       | 170       | 170       | 170        | 153      | 137      | 122      | 107      | 94       | 80       | 67       | 180         | 180          |
| 350,001 - 400,000                       | 180       | 180       | 180        | 162      | 145      | 129      | 113      | 99       | 85       | 71       | 190         | 190          |
| 400,001 - 450,000                       | 190       | 190       | 190        | 171      | 153      | 136      | 119      | 104      | 89       | 75       | 200         | 200          |
| 450,001 - 500,000                       | 200       | 200       | 200        | 180      | 161      | 143      | 125      | 109      | 94       | 79       | 210         | 210          |
| 500,001 - 550,000                       | 210       | 210       | 210        | 189      | 169      | 150      | 131      | 114      | 98       | 83       | 220         | 220          |
| 550,001 - 600,000                       | 220       | 220       | 220        | 198      | 177      | 157      | 137      | 120      | 103      | 87       | 230         | 230          |
| 600,001 - 650,000                       | 230       | 230       | 230        | 207      | 185      | 165      | 144      | 126      | 108      | 91       | 240         | 240          |
| 650,001 - 700,000                       | 240       | 240       | 240        | 216      | 193      | 172      | 151      | 132      | 114      | 96       | 250         | 250          |
| 700,001 - 750,000                       | 250       | 250       | 250        | 225      | 201      | 179      | 158      | 139      | 120      | 102      | 260         | 260          |
| 750,001 - 800,000                       | 260       | 260       | 260        | 234      | 209      | 186      | 165      | 146      | 126      | 107      | 270         | 270          |
| 800,001 - 850,000                       | 270       | 270       | 270        | 243      | 217      | 193      | 172      | 153      | 132      | 111      | 280         | 280          |
| 850,001 - 900,000                       | 280       | 280       | 280        | 252      | 225      | 200      | 179      | 159      | 138      | 116      | 290         | 290          |
| 900,001 - 950,000                       | 290       | 290       | 290        | 261      | 233      | 206      | 185      | 165      | 144      | 121      | 300         | 300          |
| 950,001 - 1,000,000                     | 300       | 300       | 300        | 270      | 241      | 213      | 191      | 170      | 149      | 126      | 310         | 310          |
| 1,000,001 - 1,001,000                   | 310       | 310       | 310        | 279      | 249      | 220      | 197      | 175      | 154      | 131      | 320         | 320          |
| 1,001,001 - 1,002,000                   | 320       | 320       | 320        | 288      | 257      | 227      | 203      | 181      | 160      | 136      | 330         | 330          |
| 1,002,001 - 1,003,000                   | 330       | 330       | 330        | 297      | 265      | 234      | 210      | 187      | 166      | 141      | 340         | 340          |
| 1,003,001 - 1,004,000                   | 340       | 340       | 340        | 306      | 273      | 241      | 217      | 193      | 171      | 146      | 350         | 350          |
| 1,004,001 - 1,005,000                   | 350       | 350       | 350        | 315      | 281      | 248      | 224      | 200      | 176      | 151      | 360         | 360          |
| 1,005,001 - 1,006,000                   | 360       | 360       | 360        | 324      | 289      | 255      | 231      | 205      | 181      | 156      | 370         | 370          |
| 1,006,001 - 1,007,000                   | 370       | 370       | 370        | 333      | 297      | 262      | 238      | 212      | 186      | 161      | 380         | 380          |
| 1,007,001 - 1,008,000                   | 380       | 380       | 380        | 342      | 305      | 269      | 245      | 219      | 192      | 166      | 390         | 390          |
| 1,008,001 - 1,009,000                   | 390       | 390       | 390        | 351      | 313      | 276      | 252      | 226      | 198      | 171      | 400         | 400          |
| 1,009,001 - 1,010,000                   | 400       | 400       | 400        | 360      | 321      | 283      | 259      | 233      | 203      | 176      | 410         | 410          |
| 1,010,001 - 1,011,000                   | 410       | 410       | 410        | 369      | 329      | 290      | 266      | 240      | 210      | 181      | 420         | 420          |
| 1,011,001 - 1,012,000                   | 420       | 420       | 420        | 378      | 337      | 297      | 273      | 247      | 217      | 186      | 430         | 430          |
| 1,012,001 - 1,013,000                   | 430       | 430       | 430        | 387      | 345      | 304      | 280      | 254      | 224      | 191      | 440         | 440          |
| 1,013,001 - 1,014,000                   | 440       | 440       | 440        | 396      | 353      | 311      | 287      | 261      | 231      | 196      | 450         | 450          |
| 1,014,001 - 1,015,000                   | 450       | 450       | 450        | 405      | 361      | 318      | 294      | 268      | 238      | 201      | 460         | 460          |
| 1,015,001 - 1,016,000                   | 460       | 460       | 460        | 414      | 369      | 325      | 301      | 275      | 245      | 206      | 470         | 470          |
| 1,016,001 - 1,017,000                   | 470       | 470       | 470        | 423      | 377      | 332      | 308      | 282      | 252      | 211      | 480         | 480          |
| 1,017,001 - 1,018,000                   | 480       | 480       | 480        | 432      | 385      | 339      | 315      | 289      | 259      | 216      | 490         | 490          |
| 1,018,001 - 1,019,000                   | 490       | 490       | 490        | 441      | 393      | 346      | 322      | 296      | 266      | 221      | 500         | 500          |
| 1,019,001 - 1,020,000                   | 500       | 500       | 500        | 450      | 401      | 353      | 329      | 303      | 273      | 226      | 510         | 510          |
| 1,020,001 - 1,021,000                   | 510       | 510       | 510        | 459      | 409      | 360      | 336      | 310      | 280      | 231      | 520         | 520          |
| 1,021,001 - 1,022,000                   | 520       | 520       | 520        | 468      | 417      | 367      | 343      | 317      | 287      | 236      | 530         | 530          |
| 1,022,001 - 1,023,000                   | 530       | 530       | 530        | 477      | 425      | 374      | 350      | 324      | 294      | 241      | 540         | 540          |
| 1,023,001 - 1,024,000                   | 540       | 540       | 540        | 486      | 433      | 381      | 357      | 331      | 301      | 246      | 550         | 550          |
| 1,024,001 - 1,025,000                   | 550       | 550       | 550        | 495      | 441      | 388      | 364      | 338      | 308      | 251      | 560         | 560          |
| 1,025,001 - 1,026,000                   | 560       | 560       | 560        | 504      | 449      | 395      | 371      | 345      | 315      | 256      | 570         | 570          |
| 1,026,001 - 1,027,000                   | 570       | 570       | 570        | 513      | 457      | 402      | 378      | 352      | 322      | 261      | 580         | 580          |
| 1,027,001 - 1,028,000                   | 580       | 580       | 580        | 522      | 465      | 409      | 385      | 359      | 329      | 266      | 590         | 590          |
| 1,028,001 - 1,029,000                   | 590       | 590       | 590        | 531      | 473      | 416      | 392      | 366      | 336      | 271      | 600         | 600          |
| 1,029,001 - 1,030,000                   | 600       | 600       | 600        | 540      | 481      | 423      | 405      | 373      | 343      | 276      | 610         | 610          |
| 1,030,001 - 1,031,000                   | 610       | 610       | 610        | 549      | 489      | 430      | 412      | 380      | 350      | 281      | 620         | 620          |
| 1,031,001 - 1,032,000                   | 620       | 620       | 620        | 558      | 497      | 437      | 419      | 387      | 357      | 286      | 630         | 630          |
| 1,032,001 - 1,033,000                   | 630       | 630       | 630        | 567      | 505      | 444      | 426      | 394      | 364      | 291      | 640         | 640          |
| 1,033,001 - 1,034,000                   | 640       | 640       | 640        | 576      | 513      | 451      | 435      | 401      | 371      | 296      | 650         | 650          |
| 1,034,001 - 1,035,000                   | 650       | 650       | 650        | 585      | 521      | 458      | 444      | 408      | 378      | 301      | 660         | 660          |
| 1,035,001 - 1,036,000                   | 660       | 660       | 660        | 594      | 529      | 465      | 453      | 415      | 385      | 306      | 670         | 670          |
| 1,036,001 - 1,037,000                   | 670       | 670       | 670        | 603      | 537      | 472      | 462      | 422      | 392      | 311      | 680         | 680          |
| 1,037,001 - 1,038,000                   | 680       | 680       | 680        | 612      | 545      | 479      | 471      | 429      | 409      | 316      | 690         | 690          |
| 1,038,001 - 1,039,000                   | 690       | 690       | 690        | 621      | 553      | 486      | 480      | 436      | 416      | 321      | 700         | 700          |
| 1,039,001 - 1,040,000                   | 700       | 700       | 700        | 630      | 561      | 493      | 489      | 443      | 423      | 326      | 710         | 710          |
| 1,040,001 - 1,041,000                   | 710       | 710       | 710        | 639      | 569      | 500      | 498      | 450      | 430      | 331      | 720         | 720          |
| 1,041,001 - 1,042,000                   | 720       | 720       | 720        | 648      | 577      | 507      | 507      | 457      | 437      | 336      | 730         | 730          |
| 1,042,001 - 1,043,000                   | 730       | 730       | 730        | 657      | 585      | 514      | 516      | 464      | 446      | 341      | 740         | 740          |
| 1,043,001 - 1,044,000                   | 740       | 740       | 740        | 666      | 593      | 521      | 525      | 471      | 455      | 346      | 750         | 750          |
| 1,044,001 - 1,045,000                   | 750       | 750       | 750        | 675      | 601      | 528      | 534      | 478      | 464      | 351      | 760         | 760          |
| 1,045,001 - 1,046,000                   | 760       | 760       | 760        | 684      | 609      | 535      | 543      | 485      | 471      | 356      | 770         | 770          |
| 1,046,001 - 1,047,000                   | 770       | 770       | 770        | 693      | 617      | 542      | 552      | 492      | 478      | 361      | 780         | 780          |
| 1,047,001 - 1,048,000                   | 780       | 780       | 780        | 702      | 625      | 549      | 561      | 499      | 485      | 366      | 790         | 790          |
| 1,048,001 - 1,049,000                   | 790       | 790       | 790        | 711      | 633      | 556      | 570      | 506      | 492      | 371      | 800         | 800          |
| 1,049,001 - 1,050,000                   | 800       | 800       | 800        | 720      | 641      | 563      | 579      | 513      | 499      | 376      | 810         | 810          |
| 1,050,001 - 1,051,000                   | 810       | 810       | 810        | 729      | 649      | 570      | 588      | 520      | 506      | 381      | 820         | 820          |
| 1,051,001 - 1,052,000                   | 820       | 820       | 820        | 738      | 657      | 577      | 597      | 527      | 513      | 386      | 830         | 830          |
| 1,052,001 - 1,053,000                   | 830       | 830       | 830        | 747      | 665      | 584      | 606      | 534      | 520      | 391      | 840         | 840          |
| 1,053,001 - 1,054,000                   | 840       | 840       | 840        | 756      | 673      | 591      | 615      | 541      | 527      | 396      | 850         | 850          |
| 1,054,001 - 1,055,000                   | 850       | 850       | 850        | 765      | 681      | 598      | 624      | 548      | 534      | 401      | 860         | 860          |
| 1,055,001 - 1,056,000                   | 860       | 860       | 860        | 774      | 689      | 605      | 633      | 555      | 541      | 406      | 870         | 870          |
| 1,056,001 - 1,057,000                   | 870       | 870       | 870        | 783      | 697      | 612      | 642      | 562      | 548      | 411      | 880         | 880          |
| 1,057,001 - 1,058,000                   | 880       | 880       | 880        | 792      | 705      | 619      | 651      | 569      | 555      | 416      | 890         | 890          |
| 1,058,001 - 1,059,000                   | 890       | 890       | 890        | 801      | 713      | 626      | 660      | 576      | 562      | 421      | 900         | 900          |
| 1,059,001 - 1,060,000                   | 900       | 900       | 900        | 810      | 721      | 633      | 669      | 583      | 569      | 426      | 910         | 910          |
| 1,060,001 - 1,061,000                   | 910       | 910       | 910        | 819      | 729      | 640      | 678      | 590      | 576      | 431      | 920         | 920          |
| 1,061,001 - 1,062,000                   | 920       | 920       | 920        | 828      | 737      | 647      | 687      | 597      | 583      | 436      | 930         | 930          |
| 1,062,001 - 1,063,000                   | 930       | 930       | 930        | 837      | 745      | 654      | 696      | 604      | 590      | 441      | 940         | 940          |
| 1,063,001 - 1,064,000                   | 940       | 940       | 940        | 846      | 753      | 661      | 705      | 611      | 597      | 446      | 950         | 950          |
| 1,064,001 - 1,065,000                   | 950       | 950       | 950        | 855      | 761      | 668      | 714      | 618      | 604      | 451      | 960         | 960          |
| 1,065,001 - 1,066,000                   | 960       | 960       | 960        | 864      | 769      | 675      | 723      | 625      | 611      | 456      | 970         | 970          |
| 1,066,001 - 1,067,000                   | 970       | 970       | 970        | 873      | 777      | 682      | 732      | 632      | 618      | 461      | 980         | 980          |
| 1,067,001 - 1,068,000                   | 980       | 980       | 980        | 882      | 785      | 689      | 741      | 639      | 625      | 466      | 990         | 990          |
| 1,068,001 - 1,069,000                   | 990       | 990       | 990        | 891      | 793      | 696      | 750      | 646      | 632      | 471      | 1,000       | 1,000        |
| 1,069,001 - 1,070,000                   | 1,000     | 1,000     |            |          |          |          |          |          |          |          |             |              |

# State of West Virginia



## Certificate

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

**WHITMER WATER ASSOCIATION INC.**

was incorporated under the laws of West Virginia and a Certificate of Incorporation was issued by the West Virginia Secretary of State's Office on September 29, 1995.

I further certify that the corporation has not been revoked by the State of West Virginia nor has the West Virginia Secretary of State issued a Certificate of Dissolution to the corporation.

Accordingly, I hereby issue this

## CERTIFICATE OF EXISTENCE

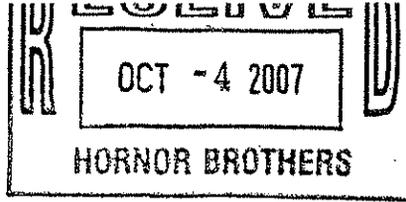
*Given under my hand and the  
Great Seal of the State of  
West Virginia on this day of  
October 15, 2009*



*Natalie E. Tennant*

*Secretary of State*

*Copy-True*



INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date:

*SEP 26 2007*

WHITMER WATER ASSOCIATION INC  
PO BOX 23  
WHITMER, WV 26296

Employer Identification Number:  
20-8688233  
DLN:  
307267021  
Contact Person:  
DONNA ELLIOT-MOORE ID# 50304  
Contact Telephone Number:  
(877) 829-5500  
Accounting Period Ending:  
December 31  
Form 990 Required:  
Yes  
Effective Date of Exemption:  
January 1, 2003  
Contribution Deductibility:  
No

Dear Applicant:

We are pleased to inform you that upon review of your application for tax-exempt status we have determined that you are exempt from Federal income tax under section 501(c)(12) of the Internal Revenue Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

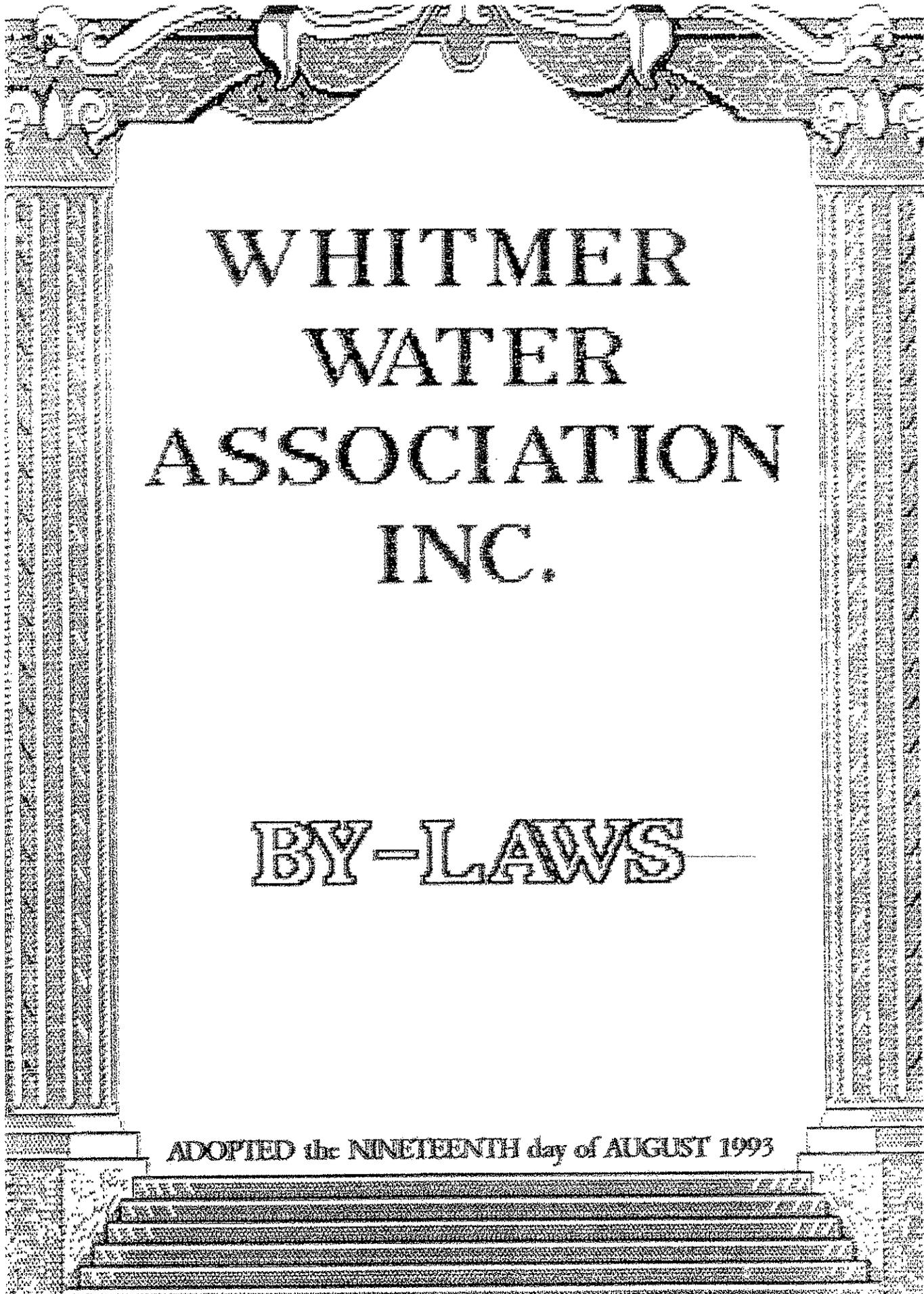
Please see enclosed Information for Organizations Exempt Under Sections Other Than 501(c)(3) for some helpful information about your responsibilities as an exempt organization.

You will be recognized as exempt only in years when your receipts from members, for the purpose of meeting losses and expenses, are at least 85 percent of your total income.

Sincerely,

Robert Choi  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure: Information for Organizations Exempt Under Sections Other Than 501(c)(3)



WHITMER  
WATER  
ASSOCIATION  
INC.

BY-LAWS

ADOPTED the NINETEENTH day of AUGUST 1993

WHITMER WATER ASSOCIATION INCORPORATED

BY LAWS

ARTICLE I

NAME, PURPOSE, and LOCATION

I.1 Name

This corporation shall be known as the Whitmer Water Association

I.2 Purpose

The purpose of the Association shall be:

1. To operate and maintain the community water system.
2. To seek assistance, financial or otherwise, as a legal entity when needed from County, State, Federal and other agencies.
3. To plan and schedule meetings of the Community residents for the purpose of conducting Association business.
4. To provide a fair and just means of establishing water rates and other fees to be assessed to community water system consumers.
5. To develop and maintain close liaison with regulatory agencies.
6. To raise funds by legal means for the benefit of the community and/or the water system.

I.3 Location

This Association shall be located at the Whitmer Fire Department.

ARTICLE II

MEMBERSHIP OF THE ASSOCIATION

II.1 Eligible Membership

Membership of the Association shall be limited to those that live in the community or have authorized taps on the water system.

II.2 Voting Members

One vote shall be allowed per authorized "water tap" whether it be a residence or business. However, individuals owning so called seasonal or transient taps for non-permanent dwellings (i.e. campers or camps) will not be extended voting privileges. Operator/Owners of multiple tap Camping site businesses will be extended one vote as a singular business.

II.3 Proxy Voting

A proxy vote shall be allowed when written notification by the absent qualified voter is presented to the Association President or Presiding Officer prior to the convening of the meeting. That proxy vote then shall count toward the establishment of a quorum for that meeting.

II.4 Voting Eligibility

Members that are more than two months behind in their water tap fees lose their eligibility to vote unless otherwise exempted by a majority vote of the Membership at an official meeting. Voting privileges remain lost until fees are paid to current.

ARTICLE III

MEETINGS OF THE ASSOCIATION

III.1 Regular Meetings

Regular meetings of the Association will be held at the Fire Department at 7:00pm on the 1st Monday of each month or on a date and time agreed upon in advance in any regular or special meeting preceding that meeting.

III.2 Special or Emergency meetings

Special or Emergency meetings of the Association may be held at the call of a majority of the members at any time designated in the call. Emergency meetings may be called by the President or Vice-President when a situation exists that needs immediate or prompt action by the membership. In such cases only business relating to the crises should be conducted.

III.3 Quorum

A quorum shall consist of any 5 members and a presiding officer.

III.4 Meeting Arrangements

Notice of Regular meetings shall be posted in the community store and Post Office not less than five working days prior to the meeting.

In the case of emergency meetings notice should be placed in the same locations and the officers and/or volunteers of the community should attempt to contact all eligible members to advise them of the pending meeting.

ARTICLE IV

ASSOCIATION OFFICES

IV.1 Qualification for Office

Any individual qualified for Membership as specified in Article II.1 of these By Laws shall be eligible for holding Office.

IV.2 Election of Officers

Officers of the Association shall be elected by the membership at a Regular meeting held in the month of January.

IV.3 Delineation of Officers

The members of the Association shall elect from the membership the following;

- President
- Vice-President
- Secretary-Treasurer
- Plant Operator

Any officer shall be allowed to hold more than one office. Except the person holding the office of Secretary-Treasurer shall hold only one office.

IV.4 Terms of Office

Officers shall be elected for a one year term. Officers not fulfilling their term of office will be replaced at the next scheduled meeting by election. The newly elected officer will complete the unexpired term of his/her predecessor. All officers shall be allowed to succeed themselves in any office.

IV.5 Duties of Officers

The President:

- 1) shall serve as the Association chief Executive Officer and preside at each Association meeting.
- 2) may be one of two signatures required on payment vouchers and checks

The Vice-President:

- 1) shall serve as the Association chief Executive Officer and preside at each Association meeting in the absence of the President.
- 2) may be a signature for all checks and payment vouchers in substitute for the President

The Secretary-Treasurer shall:

- 1) Take and keep all minutes of all meetings of the Association.
- 2) Assure that notices of meetings are posted properly and timely.
- 3) Write and otherwise issue all checks and payments made by the association
- 4) Be one of the two signatures required on all payment vouchers and checks.

The Plant Operator:

- 1) shall be responsible for the day to day monitoring and operation of the water plant.
- 2) may at the discretion of the voting membership by vote be an authorized signature on all vouchers and check
- 3) may hold another association office simultaneously while serving as plant operator

ARTICLE V

AMENDMENTS

- V.1 These by laws may be amended by a 2/3 majority vote of the membership at any regular meeting providing that the proposed changes were presented and discussed at a previous meeting and the date of vote was announced at that meeting.

**LEGAL ADVERTISEMENT**

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

Entered by the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 22nd day of July 2009.

CASE NO. 09-1099-W-SCN

**WHITMER WATER ASSOCIATION, INC.**

Application for a certificate of convenience and necessity to construct a new water treatment plant and approximately 49,000 linear feet of 8 inch, 6 inch, 4 inch and 2 inch waterlines, a 105,000 gallon water storage tank, a pressure reducing station and radio telemetry to serve approximately 125 existing and new customers.

**NOTICE OF FILING**

On July 6, 2009, Whitmer Water Association, Inc. ("Whitmer"), filed an application, duly verified, for a Certificate to construct certain additions and improvements to the Whitmer Water Association system in Randolph County. The application is on file with and available for public inspection at the Public Service Commission, 201 Brooks Street, in Charleston, West Virginia.

Whitmer estimates that construction will cost approximately \$3,335,710.00. It is proposed that the construction will be financed as follows:

Drinking Water Treatment Revolving Fund Loan A (American Recovery and Reinvestment Act); No annual debt service payment; principle forgiveness for this loan) in the amount of \$1,895,000.00.

Drinking Water Treatment Revolving Fund Loan B (Base Program) in the amount of \$370,000.00.

Small Cities Block Grant in the amount of \$1,070,710.00.

The utility anticipates charging the following rates for its customers:

|                               |                           |
|-------------------------------|---------------------------|
| First 3,000 gallons per month | \$10.65 per 1,000 gallons |
| Next 3,000 gallons per month  | \$10.10 per 1,000 gallons |
| Next 4,000 gallons per month  | \$9.60 per 1,000 gallons  |
| Next 10,000 gallons per month | \$9.05 per 1,000 gallons  |
| Over 20,000 gallons per month | \$8.50 per 1,000 gallons  |

**MINIMUM MONTHLY BILL**  
3,000 GALLONS \$31.95 per month

**DELAYED PAYMENT PENALTY**  
The above tariff is net. On all accounts not paid in full within twenty days of the latest pay date, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

**CONNECTION CHARGE (if applicable)**  
Prior to construction \$100.00  
After construction passes the premises to be served, charge for connection to the system \$300.00

These rates represent the following project-related increases per 1,000 gallons for residential, commercial and industrial

|                       | (\$) INCREASE | (%) INCREASE   |
|-----------------------|---------------|----------------|
| First 3,000 gal/month | \$6.65        | 166.25 percent |
| Next 3,000 gal/month  | \$6.10        | 152.50 percent |
| Next 4,000 gal/month  | \$5.60        | 140.00 percent |
| Next 10,000 gal/month | \$5.05        | 126.25 percent |
| Over 20,000 gal/month | \$4.50        | 112.50 percent |

The proposed increased rates, charges and new customers will produce approximately \$58,629.00 annually in additional revenue, an increase of 1,125 percent.

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing.

Pursuant to W.Va. Code 24-2-11, IT IS ORDERED that Whitmer Water Association, Inc. give notice of the filing of said application, by publishing a copy of this order once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Randolph County, making due return to this Commission of proper certification of publication immediately after publication. Anyone desiring to protest or intervene should file a written protest or notice of intervention within 30 days following the date of this publication unless otherwise modified by Commission order. Failure to timely protest or intervene can affect your right to protest aspects of this certificate case, including any associated rate increases, or to participate in future proceedings. All protests or requests to intervene should briefly state the reason for the protest or intervention set forth in the Commission's Rules of Practice and Procedure. All protests and intervention should be addressed to Sandra Squire, Executive Secretary, P.O. Box 812, Charleston, West Virginia 25323.

IT IS FURTHER ORDERED that if there is no substantial protest to the Application received within said thirty day period, the Commission may waive formal hearing and grant the application based on the evidence submitted with said application and its review thereof.

A True Copy, Teste:

**Sandra Squire**  
Executive Secretary

2009 SEP 11 PM 12 47  
RECEIVED  
IN VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

~~RECEIVED  
09 AUG 18 AM 11: 15  
IN VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE~~

RECEIVED

2009 SEP 11 PM 12 47

W VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE



State of West Virginia, County of Randolph, ss.

I, Donald W. Smith, General Manager of THE INTER-MOUNTAIN,  
a newspaper published at Elkins, in said county, do hereby  
certify that the annexed advertisement was published on the  
following dates:

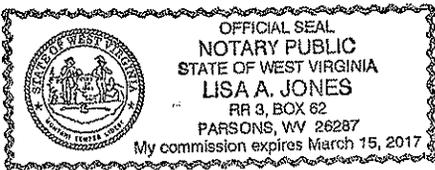
Aug 13 \_\_\_\_\_

2009 \_\_\_\_\_ as required by law.

Given under my hand this 13<sup>th</sup> day of Aug, 2009.

Donald W. Smith  
General Manager

Printer's Fee: \$ 177.27



Subscribed and sworn to before me this 13<sup>th</sup> day of August, 2009.

Lisa A. Jones  
Notary Public

My Commission Expires the 15<sup>th</sup> day of March, 2017.

~~RECEIVED  
09 AUG 18 AM 11:16  
W VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE~~

WHITMER WATER ASSOCIATION, INC.

Water Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Water Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

MINUTES ON ELECTION OF OFFICERS FOR YEAR 2010,  
ADOPTION OF BOND RESOLUTION, SUPPLEMENTAL RESOLUTION,  
SWEEP RESOLUTION AND FIRST DRAW RESOLUTION

The undersigned Secretary of the Whitmer Water Association, Inc. (the "Association") hereby certifies that the following is a true and correct excerpt of the minutes of a regular meeting of the said Association:

\*\*\*

\*\*\*

\*\*\*

The Board of Whitmer Water Association, Inc. met in regular session, pursuant to notice duly given, on the 12th day of January, 2010, at Whitmer, West Virginia, at the hour of 7:00 p.m.

PRESENT: Paula Teter - President  
Mike Dolly - Vice President  
Susan Pennington - Secretary  
John Pennington - Member  
Clarence Turner - Member

ABSENT: None.

Paula Teter, acted as President, presided, and Susan Pennington, acted as Secretary.

The President announced that a quorum of members was present and that the meeting was open for any business properly before it.

Thereupon, following nomination and vote for each office, the following members were elected to the following offices for the 2010 calendar year:

Paula Teter - President  
Mike Dolly - Vice President  
Susan Pennington - Secretary

Thereupon, the President presented a proposed Bond Resolution in writing entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS FACILITIES OF WHITMER WATER ASSOCIATION, INC. AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$370,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA DWTRF PROGRAM), AND NOT MORE THAN \$2,117,573 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA DWTRF PROGRAM/ARRA); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING THE ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A CREDIT LINE DEED OF TRUST, SECURITY AGREEMENT AND OTHER DOCUMENTS AND INSTRUMENTS RELATING TO THE BONDS AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

and caused the same to be read and there was discussion. Thereupon, on motion duly made by Susan Pennington and seconded by John Pennington, it was unanimously ordered that the said Bond Resolution be adopted and be in full force and effect on and from the date hereof.

Thereupon, the President presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE WATER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA DWTRF PROGRAM) AND WATER REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA DWTRF PROGRAM/ARRA), OF WHITMER WATER ASSOCIATION, INC.; APPROVING AND RATIFYING THE ARRA ASSISTANCE AGREEMENTS RELATING TO SUCH BONDS;

AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

and caused the same to be read and there was discussion. Thereupon, on motion duly made by Susan Pennington and seconded by Mike Dolly, it was unanimously ordered that the said Supplemental Resolution be adopted and be in full force and effect on and from the date hereof.

Next, the President presented a proposed Sweep Resolution for the authorization of electronic monthly debt service and reserve fund payments to the Municipal Bond Commission. Thereupon, on motion duly made by Susan Pennington and seconded by Mike Dolly, it was unanimously ordered that the said Sweep Resolution be adopted.

Next, the President presented a proposed Draw Resolution for the approval of invoices. Thereupon, on motion duly made by Susan Pennington and seconded by John Pennington, it was unanimously ordered that the said Draw Resolution be adopted.

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There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

CERTIFICATION

I further hereby certify that the foregoing action of Whitmer Water Association, Inc. remains in full force and effect and has not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 21st day of January, 2010.

  
Secretary

01.08.10  
972490.00001

WHITMER WATER ASSOCIATION, INC.

Water Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Water Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

MINUTES ON ELECTION OF OFFICERS FOR YEAR 2010,  
ADOPTION OF BOND RESOLUTION, SUPPLEMENTAL RESOLUTION,  
SWEEP RESOLUTION AND FIRST DRAW RESOLUTION

The undersigned Secretary of the Whitmer Water Association, Inc. (the "Association") hereby certifies that the following is a true and correct excerpt of the minutes of a regular meeting of the said Association:

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The Board of Whitmer Water Association, Inc. met in regular session, pursuant to notice duly given, on the 12th day of January, 2010, at Whitmer, West Virginia, at the hour of 7:00 p.m.

PRESENT: Paula Teter - President  
Mike Dolly - Vice President  
Susan Pennington - Secretary  
John Pennington - Member  
Clarence Turner - Member

ABSENT: None.

Paula Teter, acted as President, presided, and Susan Pennington, acted as Secretary.

The President announced that a quorum of members was present and that the meeting was open for any business properly before it.

Thereupon, following nomination and vote for each office, the following members were elected to the following offices for the 2010 calendar year:

Paula Teter - President  
Mike Dolly - Vice President  
Susan Pennington - Secretary

Thereupon, the President presented a proposed Bond Resolution in writing entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS FACILITIES OF WHITMER WATER ASSOCIATION, INC. AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$370,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA DWTRF PROGRAM), AND NOT MORE THAN \$2,117,573 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA DWTRF PROGRAM/ARRA); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING THE ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A CREDIT LINE DEED OF TRUST, SECURITY AGREEMENT AND OTHER DOCUMENTS AND INSTRUMENTS RELATING TO THE BONDS AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

and caused the same to be read and there was discussion. Thereupon, on motion duly made by Susan Pennington and seconded by John Pennington, it was unanimously ordered that the said Bond Resolution be adopted and be in full force and effect on and from the date hereof.

Thereupon, the President presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE WATER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA DWTRF PROGRAM) AND WATER REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA DWTRF PROGRAM/ARRA), OF WHITMER WATER ASSOCIATION, INC.; APPROVING AND RATIFYING THE ARRA ASSISTANCE AGREEMENTS RELATING TO SUCH BONDS;

AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

and caused the same to be read and there was discussion. Thereupon, on motion duly made by Susan Pennington and seconded by Mike Dolly, it was unanimously ordered that the said Supplemental Resolution be adopted and be in full force and effect on and from the date hereof.

Next, the President presented a proposed Sweep Resolution for the authorization of electronic monthly debt service and reserve fund payments to the Municipal Bond Commission. Thereupon, on motion duly made by Susan Pennington and seconded by Mike Dolly, it was unanimously ordered that the said Sweep Resolution be adopted.

Next, the President presented a proposed Draw Resolution for the approval of invoices. Thereupon, on motion duly made by Susan Pennington and seconded by John Pennington, it was unanimously ordered that the said Draw Resolution be adopted.

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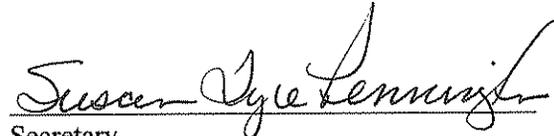
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There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

CERTIFICATION

I further hereby certify that the foregoing action of Whitmer Water Association, Inc. remains in full force and effect and has not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 21st day of January, 2010.

  
Secretary

01.08.10  
972490.00001

**WV MUNICIPAL BOND COMMISSION**

1207 Quarrier Street  
Suite 401  
Charleston, WV 25301  
(304) 558-3971

**NEW ISSUE REPORT FORM**

Date of Report: 21-Jan-10

|   |  |
|---|--|
| ISSUE: <u>Whitmer Water Association, Inc.</u>                                       |  |
| <u>Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program)</u>             |  |
| ADDRESS: <u>P.O. Box 23, Whitmer, WV 26296</u>                                      | COUNTY: <u>Randolph</u>                        |
| PURPOSE OF ISSUE:   |  |
| New Money: <u>x</u>   | REFUNDS ISSUE(S) DATED: <u>NA</u>              |
| Refunding: _____  |  |
| ISSUE DATE: <u>21-Jan-10</u>  | CLOSING DATE: <u>21-Jan-10</u>                 |
| ISSUE AMOUNT: <u>\$370,000</u>  | RATE: <u>0%</u>                                |
| 1ST DEBT SERVICE DUE: <u>12/1/2011</u>  | 1ST PRINCIPAL DUE <u>12/1/2011</u>             |
| 1ST DEBT SERVICE AMOUNT <u>\$3,084</u>  | PAYING AGENT: <u>Municipal Bond Commission</u> |
| BOND COUNSEL:   |  |
| Firm: <u>Steptoe &amp; Johnson PLLC</u>   | UNDERWRITERS COUNSEL                           |
| Contact: <u>John Stump, Esquire</u>   | Firm: <u>Jackson Kelly, PLLC</u>               |
| Phone: <u>(304) 353.8196</u>  | Contact: <u>Samme Gee, Esquire</u>             |
|   | Phone: <u>(304) 340-1318</u>                   |
| CLOSING BANK:   |  |
| Bank: <u>Grant County Bank</u>  | ESCROW TRUSTEE:                                |
| Contact: <u>Jason Hamrick</u>   | Firm: _____                                    |
| Phone: <u>304.259.5201</u>  | Contact: _____                                 |
|   | Phone: _____                                   |
| KNOWLEDGEABLE ISSUER CONTACT  |  |
| Contact: <u>Paula Teter</u>   | OTHER:   |
| Position: <u>President</u>  | Agency: <u>West Virginia DWTRF Program</u>     |
| Phone: <u>304.227.4153</u>  | Contact: <u>Robert DeCrease, P.E.</u>          |
|   | Position: <u>Manager</u>                       |
|   | Phone: <u>304.558.6749</u>                     |
| DEPOSITS TO MBC AT CLOSE  |  |
| By: _____ Wire _____  | Accrued Interest: \$ _____                     |
| _____ Check _____   | Capitalized Interest: \$ _____                 |
|   | Reserve Account: \$ _____                      |
|   | Other: \$ _____                                |
| REFUNDS & TRANSFERS BY MBC AT CLOSE   |  |
| By: _____ Wire _____  | To Escrow Trustee \$ _____                     |
| _____ Check _____   | To Issuer \$ _____                             |
| _____ IGT _____   | To Cons. Invest. Fund \$ _____                 |
|   | To Other: _____ \$ _____                       |
| NOTES: <u>The Series 2010 A Bonds Reserve Account will be funded over 10 years.</u> |  |
| _____   |  |
| _____   |  |
| FOR MUNICIPAL BOND COMMISSION USE ONLY:   |  |
| DOCUMENTS REQUIRED: _____   |  |
| TRANSFERS REQUIRED: _____   |  |
| _____   |  |



WHITMER WATER ASSOCIATION, INC.

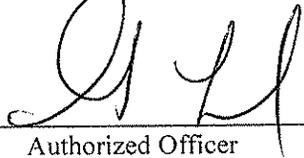
Water Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Water Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

Grant County Bank, Davis, West Virginia, hereby accepts appointment as Depository Bank in connection with the Bond Resolution of Whitmer Water Association, Inc. (the "Issuer") adopted by the Issuer on January 12, 2010, and a Supplemental Resolution adopted by the Issuer on January 12, 2010 (collectively, the "Bond Legislation"), authorizing issuance of the Issuer's Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) and Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), both dated January 21, 2010, issued in the respective original aggregate principal amounts of \$370,000 and \$2,117,573 (collectively, the "Bonds"), and agrees to serve as Depository Bank in connection with the Bonds, all as set forth in the Bond Legislation.

WITNESS my signature on this 21st day of January, 2010.

GRANT COUNTY BANK

By:   
Its: Authorized Officer

12/16/09  
972490.00001

CH5274762

WHITMER WATER ASSOCIATION, INC.

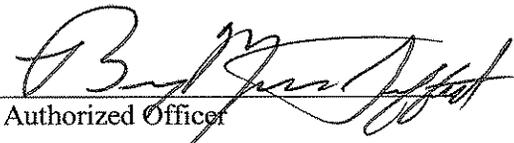
Water Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Water Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

ACCEPTANCE OF DUTIES AS REGISTRAR

THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the Whitmer Water Association, Inc. Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), and Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), both dated January 21, 2010, issued in the respective original aggregate principal amounts of \$370,000 and \$2,117,573 (collectively, the "Bonds"), and agrees to perform all duties of Registrar in connection with the Bonds, all as set forth in the Bond Legislation authorizing issuance of the Bonds.

WITNESS my signature on this 21st day of January, 2010.

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

12.16.09  
972490.00001

CH5274767

WHITMER WATER ASSOCIATION, INC.

Water Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Water Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

CERTIFICATE OF REGISTRATION OF BONDS

THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, as Registrar under the Bond Resolution and Registrar's Agreement providing for the above-captioned Bonds of Whitmer Water Association, Inc. (the "Issuer"), hereby certifies that on the date hereof (i) the single, fully registered Water Revenue Bond, Series 2010 A (West Virginia DWTRF Program), of the Issuer, dated January 21, 2010, in the principal amount of \$370,000, numbered AR-1, was registered as to principal only and (ii) the single fully registered Water Revenue Bond, Series 2010 B (West Virginia DWTRF Program/ARRA) of the Issuer, dated January 21, 2010, in the principal amount of \$2,117,573, numbered BR-1, was registered as to principal only, in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of The Huntington National Bank, as Registrar.

WITNESS my signature on this 21st day of January, 2010.

THE HUNTINGTON NATIONAL BANK

  
Authorized Officer

12.16.09  
972490.00001

WHITMER WATER ASSOCIATION, INC.

Water Revenue Bonds, Series 2010 A  
(West Virginia DWTRF Program); and  
Water Revenue Bonds, Series 2010 B  
(West Virginia DWTRF Program/ARRA)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 21st day of January, 2010, by and between WHITMER WATER ASSOCIATION, INC., a West Virginia non-profit corporation (the "Issuer"), and THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$370,000 Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), and \$2,117,573 Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), both dated January 21, 2010, in fully registered form (collectively, the "Bonds"), pursuant to a Bond Resolution of the Issuer duly adopted January 12, 2010, and a Supplemental Resolution of the Issuer duly adopted January 12, 2010 (collectively, the "Bond Legislation");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Bond Legislation, a copy of which is attached as EXHIBIT A hereto and incorporated herein by reference;

WHEREAS, the Bond Legislation provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Bond Legislation and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Bond Legislation and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Bond Legislation, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or

transfer, and shall do so with the intention of maintaining the exemption of interest on the Bonds from federal income taxation, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation for services rendered as provided in the annexed schedule.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Bond Legislation with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Bond Legislation, the terms of the Bond Legislation shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Bond Legislation will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER: Whitmer Water Association, Inc.  
P.O. Box 23  
Whitmer, West Virginia 26296  
Attention: President

REGISTRAR: The Huntington National Bank  
One Huntington Square  
Charleston, West Virginia 25301  
Attention: Corporate Trust Department

8. The Registrar shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement. The registrar shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Registrar to carry out these

requirements is a material breach of this Agreement which may result in the termination of this Agreement or other legal available remedies.

9. The Registrar is hereby requested and authorized to authenticate, register and deliver the Bonds in accordance with the Bond Legislation.

10. 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.

[Remainder of Page Intentionally Blank}

IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

WHITMER WATER ASSOCIATION, INC.

By: Paula J. Leter  
Its: President

THE HUNTINGTON NATIONAL BANK

By: [Signature]  
Its: Authorized Officer

12.17.09  
972490.00001

CH5274174

EXHIBIT A

Bond Legislation included in bond transcript as Documents No. 1 and No. 2

SCHEDULE OF COMPENSATION

(Please see the attached)

Private Financial Group  
P.O. Box 633 - WE3013  
Charleston, West Virginia 25322-0633



STATEMENT OF REGISTRAR'S FEES  
Invoice Date January 21, 2010

**Whitmer Water Association, Inc.**  
**Account Number 6089001809**

Whitmer Water Association, Inc.  
Water Revenue Bonds, Series 2010 A  
C/o John C. Stump  
Steptoe & Johnson, PLLC  
P.O. Box 1588  
Charleston, WV 25326-1588

SUMMARY OF ACCOUNT

\*\*\*\*\*

FEE CALCULATION FOR January, 2010

\*\*\*\*\*

|              |                  |
|--------------|------------------|
| TOTAL AMOUNT | \$ 500.00        |
| TOTAL DUE    | <u>\$ 500.00</u> |

**MAIL CHECK TO:**  
**THE HUNTINGTON NATIONAL BANK**  
**ATTN: BARRY GRIFFITH – WE3013**  
**PO BOX 633**  
**CHARLESTON, WV 25322-0633**

**PLEASE INCLUDE A COPY OF THIS INVOICE WITH YOUR PAYMENT**

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT  
Barry Morgan Griffith at (304) 348-5035

Private Financial Group  
P.O. Box 633 - WE3013  
Charleston, West Virginia 25322-0633



STATEMENT OF REGISTRAR'S FEES  
Invoice Date January 21, 2010

**Whitmer Water Association, Inc.**  
**Account Number 6089001809**

Whitmer Water Association, Inc.  
Water Revenue Bonds, Series 2010 B  
C/o John C. Stump  
Steptoe & Johnson, PLLC  
P.O. Box 1588  
Charleston, WV 25326-1588

SUMMARY OF ACCOUNT

\*\*\*\*\*

FEE CALCULATION FOR January, 2010

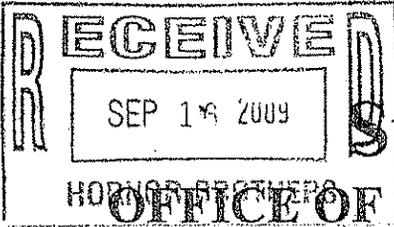
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|              |                  |
|--------------|------------------|
| TOTAL AMOUNT | \$ 500.00        |
| TOTAL DUE    | <u>\$ 500.00</u> |

**MAIL CHECK TO:**  
**THE HUNTINGTON NATIONAL BANK**  
**ATTN: BARRY GRIFFITH – WE3013**  
**PO BOX 633**  
**CHARLESTON, WV 25322-0633**

**PLEASE INCLUDE A COPY OF THIS INVOICE WITH YOUR PAYMENT**

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT  
Barry Morgan Griffith at (304) 348-5035



PWSID: WV3304216

# State of West Virginia

## OFFICE OF ENVIRONMENTAL HEALTH SERVICES

CAPITOL & WASHINGTON STREETS 1 DAVIS SQUARE, SUITE 200 CHARLESTON, WV 25301  
Telephone (304) 558-2981

### PERMIT

**PROJECT:** (Water)  
50 G.P.M. Water Treatment Plant  
And Water Distribution Expansion **PERMIT NO.:** 18,406

**LOCATION:** Whitmer **COUNTY:** Randolph **DATE:** 9-11-2009

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

**Whitmer Water Association  
P. O. Box 23  
Whitmer, West Virginia 26296**

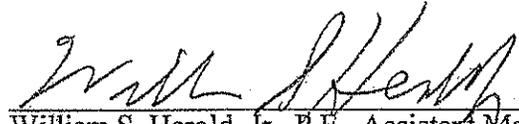
is hereby granted approval to: amend and modify Permit No. 17,426 for the water distribution and treatment facilities to serve 116 customers in the Community of Whitmer and surrounding environs. The 105,000 gallon water storage tank will be relocated approximately 100 yards south of the original site. The permit will be extended to September 11, 2011.

**NOTE:** This permit is contingent upon all unchanged conditions and requirements of Permit No. 17,426 remaining in effect.

The Office of Environmental Health Services **OEHS-Philippi District Office, (304) 457-2296**, is to be notified when construction begins.

Validity of this permit is contingent upon conformity with plans, specifications, application forms, and other information submitted to the West Virginia Bureau for Public Health.

FOR THE DIRECTOR

  
William S. Herold, Jr., P.E., Assistant Manager  
Infrastructure and Capacity Development  
Environmental Engineering Division

WSH:cls

pc: Hornor Bros. Engineers  
James W. Ellars, P.E., PSC-Engineering Division  
Amy Swann, PSC  
Randolph County Health Department  
OEHS-EED Philippi District Office

# ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
01/19/2010

PRODUCER (304)375-4900 FAX (304)375-5843  
 Bill Bailey Insurance Agency  
 701 Highland Avenue  
 P. O. Box 246  
 Williamstown, WV 26187

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED Whitmer Water Association, Inc.  
 PO Box 23  
 Whitmer, WV 26296

| INSURERS AFFORDING COVERAGE               | NAIC # |
|---|--------|
| INSURER A: American Alternative Insurance |        |
| INSURER B:                                |        |
| INSURER C:                                |        |
| INSURER D:                                |        |
| INSURER E:                                |        |

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | ADD'L INSR | TYPE OF INSURANCE   | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YY) | POLICY EXPIRATION DATE (MM/DD/YY) | LIMITS  |
|----------|------------|---|---------------|----------------------------------|-----------------------------------|---|
| A        |            | GENERAL LIABILITY<br><input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY<br><input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR<br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC | TBD           | 01/20/2010                       | 01/20/2011                        | EACH OCCURRENCE \$ 1,000,000<br>DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000<br>MED EXP (Any one person) \$ 10,000<br>PERSONAL & ADV INJURY \$ 1,000,000<br>GENERAL AGGREGATE \$ 3,000,000<br>PRODUCTS - COMP/OP AGG \$ 3,000,000 |
| A        |            | AUTOMOBILE LIABILITY<br><input type="checkbox"/> ANY AUTO<br><input type="checkbox"/> ALL OWNED AUTOS<br><input type="checkbox"/> SCHEDULED AUTOS<br><input checked="" type="checkbox"/> HIRED AUTOS<br><input checked="" type="checkbox"/> NON-OWNED AUTOS   | TBD           | 01/20/2010                       | 01/20/2011                        | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000<br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (Per accident) \$   |
|          |            | GARAGE LIABILITY<br><input type="checkbox"/> ANY AUTO   |               |                                  |                                   | AUTO ONLY - EA ACCIDENT \$<br>OTHER THAN EA ACC \$<br>AUTO ONLY: AGG \$   |
|          |            | EXCESS/UMBRELLA LIABILITY<br><input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE<br>DEDUCTIBLE<br>RETENTION \$  |               |                                  |                                   | EACH OCCURRENCE \$<br>AGGREGATE \$<br>\$<br>\$  |
|          |            | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY<br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?<br>If yes, describe under SPECIAL PROVISIONS below   |               |                                  |                                   | <input type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER<br>E.L. EACH ACCIDENT \$<br>E.L. DISEASE - EA EMPLOYEE \$<br>E.L. DISEASE - POLICY LIMIT \$   |
|          |            | OTHER   |               |                                  |                                   |   |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Certificate Holder listed below is named as Additional Insured

### CERTIFICATE HOLDER

WV Water Development Authority  
 180 Association Drive  
 Charleston, WV 25311

### CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

## **SWEEP RESOLUTION**

### **Whitmer Water Association, Inc.**

**WHEREAS**, Whitmer Water Association, Inc. (the "Issuer") is a governmental body and political subdivision of West Virginia;

**WHEREAS**, the Issuer has issued bonds, as more specifically set forth on Exhibit A, attached hereto and incorporated herein by reference (the "Bonds");

**WHEREAS**, the Issuer makes or will make monthly debt service payments on and transfers reserve funds for the Bonds by check to the West Virginia Municipal Bond Commission (the "MBC") which in turn pays the owners of the Bonds and deposits funds in the reserve accounts;

**WHEREAS**, the MBC may accept such monthly payments by electronic funds transfer, thereby eliminating delay in payments and lost checks;

**WHEREAS**, the Issuer finds and determines that it is in the best interest of the Issuer, its citizens and the owners of the Bonds that the monthly debt service and reserve fund payments be made by electronic funds transfer with the State Treasurer sweeping the Issuer's account.

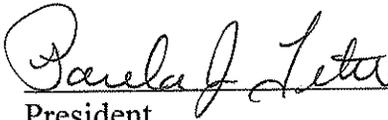
### **NOW THEREFORE BE IT RESOLVED AS FOLLOWS:**

1) Beginning September 1, 2011, the monthly debt service payments on and reserve funds for the Bonds, as set forth in Exhibit A, shall be made to the MBC by an electronic transfer by the State Treasurer from the accounts set forth in Exhibit A in such form and at such directions as are provided by the MBC.

2) The President, Secretary and Treasurer are hereby authorized to sign and execute all such documents as are necessary to facilitate the electronic transfer of the Bond debt service and reserve fund payments.

3) This resolution shall be effective immediately upon adoption.

Adopted this 12th day of January, 2010.

  
\_\_\_\_\_  
President



State of West Virginia  
Joe Manchin III  
Governor

Office of the Governor  
State Capitol  
1900 Kanawha Boulevard, E.  
Charleston, WV 25305

Telephone: (304) 558-2000  
Toll Free: 1-888-438-2731  
FAX: (304) 342-7025  
www.wv.gov

February 10, 2006

The Honorable Voras Haynes  
President  
Randolph County Commission  
P.O. Box 2092  
Elkins, West Virginia 26241

Dear Commissioner Haynes:

Thank you for your application to the Small Cities Block Grant Program. Your request has been approved in the amount of \$1,300,000. These funds will enable the Randolph County Commission to assist in the replacement of the water storage and distribution system in Whitmer.

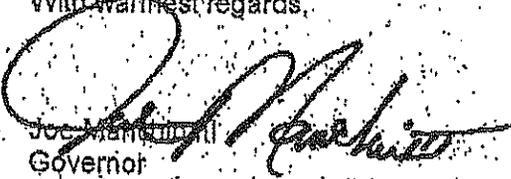
The commitment of \$1,300,000 will immediately be available to you. I encourage you to expedite this project and reach its completion as quickly as possible with this funding strategy in mind.

Please contact Mr. Michael Browning of the West Virginia Development Office, at (304) 558-4010, extension 723, to complete the necessary contract in order to proceed with your project.

The West Virginia Development Office reserves the right to withdraw these funds if your project does not proceed on schedule. These funds would be replaced with a letter of Intent for consideration from future allocations.

I am pleased to assist with the construction of this potable water system for the citizens of Whitmer and Randolph County.

With warmest regards,

  
Joe Manchin III  
Governor

JM:mbs



STATE OF WEST VIRGINIA  
**OFFICE OF THE GOVERNOR**  
CHARLESTON 25305

Bob Wise  
GOVERNOR

October 22, 2004

The Honorable Walt L. Schmidlen, III  
President  
Randolph County Commission  
Post Office Box 2092  
Elkins, West Virginia 26241

Dear Commissioner Schmidlen:

Thank you for your request to the Small Cities Block Grant program.

Your request has been approved in the amount of \$200,000. These funds will enable you to replace Whitmer's existing service lines and construct a new water treatment and distribution system to serve the communities of Job, Little Italy, and Horton.

In order to effectively use the limited dollars available, the remaining funds necessary to complete the project will be made available from a future year allocation based on your ability to proceed forward with this project.

Please contact Michael Browning of the West Virginia Development Office, at (304) 558-4010, extension 723, to complete the necessary contract in order to proceed with your project.

Any commitment of future funds is based on the availability of funds at the time your project is ready to proceed forward. The West Virginia Development Office reserves the right to withdraw these funds if your project does not proceed on schedule. These funds would be replaced with a letter of intent for consideration from future allocations.

I am pleased to assist with these improvements for the citizens of Randolph County.

Very truly yours,

Bob Wise  
Governor

BW:mbs



Chase Tower, Eighth Floor  
P.O. Box 1588  
Charleston, WV 25326-1588  
(304) 353-8000 (304) 353-8180 Fax  
www.steptoe-johnson.com

Writer's Contact Information

## CLOSING MEMORANDUM

**To:** Financing Team  
**From:** John C. Stump, Esquire  
**Date:** January 21, 2010  
**Re:** Whitmer Water Association, Inc. Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program); and Series 2010 B (West Virginia DWTRF Program/ARRA)  
PO Box 23, Whitmer, WV 26296

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### 1. DISBURSEMENTS TO WHITMER WATER ASSOCIATION, INC.

- A. Payor: West Virginia Bureau for Public Health  
Source: Series 2010 A Bonds Proceeds  
Amount: \$62,200  
Form: Wire Transfer  
Payee: Whitmer Water Association, Inc.  
Bank: Grant County Bank  
Address: 910 Williams Avenue, Davis, WV 26260  
Routing #: 052203046  
Account #: 5900809  
Contact: Jason Hamrick, 304.259.5201  
Account: Series 2010 Bonds Construction Trust Fund
  
- B. Payor: West Virginia Bureau for Public Health  
Source: Series 2010 B Bonds  
Amount: \$-0-  
Form: Wire Transfer  
Payee: Whitmer Water Association, Inc.  
Bank: Grant County Bank  
Address: 910 Williams Avenue, Davis, WV 26260  
Routing #: 052203046  
Account #: 5900809  
Contact: Jason Hamrick, 304.259.5201  
Account: Series 2010 Bonds Construction Trust Fund

972490.00001

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

**PRECLOSING ATTENDANCE LIST**

Date 1/20/2010 Time 3pm LGA W. Va. Water Assoc. - In Program DWTRF / AKRA

| NAME              | COMPANY, AGENCY, OR ORGANIZATION | TELEPHONE    | FAX          | E-MAIL                       |
|-------------------|----------------------------------|--------------|--------------|------------------------------|
| Carol A. Cummings | WDA                              | 304-558-3612 | 304-558-0099 | cummings@wvda.org            |
| Stacy L. Luce     | Jackson Kelly LLC                | 304 340 1518 | 304.340.1272 | sgoo@jacksonkelly.com        |
| John Stump        | Stump Johnson PLLC               | 304.553.8196 | 304.553.8181 | john.stump@stump-johnson.com |
|                   |                                  |              |              |                              |
|                   |                                  |              |              |                              |
|                   |                                  |              |              |                              |
|                   |                                  |              |              |                              |
|                   |                                  |              |              |                              |
|                   |                                  |              |              |                              |

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

Name Rada Teter, President Telephone 304.227.4153 E-Mail N/A  
 Address P.O. Box 23, Whitmer, WV 26296

REMINDER: As a participant in this program, the Local Governmental Agency (LGA) agrees and is required to submit annually to the WDA a copy of its audited financial statements and a copy of its adopted budget. Also, pursuant to the Loan Agreement and the NonArbitrage Certificate (both of which are contained in the bond transcript) you are to provide annually to the WDA a rebate calculation certificate or an exception opinion showing whether a rebate amount is due to the US Government under arbitrage requirements in Section 148(f) of the US Internal Revenue Code, 1986, as amended.

**WHITMER WATER ASSOCIATION  
2004W-785  
09DWTRFA001**

**RESOLUTION OF THE WHITMER WATER ASSOCIATION APPROVING INVOICES RELATING TO  
ACQUISITION AND CONSTRUCTION AND OTHER SERVICES FOR THE PROPOSED WATER  
PROJECT AND AUTHORIZING PAYMENT THEREOF.**

**WHEREAS**, the Whitmer Water Association has reviewed the invoices attached hereto and incorporated herein by reference relation to the construction of the water project funded by Drinking Water State Revolving Fund ARRA (DWSRF) Loans and a Small Cities Block Grant (SCBG) and find as follows:

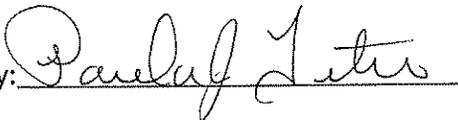
- a.) That none of the items for which payment is proposed to be made has formed the basis for any disbursement thereto made.
- b.) That each item for which the payment proposes to be paid is or was necessary in connection with the project and constitutes a cost of the project.
- c.) That each of such costs has been otherwise properly incurred.
- d.) That the payment for each of the items proposed is due and owing.

**NOW, THEREFOR, BE IT RESOLVED** that the Whitmer Water Association hereby approves and authorizes payment of the following invoices:

**REQUISITION NO. 1**

| VENDOR  | DWTRF BASE   | DWTRF ARRA | SCBG         | TOTAL         |
|---|--------------|------------|--------------|---------------|
| Hornor Brothers Engineers   |              |            | \$ 58,485.65 | \$ 58,485.65  |
| Step toe & Johnson (Bond Counsel)   | \$ 14,000.00 |            |              | \$ 14,000.00  |
| Huntington Banks (Registrar)  | \$ 1,000.00  |            |              | \$ 1,000.00   |
| Whitmer Water Association<br>(Reimbursement)  |              |            | \$ 2,581.50  | \$ 2,581.50   |
| Construction Reserve (to make draw 2.5%<br>of loans--will be left in account and paid on<br>future construction invoices) | \$ 47,200.00 |            |              | \$ 47,200.00  |
| <b>TOTAL</b>  | \$ 62,200.00 | \$ -       | \$ 61,067.15 | \$ 123,267.15 |

**ADOPTED BY** the Whitmer Water Association at a meeting held on the 12th day of January, 2010.

By: 

Its: President



## American Recovery and Reinvestment Act of 2009 (ARRA)

### Project Certification

**Program:** West Virginia Drinking Water Treatment Revolving Fund (DWTRF)

**Project:** Whitmer Water Association, Randolph County

**Description:** The project will add a new well, construct an office, install a 50 GPM potable water treatment plant and related facilities, build a water storage tank, install a pressure reducing station, and install a new distribution system. This project will provide the water system with a backup water source and improved quality and quantity of drinking water that is compliant with the Safe Drinking Water Act.

#### Total Project Cost

\$3,558,284

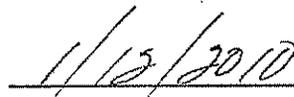
#### ARRA Assistance Provided

\$2,117,573

I hereby certify that the above project has received the full review and vetting required by federal law and that the investment of federal and state funds in this infrastructure project is an appropriate use of taxpayer dollars.

This certification will be posted on the Governor's website and linked to the federal ARRA website [www.recovery.gov](http://www.recovery.gov).

  
\_\_\_\_\_  
Patsy A. Hardy, Cabinet Secretary, FACHE, MSN, MBA

  
\_\_\_\_\_  
Date

WEST VIRGINIA  
Department of



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 16th day of April 2009

GENERAL ORDER NO. 182.09

Public Service Commission intended procedures concerning water and sewer projects that are funded with federal stimulus funds.

COMMISSION ORDER

Earlier this year, Congress enacted and the President signed the *American Recovery and Reinvestment Act of 2009*. Under this legislation, the State of West Virginia is to receive certain stimulus funds, a portion of which will be dedicated to the construction of water and sewer infrastructure. The Public Service Commission ("Commission") has received information from various funding agencies. The State Bureau for Public Health through its drinking water treatment revolving fund will have approximately \$19.5 million for water projects. In addition, the State Department of Environmental Protection through the clean water state revolving fund will have approximately \$61 million for sewer projects. Both of these state agencies have indicated that they intend to have the projects bid by August 2009 and contracts awarded by October 2009. In addition, certain other stimulus funds for water and sewer projects will be administered by the U.S. Department of Agriculture, Rural Utilities Service.

Although the Commission is not a funding source for the stimulus funds, it will nonetheless be called upon to process utility applications for certificates of public convenience and necessity ("certificates") to authorize the construction of stimulus-funded water and sewer projects. Given the aggressive schedule planned by the funding agencies, and the requirement in the federal law that water and sewer projects be "shovel ready," meaning under construction within a quick time line, the Commission intends to expedite these applications to the greatest extent possible consistent with existing State Law.

As a preliminary observation, the Commission would stress that applications must be complete and the statutory thirty-day notice to the public must be given at the outset of the application. Failure to file complete applications or failure to provide timely public notice will lead to delays in processing projects and jeopardize the ability to receive federal stimulus funds. The Commission anticipates that it will receive (i) new applications for water and sewer projects using federal stimulus funds, (ii) amendments to pending applications

containing some measure of federal stimulus funds, and (iii) petitions to reopen certificates already issued seeking to amend funding by including federal stimulus funds. The Commission issues this General Order to inform the public, regulated utilities, attorneys who practice before the Commission, funding agencies, and the staff of the Commission of its intended procedures and processes.

With respect to new stimulus project applications, the Commission intends that applicants and Staff observe the following procedures. At the outset, the Commission again stresses that it is essential that a utility project sponsor file a complete application and provide timely public notice of its application.

1. Staff assigned to the case should immediately review the filing to determine if it is complete. The Initial Joint Staff Memorandum should be filed within ten days.<sup>1</sup>
2. If the filing is complete and does not require an increase in rates for the project, Staff should file its Final Joint Staff Memorandum in thirty-five days which allows for the protest period assuming the applicant has timely published notice.
3. If the filing is complete and includes a proposed increase in rates for the project, Staff may deem it necessary to file a data request for items needed to complete the review and make a final Staff recommendation. This data request should be filed within ten days. The applicant should expedite its response to Staff's requests and Staff should file its Final Joint Staff Memorandum within forty-five to sixty days.
4. If the filing is not complete, irrespective of whether or not the application seeks an increase in rates, Staff should file a data request, if necessary, for the items needed to complete the review and make a final Staff recommendation. This data request should be filed within ten days. The applicant should expedite its responses to Staff's requests and Staff should file its Final Joint Staff Memorandum within forty-five to sixty days.
5. If rates are required for the project and a rate change has not been included with the application:
  - A. For municipalities, the processing time is out of the Commission's ability to control. Staff needs to determine where the municipality is in the ordinance process and what else is needed to process the case. This should all be part of the Initial Joint Staff Memorandum to let the Commission know if the case can be processed or needs dismissed. (Certificates and rate ordinances need to be coordinated for a municipal appeal.) Data requests should still be filed within the ten-day period.

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<sup>1</sup> Days in this Order are calendar days. Filings due on weekends or holidays are due the next working day.

- B. Public service districts ("districts") that need rates for the project can follow steps 1 and 3 or 4 above.
- C. Districts that require rates outside of the project and are in default on bonds cannot move forward. Staff must address this in its initial memorandum.

5. For newly-filed water or sewer applications for certificates of convenience and necessity where the funding is described at the time of the filing as Stimulus Funding the Commission shall designate the filings as "SCN." The Commission, its Staff and Administrative Law Judges, will process those designated filings as expeditiously as possible.

The stimulus funds may be used to replace existing funding for projects that are ready to proceed, allowing the State of West Virginia to fund more projects than planned and provide an enhanced investment in water and sewer infrastructure to unserved and under-served areas of the State. To expedite the processing of projects that have already received a certificate and are eligible to receive stimulus funds, the Commission plans the following process and procedures:

6. In instances where municipalities or municipal water or sewer boards ("municipal utilities") have already been granted certificates, and in the event the municipality is awarded a stimulus assistance funding package to replace either existing grant or loan funding from another source, the municipal utility shall only be required to file with the Commission a letter from the funding agency that describes the change in the project funding. The filing will be treated as a closed entry by the Executive Secretary and the Commission anticipates no further action by the Commission.

7. Similarly, for districts that are awarded a stimulus assistance funding package equivalent to the existing grant money from another source, that has no impact on rates, the district shall only be required to file with the Commission a letter from the funding agency that describes the change in the project funding. The filing will be treated as a closed entry by the Executive Secretary and the Commission anticipates no further action by the Commission.

8. In the event that a district is awarded a stimulus assistance funding package and the benefit to the customers of such improved financing is lower project costs, the district will only be required to file a petition to reopen the original formal case granting the certificate in order that the Commission may review the rates established for the project.

The Commission will provide for such petitions to reopen to be handled in an expedited manner. To that end, the district will be required to file with its petition to reopen a letter from the funding agency that describes the change in project funding, specifically setting forth the newly-committed funding and an accompanying calculation by the district

of the impact to its rates together with supporting documentation. Upon the filing of this information, Staff will perform a review of the revised project funding and rate calculations and file a final recommendation with the Commission stating its recommended rates as soon as possible, but no later than ten days after receipt of the petition. The Commission will issue an order as soon thereafter as possible.

9. For districts that are awarded a stimulus assistance funding package to supplement funding to deal with a cost overrun in whole or part, that has no impact on rates, the district may utilize the enhanced funding to first fund any project alternatives that were reviewed as either deducts or adducts that were approved as a part of the original certificate, contingent upon funding, in order that all portions of the project can be constructed. In this event, the district shall be required to file with the Commission a letter from the funding agency that describes both the change in the project funding and also notes the deducts or adducts that will be funded for construction. The filing will be treated as a closed entry by the Executive Secretary and the Commission anticipates no further action on its part.

The issuance of these guidelines should expedite these projects and the continuing effort to provide quality water and sewer service throughout the State of West Virginia. The Commission understands that there will be instances and situations where events will disrupt these intended procedures; however, the Commission expects all parties to use their best efforts to process these cases in a timely manner. Finally, given the aggressive time frame contemplated by the funding agencies and the intent to have bids out by August 2009, project applications should be filed no later than June 1, 2009, to avoid jeopardizing the timely consideration of those applications.

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission give public notice of this order in a manner deemed most efficient and appropriate.

APPROVED AND FORWARDED:

  
Sandra Spahr  
Executive Secretary

go18209c.wpd