

TOWN OF TRIADELPHIA

**Sewer Revenue Bonds, Series 2024 A
(United States Department of Agriculture)**

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TOWN OF TRIADELPHIA
Sewer Revenue Bonds, Series 2024 A
(United States Department of Agriculture)

BOND ORDINANCE

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TOWN OF TRIADELPHIA

BOND ORDINANCE

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF THE TOWN OF TRIADELPHIA, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE TOWN OF TRIADELPHIA OF NOT MORE THAN \$1,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2024 A (UNITED STATES DEPARTMENT OF AGRICULTURE) IN ONE OR MORE SERIES; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

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

ARTICLE I
STATUTORY AUTHORITY, FINDINGS
AND DEFINITIONS

Section 1.01 Authority for this Ordinance. This Ordinance is adopted and enacted pursuant to the provisions of Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the “Act”), and other applicable provisions of law. The Town of Triadelphia (the “Issuer”) is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia in Ohio County of said State.

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

A. The Issuer currently owns and operates a public sewer system and desires to acquire, construct and operate certain additional public sewerage facilities.

B. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer and, accordingly, it is hereby ordered, that there be acquired and constructed certain additions, betterments and improvements to the existing

sewerage system of the Issuer, consisting of select mainline replacement, point repairs, root removal, video inspection and internal lining; select manhole replacement, inserts, locating and raising, and sealing; and public service lateral, clean out and service inspection hole repairs, together with all necessary appurtenances (the "Project"), particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Recorder of the Issuer. The existing wastewater facilities of the Issuer, together with the Project and any further additions, betterments and improvements, are herein called the "System". The acquisition and construction of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

C. The estimated revenues to be derived in each year from the operation of the System after completion of the Project will be sufficient to pay all costs of operation and maintenance of the System, the principal of and interest on the Series 2024 A Bonds and all debt service, reserve fund and other payments provided for herein.

D. It is necessary for the Issuer to issue its Sewer Revenue Bonds, Series 2024 A (United States Department of Agriculture) in one or more series, in the aggregate principal amount not to exceed \$1,500,000 (the "Series 2024 A Bonds") to permanently finance a portion of the cost of acquisition and construction of the Project. The cost of such acquisition and construction shall be deemed to include, without being limited to, the acquisition and construction of the Project; the acquisition of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest on the Series 2024 A Bonds prior to and during acquisition and construction, and for a period not exceeding six months after completion of such acquisition or construction, of the Project; engineering, fiscal agents and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the Project, administrative expense and such other expenses as may be necessary or incidental to the acquisition and construction of the Project and the financing authorized hereby; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2024 A Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project.

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

F. There are no outstanding bonds or obligations of the Issuer which will rank on a parity with the Series 2024 A Bonds as to liens, pledge, source of and security for payment.

G. It is in the best interest of the Issuer that the Series 2024 A Bonds be sold to the Purchaser, pursuant to the terms and provisions of the Letter of Conditions dated July 10, 2023, and any amendments, thereto (collectively, the "Letter of Conditions").

H. The Issuer has complied with all requirements of law relating to the authorization of the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Series 2024 A Bonds, or

will have so complied prior to issuance of the Series 2024 A Bonds, including, among other things and without limitation, obtaining a certificate of convenience and necessity and approval of the financing and necessary user rates and charges from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired or shall have been duly waived or otherwise provided for.

Section 1.03 Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2024 A Bonds by those who shall be the Registered Owner of the same from time to time, this Ordinance (the “Bond Legislation”) shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owner, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owner of the Series 2024 A Bonds.

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

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

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

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

“Bonds” means collectively, the Series 2024 A Bonds and where appropriate, any bonds on a parity herewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

“Cash Working Capital Reserve” means the cash working capital reserve required by Chapter 24, Article 1, Section 1(k), as amended.

“Closing Date” means the date upon which there is an exchange of the Series 2024 A Bonds for the proceeds, or at least a de minimus portion, thereof representing the purchase price of the Series 2024 A Bonds from the Purchaser.

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

“Consulting Engineer” means Cerrone Associates, Inc., Wheeling, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

“Depository Bank” means the bank designated as such in the Supplemental Resolution and its successors and assigns, which is a member of FDIC (herein defined).

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

“FDIC” means the Federal Deposit Insurance Corporation.

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

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

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

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

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

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

“Issuer” or “Borrower” means the Town of Triadelphia, a municipal corporation and political subdivision of the State of West Virginia, in Ohio County, West Virginia, and includes the Governing Body.

“Letter of Conditions” means, collectively, the Letter of Conditions of the Purchaser dated July 10, 2023, and all amendments thereto, if any.

“Mayor” means the Mayor of the Issuer.

“Minimum Reserve” means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2024 A Bonds in the then current or any succeeding year.

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

“Operating Expenses” means the current expenses, paid or accrued, of operation and maintenance of the Project and the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, materials and supplies, pumping costs, salaries, wages and

administrative expenses of the Issuer relating and chargeable solely to the Project and the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting principles and retention of a sum not to exceed one-sixth of the budgeted Operating Expenses stated above for the current year as working capital, and language herein requiring payment of Operating Expenses means also retention of not to exceed such sum as working capital, provided, that all monthly amortization payments upon the Series 2024 A Bonds and into the respective reserve accounts and the Renewal and Replacement Fund have been made to the last monthly date prior to the date of such retention.

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

“Project Construction Account” means the Project Construction Account established pursuant to section 4.01 hereof.

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

“Qualified Investments” means and includes any investment permitted to be made by a municipality, public service district or public corporation of the State pursuant to State Law, specifically including but not limited to Chapter 8, Article 13, Section 22 of the Code of West Virginia and the West Virginia “consolidated fund” managed by the West Virginia Board of Treasury Investments pursuant to Chapter 12, Article 6C of the Code of West Virginia.

“Recorder” means the Recorder of the Issuer.

“Registered Owner,” “Bondholder,” “Holder of the Bond” or any similar term means any person who shall be the registered owner of the Series 2024 A Bonds.

“Renewal and Replacement Fund” means the renewal and replacement Fund established pursuant to section 4.01 hereof.

“Revenue Fund” means the Revenue Fund established pursuant to section 4.01 hereof.

“Series 2024 A Bonds” means the Sewer Revenue Bonds, Series 2024 A (United States Department of Agriculture) authorized by this Ordinance.

“Series 2024 A Bonds Reserve Account” means the Series 2024 A Bonds Reserve Account established by Section 4.02 hereof.

“Series 2024 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 2024 A Bonds in the then current or any succeeding year.

“State” means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the supplemental resolution authorizing the sale of the Series 2024 A Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2024 A Bonds, and not so included may be included in another Supplemental Resolution.

“System” means, collectively, the complete existing municipal sewage treatment and collection system of the Issuer, as presently existing in its entirety or any integral part thereof, and shall include the Project and any and all additions, betterments and improvements thereto hereafter acquired or constructed for the System from any sources whatsoever, both within and without the Issuer.

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

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine feminine or neutral gender shall include any other gender; and any requirement for execution or attestation of the Series 2024 A Bonds or any certificate or other document by the Mayor or the Recorder shall mean that such Series 2024 A Bonds, certificate or other documents may be executed or attested by an Acting Mayor or Acting Recorder.

ARTICLE II **AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT**

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost not to exceed \$3,447,003, 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 2024 A Bonds hereby authorized shall be applied as provided in Article IV hereof.

The estimated maximum cost of the acquisition and construction of the Project is \$3,447,003 which not more than \$1,500,000 will be obtained from the proceeds of sale of the Series 2024 A Bonds herein authorized; not more than \$1,225,000 will be obtained from the proceeds of a WDA Economic Enhancement Grant; \$175,000 will be obtained from the proceeds of an Ohio County Grant; and \$547,003 will be obtained from a grant from the Purchaser.

ARTICLE III
AUTHORIZATION, TERMS, EXECUTION,
REGISTRATION AND ISSUE OF BONDS

Section 3.01. Authorization of Bonds. Subject and pursuant to the provisions of this Bond Legislation, the Series 2024 A Bonds of the Issuer, to be known as “Sewer Revenue Bonds, Series 2024 A (United States Department of Agriculture)”, are hereby authorized to be issued in the principal amount of not to exceed \$1,500,000 with such terms as set forth hereinafter and in the Supplemental Resolution for the purpose of permanently financing the cost of the acquisition and construction of the Project.

Section 3.02. Description of Bonds. The Series 2024 A Bonds shall be issued in one or more series, only as a fully registered Bond, and shall be dated on the date of delivery thereof. The Series 2024 A Bonds shall bear interest from date of delivery, payable monthly at the rate not to exceed 4.00% per annum, with such terms as set forth hereinafter and in the Supplemental Resolution, and shall be sold for the par value thereof.

The Series 2024 A Bonds shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, and shall be payable as provided in the Bond form hereinafter set forth.

Section 3.03 Negotiability, Registration, Transfer and Exchange of Bonds. The Series 2024 A Bonds shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but the Series 2024 A Bonds, and the right to the principal of and stated interest on the Series 2024 A Bonds, may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Series 2024 A Bonds for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Bond Registrar.

Whenever the Series 2024 A Bonds shall be surrendered for registration of transfer, the Issuer shall execute and deliver a new Bond or Bonds in authorized denominations, for a like aggregate principal amount. The Bond Registrar shall require the payment by the new owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer, but the Issuer shall pay any other expenses incurred by the Bond Registrar with respect to such transfer.

No registration of transfer of the Series 2024 A Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on the Series 2024 A Bonds.

Section 3.04 Bond Registrar. The Issuer shall be the Bond Registrar and will keep or cause to be kept at its office by its agent, sufficient books for the registration and transfer of the Series 2024 A Bonds, and, upon presentation for such purpose, the Bond Registrar shall, under such reasonable regulations as it may prescribe, register the Series 2024 A Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Series 2024 A Bonds as hereinbefore provided.

The Bond Registrar shall accept the Series 2024 A Bonds for registration of transfer only if ownership thereof is to be registered in the name of the Purchaser, an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or the social security numbers of the settlor and beneficiaries of each trust and the federal employer identification number and date of each trust and the name of the trustee of each trust, and/or such other identifying number and information as may be required by law. The Series 2024 A Bonds shall initially be fully registered as to both principal and interest in the name of the United States of America. So long as the Series 2024 A Bonds shall be registered in the name of the United States of America, the address of the United States of America for registration purposes shall be National Finance Office, St. Louis, Missouri 63103, or such other address as shall be stated in writing to the Issuer by the United States of America.

Section 3.05. Execution of Bonds. The Series 2024 A Bonds shall be executed in the name of the Issuer by the Mayor and the seal of the Issuer shall be affixed thereto and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed the Series 2024 A Bonds shall cease to be such officer of the Issuer before the Series 2024 A Bonds so signed and sealed has been actually sold and delivered, such Bond may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Series 2024 A Bonds had not ceased to hold such office. The Series 2024 A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Series 2024 A Bonds shall hold the proper office in the Issuer, although at the date of such Bond such person may not have held such office or may not have been so authorized.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Series 2024 A Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Series 2024 A Bonds so surrendered shall be canceled and held for the account of the Issuer. If the Series 2024 A Bonds shall have matured or be about to mature, instead of issuing a substitute Series 2024 A Bonds the Issuer may pay the same, and, if such Series 2024 A Bonds be destroyed, stolen or lost, without surrender thereof.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2024 A Bonds shall be secured forthwith by a first lien on the Net Revenues derived from the System. The Net Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Series 2024 A Bonds and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 2024 A Bonds as the same becomes due.

Section 3.08. Form of Bonds. Subject to the provisions hereof, the text of the Series 2024 A Bonds and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or by any ordinance enacted after the date of enactment hereof and prior to the issuance thereof:

[Remainder of Page Intentionally Blank}

(FORM OF SERIES 2024 A BOND)

TOWN OF TRIADELPHIA

SEWER REVENUE BONDS, SERIES 2024 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

\$ _____

No. AR-1

Date: _____, 2024

FOR VALUE RECEIVED, the TOWN OF TRIADELPHIA (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of _____ DOLLARS (\$ _____), plus interest on the unpaid principal balance at the rate of _____% per annum, with interest only payable in annual installments for the first 24 months. Thereafter, principal and interest are payable in monthly installments of \$ _____ on the _____ day of each month, commencing _____, 20____ to and including _____, 20____ (40 years from the date of the Series 2024 A Bonds), in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

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

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

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

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

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

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

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

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

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

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

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13 of the

West Virginia Code of 1931, as amended (herein called the “Act”), and an Ordinance of Borrower duly enacted on _____, 2024 and a Supplemental Resolution duly adopted by the Issuer on _____, 2024, authorizing issuance of this Bond (collectively, the “Ordinance”).

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

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

This Bond is issued to (i) pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer; and (ii) pay costs of issuance and other related costs.

THERE ARE NO OUTSTANDING BONDS OR OBLIGATIONS OF THE ISSUER WHICH WILL RANK ON A PARITY WITH THE SERIES 2024 A BONDS AS TO LIENS, PLEDGE, SOURCE OF AND SECURITY FOR PAYMENT.

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

[Remainder of Page Intentionally Blank]

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

TOWN OF TRIADELPHIA

[CORPORATE SEAL]

Mayor

ATTEST:

Recorder

EXHIBIT A
RECORD OF ADVANCES

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

TOTAL \$ _____

(Form of Assignment)

ASSIGNMENT

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

Dated: _____, 20 ____.

In presence of:

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

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

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Cash Working Capital Reserve; and
- (4) Project Construction Account.

Section 4.02. 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 2024 A Bonds Reserve Account.

Section 4.03. Bond Proceeds; Project Construction Account. The proceeds of sale of the Series 2024 A Bonds shall be deposited upon receipt by the Issuer in the Project Construction Account. The monies in the Account in excess of the amount insured by FDIC shall be secured at all times by the Depository Bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Monies in the Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

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

Until completion of acquisition and construction of the Project, the Issuer will additionally transfer from the Project Construction Account and pay to the Purchaser on or before the due date, such sums as shall be from time to time required to make the monthly installment payments on the Series 2024 A Bonds if there are not sufficient Net Revenues to make such monthly payment.

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

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

Section 4.04. Covenants of the Issuer as to Revenues and Funds. So long as any of the Series 2024 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2024 A Bonds Reserve Account, sums sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Series 2024 A Bonds remaining unpaid, together with interest accrued to the date of such payment, the Issuer further covenants with the holder of the Series 2024 A Bonds as follows:

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

B. DISPOSITION OF REVENUES. All Revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

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

(2) The Issuer shall next, each month, on or before the due date thereof, transfer from the Revenue Fund and remit on or before the due date thereof to the National Finance Office, commencing 24 months following the date of delivery of the Series 2024 A Bonds, the amount required to pay interest on the Series 2024 A Bonds.

(2) The Issuer shall next, each month, transfer from the Revenue Fund and on or before the due date thereof, remit to the National Finance Office, commencing 24 months following the date of delivery of the Series 2024 A Bonds, the amount required to amortize the principal of the Series 2024 A Bonds over the life of the bond issue.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and beginning on the date specified by the Purchaser, but in any event not later than the 24th monthly anniversary of the Closing Date, thereafter, transfer from the Revenue Fund and remit to the Commission for deposit in the Series 2024 A Bonds Reserve Account, an amount equal to 10% of the monthly payment amount each month, until the amount in the Series 2024 A Bonds Reserve Account equals the Series 2024 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 2024 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 2024 A Bonds Reserve Requirement.

(4) The Issuer shall next, each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund an amount equal to 2.5% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, improvements or extensions to the System; provided, that any deficiencies in any Reserve Accounts (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

(5) The Issuer shall next, each month, transfer from the monies remaining in the Revenue Fund the amount required, if any, to fund or maintain the Cash Working Capital Reserve at the required level. All funds in the Cash Working Capital Reserve shall be kept separate and apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in Qualified Investments. Withdrawals and disbursements may be made from the Cash Working Capital Reserve for such purposes as permitted by the laws and regulations of the State in effect at such time. The Cash Working Capital Reserve is not pledged to the payment of the principal of, or interest on, the Bonds or any Prior Bonds of the Issuer.

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

Whenever the monies in the Series 2024 A Bonds Reserve Account shall be sufficient to prepay the Series 2024 A Bonds in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Series 2024 A Bonds, at the earliest practical date and in accordance with applicable provisions hereof.

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

The Commission is hereby designated as the Fiscal Agent for the administration of the Series 2024 A Bonds Reserve Account as herein provided, and all amounts required for said account shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Purchaser at anytime, the Issuer shall make the necessary arrangements whereby required payments into said account shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

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

The Revenue Fund and the Renewal and Replacement Fund shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a lien thereon for further securing payment of the Series 2024 A Bonds and the interest thereon, but the Depository Bank shall not be a trustee as to such funds.

If on any payment date the Revenues are insufficient to make the payments and transfers as hereinabove provided, the deficiency shall be made up in the subsequent payments and transfers in addition to those which would otherwise be required to be made on the subsequent payment dates.

The Commission and the Depository Bank, at the direction of the Issuer, shall keep the monies in the Series 2024 A Bonds Reserve Account and the Renewal and Replacement Fund invested and reinvested to the fullest extent possible, in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund or account under this Bond Legislation shall, unless otherwise required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia Board of Treasury Investments. Any investment shall be held in and at all times deemed a part of the fund or account in which such monies were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. Earnings from monies in the Series 2024 A Bonds Reserve Account so long as the Minimum Reserve is on deposit and maintained therein, shall be returned not less than once each year, by the Commission to the Issuer to be deposited in the Revenue Fund.

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

D. USER CONTRACTS. The Issuer shall, prior to delivery of the Series 2024 A Bonds, provide evidence that there will be bona fide users upon the System on completion of the Project, in full compliance with the requirements and conditions of the Purchaser.

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

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

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

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

ARTICLE V **GENERAL COVENANTS**

Section 5.01. General Statement. So long as the Series 2024 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2024 A Bonds Reserve Account a sum sufficient to prepay the entire principal of the Series 2024 A Bonds remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Holder of the Series 2024 A Bonds.

Section 5.02. Rates. Prior to the issuance of the Series 2024 A Bonds, the Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide Revenues in each Fiscal Year sufficient to produce Net Revenues equal to not less than 110% of the maximum annual debt service on the Series 2024 A Bonds and sufficient to make the payments required herein into all funds and accounts and all the necessary expenses of operating and maintaining the System during such Fiscal Year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate Revenues for such purposes.

Section 5.03. Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as the Series 2024 A Bonds are outstanding.

Section 5.04. Issuance of Additional Parity Bonds or Obligations. No additional Parity Bonds or obligations payable out of the Revenues of the System shall be issued, except with the prior written consent of the Purchaser.

So long as the Series 2024 A Bonds are outstanding, no Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Recorder a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues for the Fiscal Year following the year in which such Parity Bonds are to be issued shall be at least 120% of the average annual debt service requirements on the following:

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

The foregoing limitation may be waived or modified by the written consent of the Holders of the Series 2024 A Bonds, representing 75% of the then-outstanding principal indebtedness.

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 Series 2024 A 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 5.05. Insurance and Bonds. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Series 2024 A Bonds remain outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

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

B. PUBLIC LIABILITY INSURANCE, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000

to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Series 2024 A Bonds.

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

D. WORKERS' COMPENSATION COVERAGE FOR ALL EMPLOYEES OF THE ISSUER ELIGIBLE THEREFOR AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds will be filed with the Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39. Workers' Compensation coverage will be maintained as provided by law.

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

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

G. Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Series 2024 A Bonds are outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Purchaser may specify, with insurance carriers or bonding companies acceptable to the Purchaser.

Section 5.06. Statutory Mortgage Lien. For the further protection of the Holder of the Series 2024 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of the Series 2024 A Bonds.

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

A. Failure to make payment of any monthly amortization installment upon the Series 2024 A Bonds at the date specified for payment thereof; or

B. Failure to duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Series 2024 A Bonds or herein, or violation of or failure to observe any provision of any pertinent law.

Section 5.08. Enforcement. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Series 2024 A Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Series 2024 A Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Series 2024 A Bonds, or the rights of such Registered Owners. Any Registered Owner of the Bonds, by proper legal action, compel the performance of the duties of the Issuer under this Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Registered Owner of the Bonds shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

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

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

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

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

Section 5.09. Fiscal Year; Budget. While the Series 2024 A Bonds are outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a Fiscal Year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than thirty days prior to the beginning of each Fiscal Year, the Issuer agrees to adopt the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such Fiscal Year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each Fiscal Year.

If for any reason the Issuer shall not have adopted the Annual Budget before the first day of any Fiscal Year, it shall adopt a Budget of Current Expenses from month to month until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the year next preceding by more than 10%; and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

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

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

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

Section 5.12. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Series 2024 A Bonds are outstanding.

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

ARTICLE VI **RATES, ETC.**

Section 6.01. Initial Schedule of Rates and Charges; Rules. A. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the rate ordinance of the Issuer enacted on August 8, 2021.

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

C. All delinquent fees, rates and charges for services or facilities of the System shall be a lien on the premises served if not paid when due. The Issuer shall have all remedies and powers provided under the Act and other applicable provisions of law with regard to the collection and enforcement of such fees, rates and charges, including, without limitation, any right and power of foreclosure under the Act and/or such other applicable provisions of law.

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

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

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

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

H. The fees, rates and charges above provided will be increased whenever such increase is necessary in order to comply fully with all provisions hereof, and the Issuer shall always be obligated to and shall fix, establish and collect fees, rates and charges for the services and facilities of the System which shall at all times be sufficient to provide revenues to meet its payments and obligations provided hereunder.

ARTICLE VII **MISCELLANEOUS**

Section 7.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid to the Holder of the Series 2024 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 2024 A Bonds, the pledge of Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Series 2024 A Bonds, shall thereupon cease, terminate and become void and be discharged and satisfied.

Except through such direct payment to the Holder of the Series 2024 A Bonds, the Issuer may not defease the Series 2024 A Bonds or otherwise provide for payment thereof by escrow or like manner.

Section 7.02. Modification or Amendment. Prior to issuance of the Series 2024 A Bonds, this Ordinance may be amended or supplemented in any way by ordinance or resolution. Following issuance of the Series 2024 A Bonds, no modification or amendment of this Ordinance, or any ordinance or resolution amendatory hereof or supplemental hereto, shall be made without the prior written consent of the Purchaser.

Section 7.03. Delivery of Bonds. The Mayor is hereby authorized and directed to cause the Series 2024 A Bonds, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 7.04. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed severable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Series 2024 A Bonds.

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

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

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

Section 7.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Bond Legislation, determined by the Council to contain sufficient information as to give notice of the contents hereof, shall be published once a week for two successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication, in The Intelligencer being a qualified newspaper of general circulation in the Town of Triadelphia, together with a notice stating that this Ordinance has been adopted, and that the Issuer contemplates the issuance of the Bond, and that any person interested may appear before the Council upon a date certain, not less than ten days subsequent to the date of the first publication of the said abstract and notice and not prior to the last date of such publication, and present protests, and that a certified copy of the Ordinance is on file in the office of the Recorder of the Issuer for review by interested parties during regular office hours. At such hearing, all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

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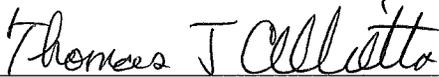
Section 7.09. Effective Time. This Bond Legislation shall take effect following public hearing hereon in accordance with the Act.

Passed on First Reading: April 17, 2024

Passed on Second Reading: May 1, 2024

Passed on Final Reading
Following Public Hearing: May 15, 2024

TOWN OF TRIADELPHIA



Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the Town of Triadelphia on the 15th day of May, 2024.

Dated: June 13, 2024.

[SEAL]


Recorder

TOWN OF TRIADELPHIA

Sewer Revenue Bonds, Series 2024 A
(United States Department of Agriculture)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION MAKING PROVISIONS AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE, APPROVING OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 2024 A OF THE TOWN OF TRIADELPHIA; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the council (the “Governing Body”) of the Town of Triadelphia (the “Issuer”) has duly and officially adopted and enacted a bond ordinance, May 15, 2024 (the “Bond Ordinance”), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF THE TOWN OF TRIADELPHIA, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE TOWN OF TRIADELPHIA OF NOT MORE THAN \$1,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2024 A (UNITED STATES DEPARTMENT OF AGRICULTURE) IN ONE OR MORE SERIES; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

WHEREAS, the Issuer desires to amend the Bond Ordinance through this Supplemental Resolution (collectively, the “Bond Legislation”);

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

WHEREAS, the Bond Ordinance provides for the issuance of Sewer Revenue Bonds, Series 2024 A, of the Issuer, in one or more series in an aggregate principal amount not to exceed \$1,500,000 and has authorized the execution and delivery of the documents relating to the Series 2024 A Bonds, all in accordance with Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (collectively, the “Act”);

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

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

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued Sewer Revenue Bonds, Series 2024 A (United States Department of Agriculture), of the Issuer, originally represented by a single bond, numbered AR-1 in the principal amount of \$1,000,000 (the “Series 2024 A Bonds”). The Series 2024 A Bonds shall be dated the date of delivery thereof, shall bear interest at the rate of 2.75% per annum, with interest only payable in annual installments on June 13, 2025 and June 13, 2026 (the first 24 months). Thereafter, principal and interest are payable in monthly installments of \$3,540 on the 13th day of each month, commencing July 13, 2026 to and including June 13, 2064 (forty years from the date of the Series 2024 A Bonds), provided that the final payment shall be sufficient to pay the entire unpaid principal and interest due on the date thereof. Prepayments may be made as hereinafter provided and as provided in the Series 2024 A Bonds, all such payments to be made at the National Finance Office, St. Louis, Missouri 63103, or at such other place as the Purchaser may designate after issuance of the Series 2024 A Bonds. Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Issuer.

Section 2. The Mayor and the Recorder are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Project and the Series 2024 A Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Series 2024 A Bonds may be delivered on or about June 13, 2024, to the Purchaser.

Section 3. The Town of Triadelphia Sanitary Board is hereby authorized to approve invoices related to the Project.

Section 4. The Issuer does hereby appoint and designate WesBanco Bank, Inc., Wheeling, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 5. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Series 2024 A Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 6. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project.

Section 7. The Mayor and the Recorder are hereby authorized and directed to execute and deliver any and all USDA forms relating to the USDA loan and grant including but not limited to the Loan Resolution and Grant Agreement.

Section 8. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Series 2024 A Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

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Section 9. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 15th day of May, 2024.

TOWN OF TRIADELPHIA



Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the Town of Triadelphia on the 15th day of May, 2024.

Dated: June 13, 2024.

[SEAL]


Recorder



May 7, 2024

The Honorable Thomas Allietta, Mayor
Town of Triadelphia
P.O. Box 177
Triadelphia, WV 26059

SUBJECT: Recipient Name: Town of Triadelphia
Project Name: Sewer Improvement Project
Wastewater Application – CFDA NUMBER 10.760
RD Loan: 1,000,000; RD Revised Grant:547,000

Dear Mayor Allietta:

This letter amends the letter of conditions dated June 10, 2023, and further establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan and grant will be administered by the State and Area staff of USDA, Rural Development. Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by USDA, Rural Development by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

The docket may be completed based on an initial RD loan in the amount of \$1,000,000, and a revised RD grant in the amount of \$547,000, a WV Water Development Authority Economic Enhancement grant in the amount of \$1,225,000., and an Ohio County Commission ARPA funds in the amount of \$175,000, for a total project cost of \$2,947,000.

Subject to the requirements noted herein, all the conditions of the June 10, 2023, remain in effect and must be satisfied prior to loan and grant closing.

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

Enclosed please find an updated Schedule B dated April 15, 2024.

At a properly called meeting, you must adopt and properly execute the following forms, and minutes showing the adoption must be provided (you must also provide us with a copy of the minutes showing the adoption of the forms associated with the original letter of conditions):

- Form RD 1942-46 - “Letter of Intent to Meet Conditions”
- RUS Bulletin 1780-12- “Grant Agreement”

Rural Development • Ripley Area Office
1 Ball Park Drive McMechen, WV 26040
Voice (304) 238-5666

If the conditions set forth in this letter are not met within two (2) months from the date hereof, RD reserves the right to discontinue processing of the application. In the event the project has not advanced to the point of loan closing within the two-month period, and it is determined the Town still wishes to proceed, it will be necessary that the proposed budget be reviewed again in detail. If, during that review, it is determined the budget is no longer current and/or adequate, RD reserves the right to require that it be revised or replaced.

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

Sincerely,

ALAN
HARRIS
ALAN L. HARRIS
Area Director

Digitally signed
by ALAN HARRIS
Date: 2024.05.07
13:45:11 -04'00'

Enclosures

cc: Michael Griffith, CPA
Griffith & Associates, PLLC
950 Little Creek Rd.
Alum Creek, WV 25003

Gregory A. Gaudino
Petroplus & Gaudino, PLLC
69 Fifth St.
Wheeling, WV 26003

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

Dominick Cerrone, PE
Cerrone Associates, Inc.
97-14th St.
Wheeling, WV 26003

A.C. Wiethé
Bel-O-Mar Regional Council
105 Bridge St. Plaza
Wheeling, WV 26003



Rural Development

July 10, 2023

West Virginia State
Office

1550 Earl Core Road,
Suite 101
Morgantown, WV
26505

Voice 304.284.4860
1.800.295.8228

The Honorable Kenneth Murphy, Mayor
Town of Triadelphia
P.O. Box 177
Triadelphia, WV 26059

SUBJECT: Recipient Name: Town of Triadelphia
Project Name: Sewer Improvement Project
Wastewater Application
CFDA NUMBER – 10.760

Loan:	\$1,000,000
Grant:	\$600,000
Ohio County ARPA:	\$175,000
WDA EEG:	\$1,225,000

Dear Mayor Murphy:

This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan and grant will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area staff of USDA Rural Development, both of which are referred to throughout this letter as the Agency. Any changes in project cost, source of funds, scope of project, or any other significant changes in the project or applicant must be reported to and concurred with by the Agency by written amendment to this letter. If significant changes are made without obtaining such concurrence, the Agency may discontinue processing of the application.

All conditions set forth under Section III – Requirements Prior to Advertising for Bids must be met within 12 months of the date of this letter. If you have not met these conditions, the Agency reserves the right to discontinue the processing of your application.

If you agree to meet the conditions set forth in this letter and desire further consideration be given to your application, please complete and return the following forms. The forms must be adopted and executed at a properly called meeting, and minutes showing the adoption must be provided:

Form RD 1940-1, "Request for Obligation of Funds"
RUS Bulletin 1780-12, "Water and Waste System Grant Agreement"
RUS Bulletin 1780-27, "Loan Resolution (Public Bodies)"
Certification of Compliance
Form RD 1942-46, "Letter of Intent to Meet Conditions"

Extra copies of this letter are being provided for use by your engineer, attorney, bond counsel and accountant. All parties may access information and regulations referenced in this letter at our website located at www.rd.usda.gov.

The conditions are as follows:

SECTION I - PROJECT DETAIL

1. Project Description – Funds will be used to rehabilitate the existing system and include approximately 350 LF of new 8 inch gravity main line, 15 new manholes, 10 internal manhole sealings, 115 new manhole castings, 30 locating and raising of manholes, 21 line point repairs, 38 public service lateral repairs, 25,575 LF of internal video inspection and cleaning, 1,215 LF of pressure cleaning, 27 clean out repairs, 18 locations of root removal and 530 LF of mainline liner insert. It will provide for a system that is substantially less prone to inflow and infiltration and will deliver substantially less flow to the City of Wheeling.

Facilities will be designed and constructed in accordance with sound engineering practices and must meet the requirements of Federal, State, and local agencies. The proposed facility design must be based on the Preliminary Engineering Report (PER) as concurred with by the Agency.

2. Project Funding – The Agency is offering the following funding for your project:

Agency Loan -	\$ 1,000,000
Agency Grant -	\$ 600,000

This offer is based upon the following additional funding being obtained.

Ohio County ARPA -	\$ 175,000
WDA EEG -	\$ 1,225,000

TOTAL PROJECT COST - \$ 3,000,000

This funding is offered based on the amounts stated above. Prior to loan closing, any increase in non-Agency funding will be applied first as a reduction to Agency grant funds, up to the total amount of the grant, and then as a reduction to Agency loan funds.

Any changes in funding sources following obligation of Agency funds must be reported to the processing official. Project feasibility and funding will be reassessed if there is a significant change in project costs after bids are received. If actual project costs exceed the project cost estimates, an additional contribution by the Owner may be necessary. Prior to advertisement for construction bids, you must provide evidence of applicant contributions and approval of other funding sources. This evidence should include a copy of the commitment letter. Agency funds will not be used to pre-finance funds committed to the project from other sources.

3. Project Budget – Funding from all sources has been budgeted for the estimated expenditures as follows:

<u>Project Costs:</u>	<u>Total Budgeted:</u>
Construction	\$1,950,780
Construction Contingency	225,319
Engineering Fees	624,901
Includes:	
Basic Services	211,000
Inspection (RPR)	166,901
Special Services	247,000
Interest	28,500
Land and Rights-of-Way	10,000
Legal Fees - Local Attorney	35,000
Legal Fees - Bond Counsel	25,500
Accounting	28,500
Permits	6,500
Administration	65,000
 TOTAL	 \$3,000,000

Obligated loan or grant funds not needed to complete the proposed project will be deobligated prior to start of construction. Any reduction will be applied to grant funds first. An amended letter of conditions will be issued for any changes to the total project budget.

SECTION II – LOAN AND GRANT TERMS

4. Repayment – The interest rate will be the lower of the rate in effect at the time of loan approval or the time of loan closing, unless you request otherwise. Should the interest rate be reduced, the payment will be recalculated to the lower amount.

Your loan will be scheduled for repayment over a period of 40 years. Interest-only payments will be due the first 2 years and will be advanced to you from Agency loan funds on an annual basis. Payments for the remaining 38 years will be equal monthly amortized installments, beginning one month after the final interest only installment. For planning purposes, use a 2.875 % interest rate and an amortization factor of .00368, which provides for a monthly payment of \$3,610.00. The precise payment amount will be based on the interest rate at which the loan is closed and may be different than the one above.

The payment due date will be established as the day that the loan closes. Due dates falling on the 29th, 30th, and 31st day of the month will be avoided.

5 Security – The loan will be secured by a revenue bond with first statutory lien position in the amount of \$1,000,000.00. The bond will be fully registered as to both principal and interest in

the name of the United States of America, Acting through the United States Department of Agriculture.

If the loan will be on parity with other lenders, the bond must specify that, in the event of default, each lender will be affected on a proportionate basis.

The bond and any ordinance or resolution relating thereto must not contain any provision in conflict with the Agency Loan Resolution, applicable regulations, or its authorizing law. In particular, there must be no defeasance or refinancing clause in conflict with the graduation requirements of 7 U.S.C. 1983.

Additional security requirements are contained in RUS Bulletin 1780-12, "Water and Waste System Grant Agreement," and RUS Bulletin 1780-27, "Loan Resolution (Public Bodies)." A draft of all security instruments, including draft bond resolution, must be reviewed and concurred in by the Agency prior to advertising for bids. The bond resolution and Loan Resolution must be duly adopted and executed prior to loan closing. The Grant Agreement must be fully executed prior to the first disbursement of grant funds.

6. Electronic Payments – Payments will be made on the day your payment is due through an electronic preauthorized debit system. You will be required to complete Form RD 3550-28, "Authorization Agreement for Preauthorized Payments," for all new and existing indebtedness to the Agency prior to loan closing. It will allow for your payment to be electronically debited from your account on the day your payment is due.

7. Construction Completion Timeframe - All projects must be completed, and all funds disbursed within five years of obligation. If funds are not disbursed within five years of obligation, you must submit to the Agency a written request for extension of time with adequate justification of circumstances beyond your control. Requests for waivers beyond the initial extension will be submitted to the Assistant Administrator for concurrence decision.

8. Disbursement of Agency Funds - Agency funds will be disbursed into the borrower's depository account through an electronic transfer system. SF 3881, "ACH Vendor/Miscellaneous Payment Enrollment Form," must be completed and submitted to the Agency prior to advertising for bids.

Any applicant contribution will be the first funds expended, followed by other funding sources. Interim financing or Agency loan funds will be expended after all other funding sources unless a written agreement is reached with all other funding sources on how funds are to be disbursed prior to start of construction or loan closing, whichever occurs first. Interim financing funds or Agency loan funds must be used prior to the use of Agency grant funds. The Grant Agreement must not be closed, and funds must not be disbursed prior to loan funds except as specified in RUS Instruction 1780.45(d). In the unlikely event the Agency mistakenly disburses funds, the funds will be remitted back to the Agency electronically.

Grant funds are to be deposited in an interest-bearing account (exception provided below) in accordance with 2 CFR Part 200 and interest in excess of \$500 per year remitted to the Agency.

The funds should be disbursed by the recipient immediately upon receipt and there should be little interest accrual on the Federal funds. Recipients shall maintain advances of Federal funds in interest-bearing accounts, unless:

- a. The recipient receives less than \$120,000 in Federal awards per year.
- b. The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
- c. The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
- d. A foreign government or banking system prohibits or precludes interest-bearing accounts.

9. Reserves – Reserves must be properly budgeted to maintain the financial viability and sustainability of any operation. Reserves are important to fund unanticipated emergency maintenance and repairs and assist with debt service should the need arise. The following reserves are required to be established as a condition of this loan:

- a. **Debt Service Reserve** – As a part of this Agency loan proposal, you must establish a debt service reserve fund at the West Virginia Municipal Bond Commission. Bond Counsel will be able to assist with this task. The debt service reserve fund must be equal to at least one annual loan installment that accumulates at the rate of 10% of one annual payment per year for ten years or until the balance is equal to one annual loan payment. Ten percent of the proposed loan installment would equal \$361.00 per month; this amount should be deposited monthly until a total of \$43,320.00 has accumulated. Prior written concurrence from the Agency must be obtained before funds may be withdrawn from this account during the life of the loan. When funds are withdrawn during the life of the loan, deposits will continue as designated above until the fully funded amount is reached.
- b. **Working Capital Reserve** – In addition to the debt service reserve fund, you are required by Senate Bill 234 and the West Virginia Public Service Commission to establish a working capital reserve fund. It is your responsibility to assess your facility's needs on a regular basis and adjust the amount deposited to meet those needs.

Current assets can also be used to establish and maintain reserves for expected expenses, including but not limited to operation and maintenance, deferred interest during the construction period, and an asset management program.

SECTION III – REQUIREMENTS PRIOR TO ADVERTISING FOR BIDS

10. Environmental Requirements – The project as proposed has been evaluated to be consistent with the National Environmental Policy Act. Other Federal, State, tribal, and local laws, regulations and or permits may apply or be required. If the project or any project element deviates from or is modified from the originally approved project, additional environmental review may be required.

11. Engineering Services – You are required to complete an Agreement for Engineering Services, which should consist of the Engineers Joint Contract Documents Committee (EJCDC) documents as indicated in RUS Bulletin 1780-26, “Guidance for the Use of EJCDC Documents on Water and Waste Projects with RUS Financial Assistance,” or other approved form of agreement. The Agency will provide concurrence prior to advertising for bids and must approve any modifications to this agreement.

12. Contract Documents, Final Plans, and Specifications- All development will be completed by contract in accordance with applicable provisions of RUS Instruction 1780, Subpart C – Planning, Designing, Bidding, Contracting, Constructing and Inspections, (copy available upon request), and in compliance with all statutory requirements. You are responsible to share this with your engineer before pre-design.

- a. In preparing final design and providing service to the planned project area, you and your engineer will comply with all zoning and planning requirements of the appropriate governing bodies where service is to be provided.
- b. The Agency will need to concur in the plans and specifications prior to advertising for bids. The Agency may require an updated cost estimate if a significant amount of time has elapsed between the original project cost estimate and advertising for bids.
- c. The use of any procurement method other than competitive sealed bids must be requested in writing and approved by the Agency.
- d. The contract documents must consist of the EJCDC construction contract documents as indicated in RUS Bulletin 1780-26 or other Agency-approved forms of agreement.

13. Build America, Buy America (BABAA) Requirements- Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- a. all iron and steel permanently installed in the project are produced in the United States-- this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- b. all manufactured products permanently installed in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or

manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

- c. all construction materials permanently installed are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The BABAA requirement applies to the entirety of an infrastructure project even if only a portion of the project is funded by Federal funds.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

Waivers

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements.

When the Federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:

- a. applying the domestic content procurement preference would be inconsistent with the public interest;
- b. the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- c. the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

Definitions

“Construction materials” includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

“Infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

“Project” means the construction, alteration, maintenance, or repair of infrastructure in the United States.

Owners are ultimately responsible for compliance with the evidence standards as outlined in the Build America Buy America (BABAA) appendix to this Letter. Owners are required to maintain records as specified in their loan or grant agreement, but in all cases, they should maintain records for a minimum of three years after the final expenditure report. Minimum records include certifications from manufacturers, the architect/engineer, and the prime contractor. Supporting documentation includes purchasing records and notes and photos taken by the Resident Project Representative (RPR). Further guidance regarding certifications will be provided by the Agency.

14. Legal Services – You are required to execute a legal services agreement with your attorney and bond counsel, if applicable, for any legal work needed in connection with this project. The agreement should stipulate an hourly rate for the work, with a “not to exceed” amount for the services, including reimbursable expenses. “Legal Services Agreement – WV” will be used for work performed by your project attorney. The Agency will provide concurrence prior to advertising for bids. Any changes to the fees or services spelled out in the original agreement must be reflected in an amendment to the agreement and have prior Agency concurrence.

15. Accounting Services – It will be necessary for you to obtain the services of a qualified accountant. The accountant must agree to develop and provide the following:

- a. All necessary accounting material required by the Public Service Commission of West Virginia (Rule 42 Exhibit).
- b. Prior to loan/grant closing, your accountant must certify that the accounts and records as required by your bond ordinance have been established and are operational.

The accountant's agreement should be submitted to the Agency for review. Compensation in the contract should include only those services identified above.

16. Property Rights - Prior to advertising for bids, you and your legal counsel must furnish satisfactory evidence that you have or can obtain adequate continuous and valid control over the lands and rights-of-way needed for the project. Acquisitions of necessary land and rights must be accomplished in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Such control over the lands and rights will be evidenced by the following:

- a. **Right-of-Way Map** – Your engineer will provide a map clearly showing the location of all lands and rights-of-way needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.
- b. **Form RD 442-22, “Opinion of Counsel Relative to Rights-of-Way”** – Your attorney will provide a certification and legal opinion on this form addressing rights-of-way, easements, and title.
- c. **Preliminary Title Work (Title Opinion)** – When applicable, your attorney will provide a preliminary title opinion for any property related to the facility, currently owned and to be acquired, along with copies of deeds, contracts or options for purchasing said property. Form RD 1927-9, “Preliminary Title Opinion,” may be used.
- d. **A narrative opinion** from the project attorney concerning all permits, certifications, and other items necessary to show that all legal requirements can be met and stating how they will be met. This narrative should also identify any condemnation proceedings that are anticipated and state how they will be handled.

The approving official may waive title defects or restrictions, such as utility easements, that do not adversely affect the suitability, successful operation, security value, or transferability of the facility. Any such waivers must be provided by the approving official in writing prior to closing or the start of construction, whichever occurs first.

You are responsible for the acquisition of all property rights necessary for the project and for determining that prices paid are reasonable and fair. The Agency may require an appraisal by an independent appraiser or Agency employee in order to validate the price to be paid.

17. System Policies, Procedures, Contracts, and Agreements – The facility must be operated on a sound business plan. You must adopt policies, procedures, and/or ordinances outlining the conditions of service and use of the proposed system. Mandatory connection policies should be used where enforceable. The policies, procedures, and/or ordinances must contain an effective collection policy for accounts not paid in full within a specified number of days after the date of

billing. They should include appropriate late fees, specified timeframes for disconnection of service, and reconnection fees. A draft of these policies, procedures, and/or ordinances must be submitted for Agency review and concurrence, along with the documents below, before closing instructions may be issued unless otherwise stated.

- a. **Contracts for Other Services/Lease Agreement** – Drafts of any contracts or other forms of agreements for other services, including audit, management, operation, and maintenance, or lease agreements covering real property essential to the successful operation of the facility, must be submitted to the Agency for review and concurrence prior to advertising for bids.

Fully executed copies of any policies, procedures, ordinances, contracts, or agreements must be submitted prior to loan closing, with the exception of the conflict of interest policy, which must be in place prior to obligation of funds.

18. Closing Instructions – The Agency will prepare closing instructions as soon as the requirements of the previous paragraphs are complete, as well as a draft of the security instrument(s). Closing instructions must be obtained prior to advertising for bids.

19. Construction Account – You must establish a construction account for all funds related to the project. Construction funds will be deposited with an acceptable financial institution or depository that meets the requirements of 31 CFR Part 202. A separate account will not be required for Federal funds and other funds; however, the recipient must be able to separately identify, report, and account for all Federal funds, including the receipt, obligation and expenditure of funds. Financial institutions or depositories accepting deposits of public funds and providing other financial agency services to the Federal Government are required to pledge adequate, acceptable securities as collateral, in accordance with 31 CFR Part 202. All funds in the account will be secured by a collateral pledge equaling at least 100% of the highest amount of funds expected to be deposited in the construction account at any one time. Your financial institution can provide additional guidance on collateral pledge requirements.

Agency funds will be disbursed into the borrower's depository account through an electronic transfer system. SF 3881, "ACH Vendor/Miscellaneous Payment Enrollment Form," must be completed and submitted to the Agency prior to advertising for bids.

20. System Users – This letter of conditions is based upon your indication at application that there will be at least 437 residential users, and 25 non-residential users on the proposed system when construction is completed.

Before the Agency can agree to the project being advertised for construction bids, you must certify that the number of users indicated at application are currently using the system or signed up to use the system once it is operational.

If the actual number of existing and/or proposed users that have signed up for service is less than the number indicated at the time of application, you must provide the Agency with a written plan on how you will obtain the necessary revenue to adequately cash flow the expected operation,

maintenance, debt service, and reserve requirements of the proposed project (e.g., increase user rates, sign up an adequate number of other users, reduce project scope, etc.). Similar action is required if there is cause to modify the anticipated flows or volumes presented following approval.

21. Other Funding – Prior to advertising for bids, you must provide evidence of applicant contributions and approval of other funding sources. This evidence should include a copy of the commitment letter from each source.

22. Proposed Operating Budget – You must establish and/or maintain a rate schedule that provides adequate income to meet the minimum requirements for operation and maintenance (O&M), debt service, and reserves. Prior to advertising for bids, you must submit a proposed annual operating budget to the Agency which supports the operation, maintenance, debt service, and reserves, as well as your proposed rate schedule. The operating budget should be based on a typical year cash flow after completion of the construction phase and should be signed by the appropriate official of your organization. Form RD 442-7, “Operating Budget,” or similar format may be utilized for this purpose. It is expected that O&M will change over each successive year and user rates will need to be adjusted on a regular basis.

23. Permits –The owner or responsible party will be required to obtain all applicable permits for the project, prior to advertising for bids. The consulting engineer must submit written evidence that all applicable permits required prior to construction have been obtained with submission to the Agency of the final plans, specifications, and bid documents. Such permits will include but are not limited to the following:

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

24. Public Service Commission Approvals – The owner must obtain the following from the West Virginia Public Service Commission:

- a. A Certificate of Convenience and Necessity.
- b. Approval of user charges that are acceptable to the owner and the Agency.
- c. Approval of the project’s proposed financing arrangements.

A copy of the Public Service Commission application must be provided to the Agency for review. Should the Public Service Commission determine that a Certificate of Convenience and Necessity is not required for this project, then documentation of that determination should be provided to the Agency. For Certificate cases, a copy of the Final Order should be provided. In all instances, a copy of the final Rule 42 Exhibit must be provided to the Agency.

25. Vulnerability Assessment/Emergency Response Plan (VA/ERP) – The Agency requires all financed water and wastewater systems to have a VA/ERP in place. Borrowers with existing

systems must provide a certification that a VA/ERP has been completed prior to advertising for bids. The VA/ERP documents themselves are not submitted to the Agency. The VA/ERP must address potential impacts from natural disasters and other emergency events. In particular, it should include plans to address impacts of flash flooding in areas where severe drought or wildfires occur. The documents should be reviewed and updated every three years at a minimum.

For new systems, see Section V of this letter of conditions. For VA/ERP requirements throughout the life of the loan, see Section VII. Technical assistance at no cost is available in preparing these documents.

26. Bid Authorization - Once all the conditions outlined in Section III of this letter have been met, the Agency will authorize you to advertise the project for construction bids. Such advertisement must be in accordance with applicable State statutes.

SECTION IV - REQUIREMENTS PRIOR TO START OF CONSTRUCTION

27. Bid Tabulation – Immediately after bid opening, you must provide the Agency with the bid tabulation and your engineer’s evaluation of bids and recommendations for contract awards. If the Agency agrees that the construction bids received are acceptable, adequate funds are available to cover the total project costs, and all the requirements of Section III of this letter have been satisfied, the Agency will authorize you to issue the Notice of Award.

- a. Cost Overruns. If bids are higher than expected, or if unexpected construction problems are encountered, you must utilize all options to reduce cost overruns. Negotiations, redesign, use of bidding alternatives, rebidding or other means will be considered prior to commitment of subsequent funding by the Agency. Any requests for subsequent funding to cover cost overruns will be contingent on the availability of funds. Cost overruns exceeding 20% of the development cost at time of loan or grant approval or where the scope of the original purpose has changed will compete for funds with all other applications on hand as of that date.
- b. Excess Funds. If bids are lower than anticipated at time of obligation, excess funds must be deobligated prior to start of construction except in the cases addressed in this paragraph. In cases where the original PER for the project included items that were not bid, or were bid as an alternate, the State Office official may modify the project to fully utilize obligated funds for those items. Amendments to the PER, ER, and letter of conditions may be needed for any work not included in the original project scope. In all cases, prior to start of construction, excess funds will be deobligated, with grant funds being deobligated first. Excess funds do not include contingency funds as described in this letter.

28. Contract Review – Your attorney will certify that the executed contract documents, including performance and payment, if required, are adequate and that the persons executing these documents have been properly authorized to do so in accordance with RUS Instruction 1780.61(b).

Once your attorney has certified that they are acceptable, the contract documents will be submitted to the Agency for its concurrence. The Notice to Proceed cannot be issued until the Agency has concurred with the construction contracts.

29. Final Rights-of-Way – If any of the rights-of-way forms listed previously in this letter contain exceptions that do not adversely affect the suitability, successful operation, security value, or transferability of the facility, the approving official must provide a written waiver prior to the issuance of the Notice to Proceed. For projects involving the acquisition of land, you must provide evidence that you have clear title to the land prior to the issuance of the Notice to Proceed.

Final Title Work - Your attorney must furnish a separate final title opinion on all existing real property related to the facility, now owned and to be acquired for this project, as of the day of loan closing or start of construction, whichever occurs first. Form RD 1927-10, "Final Title Opinion" may be used.

30. Insurance and Bonding Requirements - Prior to the start of construction or loan closing, whichever occurs first, you must acquire and submit to the Agency proof of the types of insurance and bond coverage for the borrower shown below. The use of deductibles may be allowed, providing you have the financial resources to cover potential claims requiring payment of the deductible. The Agency strongly recommends that you have your engineer, attorney, and insurance provider(s) review proposed types and amounts of coverage, including any exclusions and deductible provisions. It is your responsibility and not that of the Agency to assure that adequate insurance and fidelity or employee dishonesty bond coverage is maintained.

- a. **General Liability Insurance** – Include vehicular coverage.
- b. **Workers' Compensation** – In accordance with appropriate State laws.
- c. **Fidelity or Employee Dishonesty Bonds** – Include coverage for all persons who have access to funds, including persons working under a contract or management agreement. Coverage may be provided either for all individual positions or persons, or through blanket coverage providing protection for all appropriate workers. During construction, each position should be bonded in an amount equal to the maximum amount of funds to be under the control of that position at any one time. The coverage may be increased during construction based on the anticipated monthly advances. After construction and throughout the life of the loan, the amount of coverage must be for at least the total annual debt service of all outstanding Agency loans. The Agency will be identified in the fidelity bond for receipt of notices. Form RD 440-24, "Position Fidelity Schedule Bond," or similar format may be used.
- d. **National Flood Insurance** - If the project involves acquisition or construction in designated special flood or mudslide prone areas, you must purchase a flood insurance policy at the time of loan closing.
- e. **Real Property Insurance** – Fire and extended coverage will normally be maintained on all structures except reservoirs, pipelines and other structures if such structures are not normally insured, and subsurface lift stations except for the value of electrical and pumping equipment. The Agency will be listed as mortgagee on the policy when the

Agency has a lien on the property. Prior to the acceptance of the facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all facilities identified above.

Insurance types described above are required to be continued throughout the life of the loan. See Section VII.

31. Initial Compliance Review – The Agency will conduct an initial compliance review of the borrower prior to loan closing or start of construction, whichever occurs first, in accordance with 7 CFR 1901, Subpart E.

SECTION V – REQUIREMENTS PRIOR TO LOAN CLOSING

32. Multiple Advances - Multiple advances of Agency funds will be used. Loan closing will occur prior to when the funds are needed, and all of the items detailed in the sections above, as well as the items listed in this section, must be completed prior to closing.

33. Vulnerability Assessment/Emergency Response Plan (VA/ERP) – The Agency requires all financed water and wastewater systems to have a VA/ERP in place. New water or wastewater systems must provide a certification that an ERP is complete prior to the start of operation, and a certification that a VA is complete must be submitted within one year of the start of operation. Borrowers with existing systems must provide a certification that a VA and ERP are completed prior to authorization to advertise for bids. The VA/ERP documents are not submitted to the Agency. Technical assistance is available in preparing these documents at no cost to you. The VA/ERP must address potential impacts from natural disasters and other emergency events. In particular, it should include plans to address impacts of flash flooding in areas where severe drought or wildfires occur. The documents should be reviewed and updated every three years at a minimum.

34. Other Requirements – All requirements contained in the Agency’s closing instructions, as well as any requirements of your bond counsel and/or attorney, must be met prior to loan closing.

- a. **System for Award Management**. You will be required to maintain a Dun and Bradstreet Data Universal Numbering System (DUNS) number and maintain an active registration in the System for Award Management (SAM) database. Renewal can be done on-line at: <http://sam.gov>. This registration must be renewed and revalidated every twelve (12) months for as long as there are Agency funds to be expended. See Appendix A.

To ensure the information is current, accurate and complete, and to prevent the SAM account expiration, the review and updates must be performed within 365 days of the activation date, commonly referred to as the expiration date. The registration process may take up to 10 business days. (See 2 CFR Part 25 and the “Help” section at <http://sam.gov>).

- b. **Litigation**. You are required to notify the Agency within 30 days of receiving notification of being involved in any type of litigation prior to loan closing or start of construction, whichever occurs first. Additional documentation regarding the situation and litigation may be requested by the Agency.
- c. **Certified Operator**. Evidence must be provided that your system has or will have, as defined by applicable State or Federal requirements, a certified operator available prior to the system becoming operational, or that a suitable supervisory agreement with a certified operator is in effect.

SECTION VI – REQUIREMENTS DURING CONSTRUCTION AND POST CONSTRUCTION

- 35. Resident Inspector(s)** – Full-time inspection is required unless you request an exception. Such requests must be made in writing and the Agency must concur with the request. Inspection services are to be provided by the consulting engineer unless other arrangements are requested in writing and concurred with by the Agency. A resume of qualifications of any resident inspector(s) will be submitted to the owner and Agency for review and concurrence prior to the pre-construction conference. The resident inspector(s) must attend the pre-construction conference.
- 36. Preconstruction Conference** – A preconstruction conference will be held prior to the issuance of the Notice to Proceed. The consulting engineer will review the planned development with the Agency, owner, resident inspector, attorney, contractor, other funders, and other interested parties, and will provide minutes of this meeting to the owner and Agency.
- 37. Inspections** - The Agency requires a pre-construction conference, pre-final and final inspections, and a warranty inspection. Your engineer will schedule a warranty inspection with the contractor and the Agency before the end of the warranty period to address and/or resolve any warranty issues. The Agency will conduct an inspection with you of your records management system at the same time and will continue to inspect the facility and your records system every three years for the life of the loan. See Section VII of this letter.
- 38. Change Orders** – Prior Agency concurrence is required for all Change Orders.
- 39. Payments** – Prior Agency concurrence is required for all Invoices and Partial Payment Estimates before Agency funds will be released. Requests for payment related to a contract or service agreement will be signed by the owner, project engineer, and contractor or service provider prior to Agency concurrence. Invoices not related to a construction contract or service agreement will include the owner’s written concurrence.
- 40. Use of Remaining Funds** – Any applicant contribution will be the first funds expended in the project, followed by non-Agency sources of funds. Remaining funds may be considered in direct proportion to the amounts obtained from each source and handled as follows:

- a. Remaining funds may be used for eligible loan and grant purposes, provided the use will not result in major changes to the original scope of work and the purpose of the loan and grant remains the same.
- b. Grant funds not expended for authorized purposes will be cancelled (de-obligated) within 30 days of final completion of project. Prior to actual cancellation, you and your attorney and engineer will be notified of the Agency's intent to cancel the remaining funds and given appropriate appeal rights.
- c. Loan funds that are not needed will be applied as an extra payment on the Agency indebtedness unless other disposition is required by the bond ordinance, resolution, or State statute.

41. Technical, Managerial and Financial Capacity - It is required that members of the Board of Directors, City Council members, trustees, commissioners and other governing members possess the necessary technical, managerial, and financial capacity skills to consistently comply with pertinent Federal and State laws and requirements. It is recommended members receive training within one year of appointment or election to the governing board, and a refresher training for all governing members on a routine basis. The content and amount of training should be tailored to the needs of the particular individual and the utility system. Technical assistance providers are available to provide this training for your organization, often at no cost. Contact the Agency for information.

42. Reporting Requirements Related to Expenditure of Funds

- a. **Financial Audit**— An annual audit under the Single Audit Act is required if you expend \$750,000 or more in Federal financial assistance per fiscal year. The total Federal funds expended from all sources shall be used to determine Federal financial assistance expended. Expenditures of interim financing are considered Federal expenditures.

All audits are to be performed in accordance with 2 CFR Part 200, as adopted by USDA through 2 CFR Part 400. Further guidance on preparing an acceptable audit can be obtained from the Agency. The audit must be prepared by an independent licensed Certified Public Accountant, or a State or Federal auditor if allowed by State law and must be submitted within 9 months of your fiscal year end.

If an audit is required, you must enter into a written agreement with the auditor and submit a copy to the Agency prior to the advertisement of bids. The audit agreement may include terms and conditions that the borrower and auditor deem appropriate; however, the agreement should include the type of audit to be completed, the time frame in which the audit will be completed, and how irregularities will be reported.

SECTION VII – SERVICING REQUIREMENTS DURING THE TERM OF THE LOAN

43. Prepayment and Extra Payments - Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of borrower, with no penalty.

Security instruments, including bonding documents, must contain the following language regarding extra payments, unless prohibited by State statute:

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of borrower. Refunds, extra payments and loan proceeds obtained from outside sources for the purpose of paying down the Agency debt, shall, after payment of interest, be applied to the installments last to become due under this note and shall not affect the obligation of borrower to pay the remaining installments as scheduled in your security instruments.

44. Graduation - By accepting this loan, you are also agreeing to refinance (graduate) the unpaid loan balance in whole, or in part, upon request of the Government. If at any time the Agency determines you are able to obtain a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms, you will be requested to refinance. Your ability to refinance will be assessed every other year for those loans that are five years old or older.

45. Security/Operational Inspections – The Agency will inspect the facility and conduct a review of your operations and records management system and conflict of interest policy every three years for the life of the loan. You must participate in these inspections and provide the required information.

46. Annual Financial Reporting/Audit Requirements – You are required to submit an annual financial report at the end of each fiscal year. The annual report will be certified by the appropriate organization official and will consist of financial information and a rate schedule. Financial statements must be prepared on the accrual basis of accounting in accordance with generally accepted accounting principles (GAAP) and must include at a minimum a balance sheet and income and expense statement. The annual report will include separate reporting for each water and waste disposal facility, and itemize cash accounts by type (debt service, short-lived assets, etc.) under each facility. All records, books and supporting material are to be retained for three years after the issuance of the annual report. Technical assistance is available at no cost with preparing financial reports.

The type of financial information that must be submitted is specified below:

- a. **Audits** – An annual audit under the Single Audit Act is required if you expend \$750,000 or more in Federal financial assistance per fiscal year. The total Federal funds expended from all sources shall be used to determine Federal financial assistance expended. Expenditures of interim financing are considered Federal expenditures.

All audits are to be performed in accordance with 2 CFR Part 200, as adopted by USDA through 2 CFR Part 400. Further guidance on preparing an acceptable audit can be obtained from the Agency. It is not intended that audits required by this part be separate and apart from audits performed in accordance with State and local laws. To the extent feasible, the audit work should be done in conjunction with those audits. The audit must be prepared by an independent licensed Certified Public Accountant, or a State or Federal

auditor if allowed by State law and must be submitted within 9 months of your fiscal year end.

If an audit is required, you must enter into a written agreement with the auditor and submit a copy to the Agency prior to the advertisement of bids. The audit agreement may include terms and conditions that the borrower and auditor deem appropriate; however, the agreement should include the type of audit or financial statements to be completed, the time frame in which the audit or financial statements will be completed, what type of reports will be generated from the services provided, and how irregularities will be reported.

- b. **Financial Statements** – If you expend less than \$750,000 in Federal financial assistance per fiscal year, you may submit financial statements in lieu of an audit which include at a minimum a balance sheet and an income and expense statement. You may use Form RD 442-2, “Statement of Budget, Income and Equity,” and 442-3, “Balance Sheet,” or similar format to provide the financial information. The financial statements must be signed by the appropriate borrower official and submitted within 60 days of your fiscal year end.
- c. **Quarterly Reports** – Quarterly Income and Expense Statements will be required until the processing office waives this requirement. You may use Form RD 442-2 or similar format to provide this information, and the reports are to be signed by the appropriate borrower official and submitted within 30 days of each quarter’s end. The Agency will notify you in writing when the quarterly reports are no longer required.

47. Annual Budget and Projected Cash Flow - Thirty days prior to the beginning of each fiscal year, you will be required to submit an annual budget and projected cash flow to this office. With the submission of the annual budget, you will be required to provide a current rate schedule, and a current listing of the Board or Council members and their terms. The budget must be signed by the appropriate borrower official. Form RD 442-2 or similar format may be used.

Technical assistance is available at no cost to help you evaluate and complete a rate analysis on your system, as well as completing the annual budget. If you are interested, please contact our office for information.

48. Vulnerability Assessment/Emergency Response Plan (VA/ERP) – You will be required to submit a certification to the servicing office every three years that the VA/ERP is current and covers all sites related to the facility. The documents themselves are not submitted to the Agency. The VA/ERP must address potential impacts from natural disasters and other emergency events. In particular, it should include plans to address impacts of flash flooding in areas where severe drought or wildfires occur. The documents should be reviewed and updated every three years at a minimum.

49. Insurance. You will be required to maintain insurance on the facility and employees as previously described in this letter for the life of the loan.

50. Statutory and National Policy Requirements – As a recipient of Federal funding, you are required to comply with U.S. statutory and public policy requirements, including but not limited to:

- a. **Section 504 of the Rehabilitation Act of 1973** – Under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Agency financial assistance.
- b. **Civil Rights Act of 1964** – All borrowers are subject to, and facilities must be operated in accordance with, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and 7 CFR 1901, Subpart E, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by Paragraph 1901.202(e) of this Title.
- c. **The Americans with Disabilities Act (ADA) of 1990** – This Act (42 U.S.C. 12101 et seq.) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications.
- d. **Age Discrimination Act of 1975** – This Act (42 U.S.C. 6101 et seq.) provides that no person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- e. **Limited English Proficiency (LEP) under Executive Order 13166** - LEP statutes and authorities prohibit exclusion from participation in, denial of benefits of, and discrimination under Federally-assisted and/or conducted programs on the ground of race, color, or national origin. Title VI of the Civil Rights Act of 1964 covers program access for LEP persons. LEP persons are individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. These individuals may be entitled to language assistance, free of charge. You must take reasonable steps to ensure that LEP persons receive the language assistance necessary to have meaningful access to USDA programs, services, and information your organization provides. These protections are pursuant to Executive Order 13166 entitled, “Improving Access to Services by Persons with Limited English Proficiency” and further affirmed in the USDA Departmental Regulation 4330-005, “Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency in Programs and Activities Conducted by USDA.”

Agency financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap. You must display posters (provided by the Agency) informing users of these requirements, and the Agency will monitor your compliance with these requirements during regular compliance reviews.

51. Compliance Reviews and Data Collection – The Agency will conduct regular compliance reviews of the borrower and its operation in accordance with 7 CFR Part 1901, Subpart E, and 36 CFR 1191, Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Architectural Barriers Act (ABA) Accessibility Guidelines. Compliance reviews will typically be conducted in conjunction with the security inspections described in this letter. If beneficiaries (users) are required to complete an application or screening for the use of the facility or service that you provide, you must request and collect data by race (American Indian or Alaska Native, Asian, Black or African American, White); ethnicity (Hispanic or Latino, Not Hispanic or Latino); and by sex. The Agency will utilize this data as part of the required compliance review.

SECTION VIII – REMEDIES FOR NON-COMPLIANCE

Non-compliance with the conditions in this letter or requirements of your security documents will be addressed under the provisions of 7 CFR 1782 and other applicable regulations, statutes, and policies.

We look forward to working with you to complete this project. If you have any questions, please contact Michael Kinney at 304-238-5666 or by e-mail at Michael.Kinney2@usda.gov

Sincerely,

ALAN

HARRIS

ALAN L. HARRIS

Area Director

Digitally signed by
ALAN HARRIS
Date: 2023.07.10
14:26:21 -04'00'

Attachments

cc: Page 21.

cc: Michael Griffith, CPA
Griffith & Associates, PLLC
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Appendix A
2 CFR Part 25

**SYSTEM FOR AWARD MANAGEMENT AND UNIVERSAL IDENTIFIER
REQUIREMENTS**

A. Requirement for System for Award Management

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the SAM until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another appendix.

B. Requirement for unique entity identifier

If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (*see* definition in paragraph C of this appendix) may receive a subaward from you unless the entity has provided its unique entity identifier to you.
2. May not make a subaward to an entity unless the entity has provided its unique entity identifier to you.

C. Definitions

For purposes of this appendix:

1. System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at <http://www.sam.gov>).
2. Unique entity identifier means the identifier required for SAM registration to uniquely identify business entities.
3. Entity, as it is used in this appendix, means all of the following, as defined at 2 CFR part 25, subpart C:
 - a. A Governmental organization, which is a State, local government, or Indian Tribe;

- b. A foreign public entity;
 - c. A domestic or foreign nonprofit organization;
 - d. A domestic or foreign for-profit organization; and
 - e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
4. Subaward:
- a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.330).
 - c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
5. Subrecipient means an entity that:
- a. Receives a subaward from you under this award; and
 - b. Is accountable to you for the use of the Federal funds provided by the subaward.

[75 FR 55673, Sept. 14, 2010, as amended at 79 FR 75879, Dec. 19, 2014; 80 FR 54407, Sept. 10, 2015]

LOAN RESOLUTION
(Public Bodies)A RESOLUTION OF THE Town CouncilOF THE TRIADELPHIA, TOWN OF

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

To provide safe sewer service to community

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

WHEREAS, it is necessary for the TRIADELPHIA, TOWN OF

(Public Body)

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

One Million & 00 100pursuant to the provisions of Chapter 16 Article 13, West Virginia Code; and**WHEREAS**, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:**NOW THEREFORE**, in consideration of the premises the Association hereby resolves:

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

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0121. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

- 11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
- 12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
- 13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
- 14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.
- 15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
- 16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
- 17. To accept a grant in an amount not to exceed \$ 600,000.00

under the terms offered by the Government; that the _____

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

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

The vote was: Yeas _____ Nays _____ Absent _____

IN WITNESS WHEREOF, the Town Council _____ of the

TRIADELPHIA, TOWN OF _____ has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this 28, JULY day of 2023

(SEAL)

Attest:

Emily Crow
Title Secretary

By Thomas J Allietta
Kenneth Murphy
Title Mayor

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as _____ of the TRIADELPHIA, TOWN

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

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

held on the _____ day of _____; and that the foregoing resolution was adopted at such meeting

by the vote shown above, I further certify that as of _____, the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this _____ day of _____

Thomas J. Cellitto

Title _____

TOWN OF TRIADELPHIA

Sewer Revenue Bonds, Series 2024 A
(United States Department of Agriculture)

RECEIPT FOR BOND

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

1. On the 13th day of June, 2024, at Triadelphia, West Virginia, the undersigned received for the Purchaser the single, fully registered the Town of Triadelphia Sewer Revenue Bonds, Series 2024 A (United States Department Agriculture), No. AR-1 (the "Series 2024 A Bonds"), in the principal amount of \$1,000,000, dated June 13, 2024, bearing interest at the rate of 2.75% per annum, and payable in monthly installments as stated in the Series 2024 A Bonds.

2. At the time of such receipt, the Series 2024 A Bonds had been executed and sealed by the designated officials of the Town of Triadelphia (the "Issuer").

3. At the time of such receipt, there was paid to the Issuer the sum of \$308,464.40 being a portion of the principal amount of the Series 2024 A Bonds. The balance of the principal amount of the Series 2024 A Bonds, will be paid to the Issuer as acquisition and construction of the Project progresses.

WITNESS my signature on this 13th day of June, 2024.

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL UTILITIES SERVICE



Authorized Representative

SPECIMEN

TOWN OF TRIADELPHIA
SEWER REVENUE BONDS, SERIES 2024 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

\$1,000,000

No. AR-1

Date: June 13, 2024

FOR VALUE RECEIVED, the TOWN OF TRIADELPHIA (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of ONE MILLION DOLLARS (\$1,000,000), plus interest on the unpaid principal balance at the rate of 2.75% per annum, with interest only payable in annual installments for the first 24 months. Thereafter, principal and interest are payable in monthly installments of \$3,540 on the 13th day of each month, commencing July 13, 2026, to and including June 13, 2064 (40 years from the date of the Series 2024 A Bonds), in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

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

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

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

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

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

will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

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

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

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

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

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

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (herein called the "Act"), and an Ordinance of Borrower duly enacted on May 15, 2024 and a Supplemental Resolution duly adopted by the Issuer on May 15, 2024, authorizing issuance of this Bond (collectively, the "Ordinance").

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

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

This Bond is issued to (i) pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer; and (ii) pay costs of issuance and other related costs.

THERE ARE NO OUTSTANDING BONDS OR OBLIGATIONS OF THE ISSUER WHICH WILL RANK ON A PARITY WITH THE SERIES 2024 A BONDS AS TO LIENS, PLEDGE, SOURCE OF AND SECURITY FOR PAYMENT.

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

[Remainder of Page Intentionally Blank]

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

TOWN OF TRIADELPHIA

[CORPORATE SEAL]

Thomas J Allietta

Mayor

ATTEST:

Maryland Lewis

Recorder

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$308,464.40	06/13/2024	(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

TOTAL \$ _____

(Form of Assignment)

ASSIGNMENT

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

Dated: _____, 20____.

In presence of:

WEST VIRGINIA MUNICIPAL BOND COMMISSION

NEW ISSUE REPORT FORM

900 Pennsylvania Avenue, Suite 1117, Charleston, WV 25302
Phone:(304) 558-3971 FAX: (304) 558-1280

mbc.wv.gov

Date of Report: 6/13/2024

ISSUE: Town of Triadelphia, Sewer Revenue Bonds, Series 2024 A (USDA)

ADDRESS: PO Box 177, Triadelphia, WV 26059

COUNTY: Ohio

PURPOSE OF ISSUE: New Money
 Refunding

Refunding issue(s) dated: _____

ISSUE DATE: 6/13/2024

RATE: 2.75% ADMIN FEE: _____

ISSUE AMOUNT: \$1,000,000

1st DEBT SERVICE DUE: NA

1st PRINCIPAL DUE: NA

1st DEBT SERVICE AMOUNT: NA

PAYING AGENT: Issuer

BOND COUNSEL: Steptoe & Johnson PLLC

UNDERWRITERS COUNSEL: _____

Contact Name: John Stump, Esquire

Contact Name: _____

Phone: 304.353.8196

Phone: _____

Email: john.stump@steptoe-johnson.com

Email: _____

CLOSING BANK: _____

ESCROW TRUSTEE: _____

Contact Name: _____

Contact Name: _____

Phone: _____

Phone: _____

Email: _____

Email: _____

KNOWLEDGEABLE ISSUER CONTACT:

OTHER: USDA

Contact Name: Emily Crowe

Contact Name: Michael Kinney

Title: Clerk

Title: Area Specialist

Phone: 304.547.5000

Phone: 304.238.5666

Email: townoftriadelphia@comcast.net

Email: Michael.Kinney2@usda.gov

DEPOSITS TO MBC AT CLOSE: _____

Accrued Interest: _____

By: Wire _____

Capitalized Interest: _____

Check _____

Reserve Account: _____

In-house Transfer _____

Other: _____

REFUNDS & TRANSFERS BY MBC AT CLOSE:

To Escrow Trustee: _____

By: Wire _____

To Issuer: _____

Check _____

To Cons.Invest Fund: _____

IGT _____

To Other: _____

ISSUER NUMBERS:

BANK ID NUMBER: _____

CUSIP: _____

ACCOUNT NUMBER: _____

PROGRAM NUMBER: _____

NOTES: Monthly debt service payments will be made by the District directly to the National Finance Office.

The Municipal Bond Commission will only hold the Series 2024 A Reserve Account. Payments into the Series 2024 A Bonds Reserve Account will commence 24 months following the date hereof.

FOR MUNIICIPAL BOND COMMISSION USE ONLY:

Documents Required: _____ Transfers Required: _____



Chase Tower, 17th Floor
P.O. Box 1588
Charleston, WV 25326-1588
(304) 353-8000 (304) 933-8704 Fax
www.stepToe-johnson.com

Writer's Contact Information

June 13, 2024

Town of Triadelphia
Sewer Revenue Bonds, Series 2024 A
(United States Department of Agriculture)

Town of Triadelphia
Triadelphia, West Virginia

United States Department of Agriculture
McMechen, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the Town of Triadelphia, in Ohio County, West Virginia (the "Issuer"), of its \$1,000,000 Sewer Revenue Bonds, Series 2024 A (United States Department of Agriculture), dated the date hereof (the "Series 2024 A Bonds"), pursuant to Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and a Bond Ordinance of the Issuer duly enacted on May 15, 2024, as supplemented by Supplemental Resolution duly adopted on May 15, 2024 (collectively, the "Bond Legislation"). We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion.

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

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

1. The Issuer is duly created and validly existing as a municipal corporation and political subdivision of the State of West Virginia with full power and authority to adopt and enact the Bond Legislation, perform the agreements on its part contained therein and issue and sell the Series 2024 A Bonds, pursuant to the provisions of the Act and other applicable provisions of law.

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

3. The Bonds are being issued for the purposes of (i) paying a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewer system of the Issuer (the "Project"); and (ii) paying costs of issuance and related costs.

4. Pursuant to the Act, the Bond Legislation creates a valid lien on the Net Revenues of the System for the security of the Series 2024 A Bonds. There are no outstanding bonds or

obligations of the Issuer which rank prior to or on a parity with the Series 2024 A Bonds as to liens, pledge and/or source of and security for payment.

5. The Series 2024 A Bonds have been duly authorized, executed and delivered by the Issuer and is a valid and binding special obligation of the Issuer, payable solely from the sources provided therefor in the Bond Legislation.

6. The Series 2024 A Bonds have not been issued on the basis that the interest, if any, thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes; therefore, the interest on the Series 2024 A Bonds is not excluded from gross income for federal income tax purposes. We express no opinion regarding other federal tax consequences arising with respect to the Series 2024 A Bonds.

7. The Series 2024 A Bonds are, under the Act, exempt from all taxation by the State of West Virginia, and the other taxing bodies of said State, and interest on the Series 2024 A Bonds is exempt from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

It is to be understood that the rights of the holder of the Series 2024 A Bonds and the enforceability of the Series 2024 A Bonds, the Bond Legislation and the liens and pledges set forth therein may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that the enforcement thereof may also be subject to the exercise of judicial discretion in appropriate cases.

Very truly yours,

STEPTOE & JOHNSON PLLC

GAUDINO LAW OFFICES

GREGORY A. GAUDINO
ATTORNEY AT LAW

69 FIFTEENTH STREET
WHEELING, WEST VIRGINIA 26003
(304) 232-6155
FAX (304) 232-6304

ggaudino@gaudinolaw.com

June 13, 2024

Town of Triadelphia
Sewer Revenue Bonds, Series 2024 A
(United States Department of Agriculture)

Town of Triadelphia
P.O. Box 177
Triadelphia, WV 26059

United States Department of Agriculture
Alan L. Harris, Area Director
2118 Ripley Road
Ripley, WV 25271

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

Ladies and Gentlemen:

I am counsel to the Town of Triadelphia, a municipal corporation and political subdivision of the State of West Virginia in Ohio County of said State (the "Issuer"). As such counsel, I have examined a copy of the approving opinion of Steptoe & Johnson PLLC, as bond counsel, a bond ordinance of the Issuer duly enacted on May 15, 2024 and a Supplemental Resolution duly adopted by the Issuer on May 15, 2024 (collectively, the "Bond Legislation"), and other documents and papers relating to the Issuer and the above-captioned bonds of the Issuer (the "Series 2024 A Bonds"). Terms used in the Bond Legislation and not otherwise defined herein shall have the same meanings as in the Bond Legislation when used herein.

I am of the opinion that:

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

GAUDINO LAW OFFICES

ATTORNEY AT LAW

Town of Triadelphia, et al.

Page 2

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

4. The execution and delivery of the Series 2024 A Bonds and the consummation of the transactions contemplated by the Series 2024 A Bonds and the Bond Legislation, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any agreement, document or instrument to which the Issuer is a party or by which the Issuer or its properties are bound or any existing law, regulation, rule, order or decree to which the Issuer is subject.

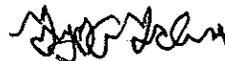
5. All permits, licenses, approvals, consents, certificates, orders, exemptions and authorizations necessary for the creation and existence of the Issuer, the issuance of the Series 2024 A Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges have been entered and/or received.

6. The Issuer enacted an ordinance adopting sewer rates and charges for the System on August 4, 2021. The time for appeal of the Order has expired prior to the date hereof. Such Order remains in full force and effect.

7. To the best of our knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Series 2024 A Bonds and the Bond Legislation, the acquisition and construction of the Project, the operation of the System, or the validity of the Series 2024 A Bonds, or the collection of the Gross Revenues or the pledge of the Net Revenues therefor.

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

Very truly yours,



GREGORY A. GAUDINO



Chase Tower, 17th Floor
P.O. Box 1588
Charleston, WV 25326-1588
(304) 353-8000 (304) 933-8704 Fax
www.steptoe-johnson.com

Writer's Contact Information

June 13, 2024

Town of Triadelphia
Sewer Revenue Bonds, Series 2024 A
(United States Department of Agriculture)

Town of Triadelphia
Triadelphia, West Virginia

United States Department of Agriculture
McMechen, West Virginia

Ladies and Gentlemen:

We are special counsel to the Town of Triadelphia, a municipality in Ohio County, West Virginia (the "Issuer"). As such counsel, we have represented the Issuer before the Public Service Commission of West Virginia (the "PSC") in connection with the issuance of the above-referenced bonds, and the acquisition and construction of the Project. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Legislation when used herein.

We are of the opinion that:

(1) The Issuer duly enacted a sewer rate ordinance on August 4, 2021, setting forth the respective rates and charges for the services of the System. The time for appeal of such rate ordinance has expired prior to the date hereof without any appeal, and such rate ordinance is currently in effect.

(2) The Issuer has received the Recommended Decision dated November 2, 2023, which became Final Order on November 22, 2023, of the PSC in Case No. 23-0775-S-EGCN, 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. Such Order remains in full force and effect.

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

Very truly yours,

A handwritten signature in blue ink that reads 'StepToe & Johnson PLLC'.

STEPTOE & JOHNSON PLLC

Town of Triadelphia
Sewer Revenue Bonds, Series 2024 A
(United States Department of Agriculture)

ENGINEER'S CERTIFICATE

I, Dominick P. Cerrone, Registered Professional Engineer, West Virginia License No. 14750, of Cerrone Associates, Inc., Wheeling, West Virginia, hereby certify this 13th day of June, 2024 as follows:

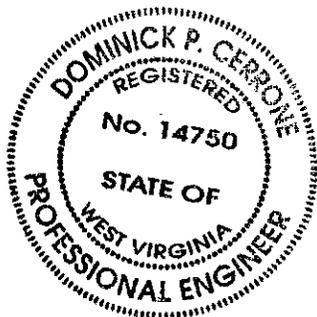
1. My firm is engineer for the acquisition and construction of certain extensions, additions, betterments and improvements (the "Project") to the sewerage system (the "System") of the Town of Triadelphia (the "Issuer"), to be constructed in Ohio County, West Virginia, which acquisition and construction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

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

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

4. The Project is designed to serve -0- new customers.

CERRONE ASSOCIATES, INC.



A handwritten signature in black ink, appearing to be "D. Cerrone", written over a horizontal line.

Dominick P. Cerrone, P.E.
West Virginia License No. 14750



June 13, 2024

CPA Certificate

TOWN OF TRIADELPHIA

SEWER REVENUE BONDS, SERIES 2024 A
(United States Department of Agriculture)

WVIJDC No. **2022S-2231**

Town of Triadelphia
Triadelphia, West Virginia

Steptoe & Johnson PLLC
Charleston, West Virginia

United States Department of Agriculture
Ripley, West Virginia

RE: CPA CERTIFICATE
Sewer System Improvements Project (2231)

Ladies and Gentlemen:

Based upon the rates and charges set forth in the unappealable sewer rate ordinance enacted by the Town of Triadelphia (the "Issuer") on August 4, 2021, and projected operation and maintenance expenses and anticipated customer usage as furnished to us by Cerrone Associates, Inc., consulting engineers, it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the sewer system (the "System") of the Issuer, will pay all repair, operation and maintenance expenses of the System and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Sewer Revenue Bonds, Series 2024 A (United States Department of Agriculture), dated June 13, 2024, issued in the original aggregate principal amount of \$1,000,000 (the "Series 2024 A Bonds").

In the course of our due diligence to render this Certificate, we have reviewed the books and records of the System and further opine as follows:

- (a.) The Renewal and Replacement Fund required by the Ordinance authorizing the Series 2024 A Bonds is established and the rates and charges for the System have been established which are sufficient in the upcoming Fiscal Year to make the required deposits in the Renewal and Replacement Fund.

Michael D. Griffith, CPA, AFI
Michael@Griffith.CPA

950 Little Coal River Road Alum Creek, WV 25003
Phone: (304) 756.3600 Facsimile: (304) 756.2911

Town of Triadelphia: Wastewater Improvements Project (2231) - CPA Certificate

June 13, 2024

Page 2 of 2

(b.) The Working Capital Reserve Account required by W. V. Code Section 24-1-1(k) is established and the rates and charges for the System have been established which are sufficient in the upcoming Fiscal Year to make the required deposits in the Working Capital Reserve Account.

Very truly yours,

A handwritten signature in black ink that reads "Michael D. Griffith, CPA". The signature is written in a cursive style.

MICHAEL D. GRIFFITH, CPA, AFI
GRIFFITH & ASSOCIATES PLLC

MDG/s

Water and Waste System Grant Agreement

United States Department of Agriculture

Rural Utilities Service

THIS AGREEMENT dated 5/07/2024, between

TRIADELPHIA, TOWN

a public corporation organized and operating under

Chapter 16 Article 13, West Virginia Code

(Authorizing Statute)

herein called "Grantee," and the United States of America acting through the Rural Utilities Service, Department of Agriculture, herein called "Grantor," WITNESSETH:

WHEREAS

Grantee has determined to undertake a project of acquisition, construction, enlargement, or capital improvement of a (water) (waste) system to serve the area under its jurisdiction at an estimated cost of \$ 2,947,000 and has duly authorized the undertaking of such project.

Grantee is able to finance not more than \$ 2,400,000.00 of the development costs through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable user charge.

Said sum of \$ 2,400,000.00 has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed \$ 547,000.00 or 20.00 percent of said project development costs, whichever is the lesser, subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the Conditions of the grant.

As a condition of this grant agreement, the Grantee assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws, regulations, Executive orders and other generally applicable requirements, including those set out in 7 CFR 3015.205(b), which hereby are incorporated into this agreement by reference, and such other statutory provisions as are specifically set forth herein.

NOW, THEREFORE, In consideration of said grant by Grantor to Grantee, to be made pursuant to Section 306(a) of The Consolidated Farm and Rural Development Act for the purpose only of defraying a part not to exceed 20.00 percent of the project development costs, as defined by applicable Rural Utilities Service instructions.

Grantee Agrees That Grantee Will:

A. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any modifications thereof prepared by Grantee and approved by Grantor.

B. Permit periodic inspection of the construction by a representative of Grantor during construction.

C. Manage, operate and maintain the system, including this project if less than the whole of said system, continuously in an efficient and economical manner.

D. Make the services of said system available within its capacity to all persons in Grantee's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (possess capacity to enter into legal contract for services) at reasonable charges, including assessments, taxes, or fees in accordance with a schedule of such charges, whether for one or more classes of service, adopted by resolution dated August 4, 2021, as may be modified from time to time by Grantee. The initial rate schedule must be approved by Grantor. Thereafter, Grantee may make such modifications to the rate system as long as the rate schedule remains reasonable and nondiscriminatory.

E. Adjust its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

F. Expand its system from time to time to meet reasonably anticipated growth or service requirements in the area within its jurisdiction.

G. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a representative of the Grantor.

H. To execute any agreements required by Grantor which Grantee is legally authorized to execute. If any such agreement has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another agreement of the same type need not be executed in connection with this grant.

I. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated herein above with the interest at the rate of 5 percentum per annum from the date of the default. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

J. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

K. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall vest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs or programs that have purposes consistent with those authorized for support by the Grantor.

3. When the real property is no longer needed as provided in 1 and 2 above, the Grantee shall request disposition instructions from the Grantor agency or its successor Federal agency. The Grantor agency shall observe the following rules in the disposition instructions:

(a) The Grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The Grantee may be directed to sell the property under guidelines provided by the Grantor agency. When the Grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

[Revision 1, 04/17/1998]

(c) The Grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

This Grant Agreement covers the following described real property (use continuation sheets as necessary).

All real property associated with Sewer System. The Town of Triadelphia does not own any real property as part of the Sewer System.

L. Abide by the following conditions pertaining to equipment which is furnished by the Grantor or acquired wholly or in part with grant funds. Equipment means tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

[Revision 1, 04/17/1998]

1. Use of equipment.

(a) The Grantee shall use the equipment in the project for which it was acquired as long as needed. When no longer needed for the original project, the Grantee shall use the equipment in connection with its other Federally sponsored activities, if any, in the following order of priority:

1) Activities sponsored by the Grantor.

(2) Activities sponsored by other Federal agencies.

(b) During the time that equipment is held for use on the property for which it was acquired, the Grantee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the equipment was originally acquired. First preference for such other use shall be given to Grantor sponsored projects. Second preference will be given to other Federally sponsored projects.

2. Disposition of equipment. When the Grantee no longer needs the equipment as provided in paragraph (a) above, the equipment may be used for other activities in accordance with the following standards:

(a) Equipment with a current per unit fair market value of less than \$5,000. The Grantee may use the equipment for other activities without reimbursement to the Federal Government or sell the equipment and retain the proceeds.

(b) Equipment with a current per unit fair market value of \$5,000 or more. The Grantee may retain the equipment for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value or proceeds from sale of the equipment. If the Grantee has no need for the equipment and the equipment has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

The Grantor agency shall determine whether the equipment can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the equipment shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the equipment exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee requests and the following procedures shall govern:

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the equipment and reimburse the Grantor agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share ten percent of the proceeds for Grantee's selling and handling expenses.

(2) If the Grantee is instructed to ship the equipment elsewhere the Grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the equipment, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for equipment shall also include:

(a) Records which accurately provide for: a description of the equipment; manufacturer's serial number or other identification number; acquisition date and cost; source of the equipment; percentage (at the end of budget year) of Federal participation in the cost of the project for which the equipment was acquired; location, use and condition of the equipment and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.

(b) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years to verify the existence, current utilization, and continued need for the equipment.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(e) Proper sales procedures shall be established for unneeded equipment which would provide for competition to the extent practicable and result in the highest possible return.

This Grant Agreement covers the following described equipment(use continuation sheets as necessary).

All real equipment associated with Sewer System

M. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.
2. Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.
3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.
4. Accounting records supported by source documentation.

N. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm or photo copies or similar methods may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's government which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts and transcripts.

O. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

P. Provide an audit report prepared in accordance with Grantor regulations to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

Q. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentality's of states shall not be held accountable for interest earned on grant funds pending their disbursement.

R. Not encumber, transfer or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item K above.

S. To include in all contracts for construction or repair a provision for compliance with the Copeland ``Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

T. To include in all contracts in excess of \$100,000 a provision that the contractor agrees to comply with all the requirements of the Clean Air Act (42 U.S.C. §7414) and Section 308 of the Water Pollution Control Act (33 U.S.C. §1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. In so doing the Contractor further agrees:

[Revision 1, 11/20/1997]

1. As a condition for the award of contract, to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities pursuant to 40 CFR Part 32 as of the date of contract award.

[Revision 1, 11/20/1997]

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

As used in these paragraphs the term ``facility" means any building, plan, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operation contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

Grantor Agrees That It:

A. Will make available to Grantee for the purpose of this Agreement not to exceed \$ 547,000.00 which it will advance to Grantee to meet not to exceed 20.00 percent of the project development costs of the project in accordance with the actual needs of Grantee as determined by Grantor.

B. Will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans for sewer and water and with any State or area plans for the area in which the project is located.

C. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (1) advisable to further the purpose of the grant or to protect Grantor's financial interest therein and (2) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Termination of This Agreement

This Agreement may be terminated for cause in the event of default on the part of the Grantee as provided in paragraph I above or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds.

In witness whereof Grantee on the date first above written has caused these presence to be executed by its duly authorized

Mayor

attested and its corporate seal affixed by its duly authorized

Attest:

By Mary Ann Bus

(Title) Recorder

By Thomas J Allietta
Thomas Allietta

(Title) Mayor

UNITED STATES OF AMERICA

RURAL UTILITIES SERVICE

By _____
(Title)

Notice of Subaward

Subrecipient Name: Town of Triadelphia	Name of Federal Awarding Agency: Department of Treasury
Subrecipient's Unique Entity Identifier: D564R7SEDB21	Federal Award Date:
Federal Award Identification Number (FAIN):	Name of Pass-Through Entity: State of West Virginia
Catalog of Federal Domestic Assistance (CFDA) Number: 21.027	Contact Information for Pass-Through Entity:
Program Name:	Subaward Period of Performance:
Total Amount of Federal Funds Obligated by this Agreement: \$1,225,000	Total Amount of Federal Funds obligated to the Subrecipient:
Federal Award Project Description: Coronavirus State and Local Fiscal Recovery Fund	
Approved Budget Categories:	
Is the award for Research and Development (R&D)? No	Subrecipient's Indirect Cost Rate for federal award:
Terms & Conditions: See attached Economic Enhancement Grant Agreement	
Incorporated Documents: <ol style="list-style-type: none"> 1. Notice of Subaward 2. West Virginia Water Development Authority Economic Enhancement Grant Agreement 3. Exhibit A – Project Description 	

**WEST VIRGINIA WATER DEVELOPMENT AUTHORITY
ECONOMIC ENHANCEMENT GRANT AGREEMENT
(IJDC # 2022S-2231 / UEI # D564R7SEDB21)**

This Grant Agreement entered into by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the “Authority”) and the TOWN OF TRIADELPHIA (the “Grantee”).

R E C I T A L S

WHEREAS, West Virginia Code 22C-1-6a authorized the Authority to create the West Virginia Economic Enhancement Grant Fund (the “EEG Fund”) and the Legislature has appropriated funds to the EEG Fund from certain American Rescue Plan Act (“ARPA”) funds received by the State of West Virginia;

WHEREAS, the West Virginia Water Development Board (the “Board”) has reviewed the application of the Grantee and has authorized the Authority to make a grant to the Grantee in the amount not to exceed \$1,225,000 (the “Grant”), for the purposes of acquiring, constructing and/or equipping of the sewer line upgrade and replacement project (the “Project”) at total estimated cost of \$2,947,003, and which will also be funded by a loan and grant issued by the United States Department of Agriculture and a contribution from The County Commission of Ohio County;

WHEREAS, the Grantee is either a governmental entity or a non-for-profit entity;

WHEREAS, the Grantee wishes to accept the Grant upon such terms and conditions as are hereinafter set forth for the purposes of designing, acquiring or constructing the Project described in Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, this Grant Agreement sets forth the Authority and the Grantee’s understandings and agreements with regard to the Grant.

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

T E R M S

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

2. The Authority shall advance its share of the Project costs from the Grant from time to time upon receipt of an approval resolution and a requisition evidencing the costs incurred (with detailed invoices showing actual expenditures), which requisition must be satisfactory to the Authority. The Authority shall pay for any costs that are incurred from the beginning date set forth on Exhibit A (the “Beginning Date”), to the expiration date set forth on

Exhibit A (the “Expiration Date”), of which some costs may have been incurred prior to the date hereof and where such costs are necessary for the efficient and timely performance of the scope of the Project and are eligible costs for the EEG Fund. The Authority shall review and approve such requests and any costs preceding the date hereof must be included in the first draw. All requests for payments under this Grant Agreement shall be submitted in detail sufficient for a program pre-audit and post-audit thereof. All funds must be expended (payment issued for expenses incurred) prior to or on December 31, 2026.

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

4. (a) The Grantee will use the proceeds of the Grant only for the purposes specifically set forth in Exhibit A. Any property, supplies, or equipment comprising the Project and purchased with proceeds of this Grant, must be used consistent with the purpose for which it was purchased or improved or for any other eligible purpose in the same category as approved by the Authority (31 CFR 35.6 (e)). Prior to the sale, transfer or other disposition of any property, supplies or equipment comprising the Project that was purchased with the proceeds of this Grant, the Grantee shall contact the Authority for instructions on how to handle the disposition and/or any proceeds of a sale. The Grantee shall reimburse the Authority any amounts determined by Authority.

(b) If the Federal Government determines that the Grantee has not used the Grant funds appropriately and claws back all or a portion of the Grant, then the Grantee shall reimburse the Authority or the State the amount of the claw back.

5. The Authority shall pay the approved requisition amount using the State’s OASIS system.

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

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

8. The Grantee and its personnel should not (a) knowingly use grant funds, or goods or services purchased with grant funds, to engage, either directly or indirectly, in a prohibited political activity, or (b) be knowingly compensated from grant funds for time spent engaging in a prohibited political activity.

9. The Authority and the Grantee shall comply with the conflicts of interest rules adopted for the State of West Virginia.

10. The Grantee shall comply with applicable ARPA assistance regulations (2 CFR Part 200). All procurements conducted with Grant funds must comply with Procurement Standards of 2 CFR 200.317 through 200.326, as applicable.

11. The Grantee agrees to comply with all applicable Federal and State laws and requirements, including 2 CFR Part 200. The Grantee agrees to allow the Authority, the State of West Virginia, the U.S. Treasury and their respective auditors access to all records and financial statements relating to the Grant.

12. The Grantee shall comply with the internal control requirements specified at 2 CFR § 200.303 and will comply with 2 CFR Part 200, Subpart F, Audit Requirements. In the event the Grantee expends \$750,000 or more in Federal awards in a fiscal year, the Grantee must have a single audit or grant specific audit conducted within nine (9) months of the preceding June 30, in accordance with the provisions of 2 CFR Part 200. Upon completion of the audit required hereby, the Grantee shall promptly transmit a copy of the audit to the Authority (not later than the respective March 27).

13. This Grant Agreement will cover all Costs incurred for the Project commencing on the Beginning Date to and including the Expiration Date, unless extended at the direction of the Board (the "Grant Period").

14. The Authority will close out this Grant Agreement when it determines that all activities and all applicable administrative actions have been completed. Unless an extension is approved by the Board, within thirty (30) calendar days after the Expiration Date, the Grantee must submit any outstanding reports, including a final project report. Within thirty (30) calendar days after receipt of all outstanding reports, the Authority will make upward or downward adjustments to the allowable costs, and then make prompt payments to the Grantee for remaining allowable costs. The close out of this Grant Agreement does not affect any of the following:

- a. The right of the Authority to disallow costs and recover funds on the basis of a later audit or other review;
- b. The obligation of the Grantee to return any funds due as a result of later refunds, corrections, or other transactions; or
- c. The Grantee's obligations regarding audits and records retention.

15. This Grant Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one in the same instrument.

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

WDA EEGF-1
(04/24)

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

TOWN OF TRIADELPHIA

By: Thomas J Allietta
Its: Mayor
Date: June 13, 2024

(SEAL)

Attest:

Mary Ann DeW
Its: Recorder

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

By: Wm J Ry
Its: Executive Director
Date: June 13, 2024

(SEAL)

Attest:

B
Its: Authorized Officer

Exhibit A

Project Description
(IJDC # 2022S-2231 / UEI # D564R7SEDB21)

The Project consists of the acquisition and construction of the installation of 350 LF of new 8-inch gravity sewer main line, 15 new manholes, 10 internal manhole sealings, 115 new manhole castings, 30 locating and raising of manholes, 21 line point repairs, 38 public service lateral repairs, 25,575 LF of internal video inspection and cleaning, 1,215 LF of pressure cleaning, 27 clean-out repairs, 18 location of root removal and 530 LF of mainline sewer liner insert, and all necessary appurtenances thereto.

Number of Proposed New Customers to Be Served: -0-
Location: Triadelphia area of Ohio County

Grantee: Town of Triadelphia
Address: 4453 National Road
PO Box 177
Triadelphia, WV 26059
Grant Amount: Up to \$1,225,000
Fiscal Year: July 1 – June 30
FEIN: 55-0521177

Beginning Date: May 11, 2023
Expiration Date: December 1, 2026